Report to the Legislature

Forensic Admissions and Evaluations – Performance Targets

Senate Bill 6492
As codified in RCW 10.77.068

June 30, 2013

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EXECUTIVE SUMMARY

On May 1, 2012, RCW 10.77 was amended by Substitute Senate Bill 6492. The amendment made changes to the competency evaluation process, set timelines for the admission and evaluation of forensic mental health patients, and required the State Hospitals to set up a system of reporting and accountability when performance targets were not met. As mandated by RCW 10.77.068(3), this quarterly report explains the extent to which the hospitals deviated from performance targets in RCW 10.77.068 (1)(a)(i) and (ii), and describes the hospital's plans to meet these performance targets.

In the first quarter of 2013, Western State Hospital (WSH) received a total of 455 referrals for inpatient admission for legally authorized treatment or evaluation services related to competency and for competency evaluations in jail. In the first quarter of 2013, Eastern State Hospital received a total of 139 referrals for inpatient admission for legally authorized treatment or evaluation services related to competency and for competency evaluations in jail.

The current trend lines show reductions in wait times and wait list numbers at WSH, but great fluctuation in the wait times and waist list numbers at ESH. Nevertheless, in the fourth quarter of 2012, WSH met performance targets approximately thirty percent of the time and ESH met performance targets approximately twenty five percent of the time. Wait times averaged almost double the timelines set forth in the Act.

Recruitment and retention issues and development of inexperienced staff continued to contribute significantly to waitlists during the first quarter of 2013. Three evaluators left the WSH Center for Forensic Services during the first quarter of 2013, and one evaluator position at ESH has remained vacant for the past three years. Due to these vacant positions, WSH's evaluation capacity for this quarter was reduced by approximately 60 evaluations, while ESH's was reduced by approximately 10 evaluations. WSH's loss of three evaluators was partially offset by increased productivity among remaining evaluators. Accountability standards are currently being used to manage productivity of employees whose primary work duty is conducting evaluations.

Overall, there has been approximately a fifteen percent increase for all types of referrals since 2011, yet the number of allotted evaluator positions at both hospitals has remained constant.

Deviation from Performance Targets

RCW 10.77.068 (1)(a) phases in performance targets at six and twelve months after the effective date of the legislation. On November 1, 2012, the following performance targets became active:

> (i) For a state hospital to extend an offer of admission to a defendant in pretrial custody for legally authorized treatment or evaluation services related to competency, or to extend an offer of admission for legally authorized services following dismissal of charges based on incompetent to proceed or stand trial, seven days or less;
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> (ii) For completion of a competency evaluation in jail and distribution of the evaluation report for a defendant in pretrial custody, seven days or less.

ANALYSIS

Performance Targets

Substitute Senate Bill 6492 became effective on May 1, 2012, yet had two distinct target phase-in dates. Performance targets related to defendants being detained in-custody or awaiting admission into the State Hospitals were phased in over six months, became fully effective on November 1, 2012. Additional targets related to evaluations of out-of-custody defendants are being phased in, and are not yet subject to reporting requirements.

For defendants awaiting admission to the hospital, the target is to offer admission within seven days of receiving a completed referral. For defendants awaiting evaluation in the jail, the target is to have the evaluation completed and delivered to the referring court within seven days of receiving a completed referral. The following tables summarize performance on these targets in the first quarter of 2013:

WESTERN STATE HOSPITAL

Average Time to Evaluation Admission or Completion -- 1st Quarter 2013				
Inpatient Evaluation	Number Referred	Average Days Until Admission	Number Admitted Within 7 Days	Percent Admitted Within 7 Days
Felony Inpatient Evaluations	25	29.40	2	8 %
Misdemeanor Inpatient Evaluations	3	12.33	1	33 %
All Inpatient Evaluations	28			
Inpatient Restorations	Number Referred	Average Days Until Admission	Number Admitted Within 7 Days	Percent Admitted Within 7 Days
Felony Inpatient Restorations	111	12.58	46	41 %
Misdemeanor Inpatient Restorations	15	22.27	0	0 %
All Inpatient Restorations	126			
In Jail Evaluations	Number Referred	Average Days Until Completion	Number Completed Within 7 Days	Percent Completed Within 7 Days
Felony Outpatient Jail Evaluations	127	15.03	18	14 %
Misdemeanor Outpatient Jail Evaluations	174	12.01	33	18 %
All In Jail Evaluations	301			

Size of Current Evaluation Backlog--as of 3/31/13		
Inpatient	Number Waiting	Number Waiting Over 7 Days
Felony Inpatient Evaluation	8	7
Misdemeanor Inpatient Evaluation	4	3
Felony Inpatient Restoration	24	17
Misdemeanor Inpatient Restoration	6	4
Jail	Number Waiting	Number Waiting Over 7 Days
Felony Jail Evaluation	30	13
Misdemeanor Jail Evaluation	33	17

EASTERN STATE HOSPITAL

Average Time to Evaluation Admission or Completion -- 1st Quarter 2013				
Inpatient Evaluation	Number Referred	Average Days Until Admission	Number Admitted Within 7 Days	Percent Admitted Within 7 Days
Felony Inpatient Evaluations	22	67.00	0	0 %
Misdemeanor Inpatient Evaluations	6	30.00	0	0 %
All Inpatient Evaluations	28			
Inpatient Restorations	Number Referred	Average Days Until Completion	Number Admitted Within 7 Days	Percent Admitted Within 7 Days
Felony Inpatient Restorations	21	14.00	10	50 %
Misdemeanor Inpatient Restorations	3	18.00	1	33 %
All Inpatient Restorations	24			
In Jail Evaluations	Number Referred	Average Days Until Completion	Number Completed Within 7 Days	Percent Completed Within 7 Days
Felony Outpatient Jail Evaluations	55	41.00	0	0 %
Misdemeanor Outpatient Jail Evaluations	32	37.00	0	0 %
All In Jail Evaluations	87			

Size of Current Evaluation Backlog--as of 3/31/13		
Inpatient	Number Waiting	Number Waiting Over 7 Days
Felony Inpatient Evaluation	20	16
Misdemeanor Inpatient Evaluation	3	2
Felony Inpatient Restoration	5	2
Misdemeanor Inpatient Restoration	0	0
Offsite	Number Waiting	Number Waiting Over 7 Days
Felony Jail Evaluation	17	4
Misdemeanor Jail Evaluation	7	4

Deviation from Performance Targets

RCW 10.77.068 (1)(c) includes a non-exclusive list of factors outside of the department's control that could impact performance targets. In the first quarter 2013, evaluator resources were the overwhelming determinant of timeliness. As the State Hospitals more closely approach performance targets, analysis of external factors will take on increasing importance. Initiatives to improve both the integrity and scope of data collected are discussed below.

Both State Hospitals have faced cyclical shortages of psychiatrists and psychologists, and there has historically been a close correspondence between evaluator vacancies and increased wait times.

Western State Hospital

Annualizing from the first quarter of 2013, WSH will likely receive approximately 3250 referrals in 2013. At the presumptive caseloads for experienced evaluators, 22 full-time evaluators would produce at just under the rate of referral. Many individual evaluators continue to meet and exceed productivity standards, and average productivity per evaluator improved in this quarter.

Evaluation services were impacted by attrition and inability to hire qualified candidates. An additional two evaluators producing at the presumptive rate would be needed to eliminate the current 300 person wait list in one year. It should be noted that the number of evaluators assumes that there is no time loss for illness, vacancies or training, and assumes that there are no evaluators in-training. Attrition affects this number in two ways. First, during the training period, new evaluators carry a reduced case load. Second, positions remained unfilled for an average of 76 days. There were 13 requests to fill evaluator vacancies in 2012, seven of which were cancelled due to no eligible candidates. Total time loss to vacant positions, not including training and orientation time was 460 days. Western State Hospital competes for candidates with both the private sector and two federal facilities with markedly higher pay scales; therefore, recruitment and retention continue to present challenges, with two of the 6.5 evaluators leaving the inpatient evaluation service during the current quarter. Although training programs have historically been a significant contributor to recruitment and retention, there are no qualified candidates on the register for current vacancies.

Eastern State Hospital

ESH has one forensic evaluator assigned to complete inpatient competency evaluations. At ESH the inpatient competency evaluations and competency restorations are admitted to one ward. As the number of community competency evaluations continue to increase, there will be an increase in the number of competency restorations that must be admitted and take priority over admissions for competency evaluation. Eastern State Hospital's forensic admission ward capacity is 26.

Plan for Meeting Targets

Management of current resources

During the phase-in period of the Act, and into the fourth quarter of 2012, productivity standards for evaluators were formalized in the position description forms (PDFs) at both WSH and ESH. WSH's productivity standards were based on a time study conducted 06/16/12, by Tara Fairfield, Ed.D. Monthly productivity for each evaluator is monitored in Western State Hospital's *Cache* database. Evaluators who are underperforming are made aware of deficiencies and are initially assisted with

overcoming barriers. If deficiencies continue, disciplinary action may follow. At present, all evaluators in the inpatient unit are exceeding individual performance targets. In the in-custody evaluation service, there has been a significant improvement in the number of cases produced per evaluator. In March of 2013, the in custody evaluation service exceeded individual productivity standards for the first time since this data has been tracked.

ESH's monthly productivity standards are being met by all evaluators. There continues to be one evaluator assigned to inpatient competency evaluations. Offsite evaluators are responsible for following competency restorations of defendants determined not competent as the result of the offsite competency evaluation (this changed effective May 1, 2012). Physical space continues to be an issue for ESH. There are currently 25 beds on the admission unit which accommodates competency evaluation, competency restoration and admission of patients with not guilty by reason of insanity (NGRI) status for assessment and transfer to the appropriate ward.

All forensic evaluators are responsible for completing Forensic Risk Assessments and complete the petitions for conversion to civil commitment.

Increasing efficiency

WSH's pilot program to streamline reports continues, and is yielding promising results. Two streamlined templates are currently being piloted in Western State Hospital's North Regional Office and the in-custody evaluations section. One template is simplified specifically for repeat evaluations of misdemeanor and non-violent offenders. The second template may be appropriate for wider use, and is designed to simplify reports in cases where risk assessment is not required. In evaluating the efficiency of the reports, we are monitoring whether there is an increase in requests for testimony when there is less data contained in the reports.

Improving Data Management

Western State Hospital added a management analyst to address the data related issues. In the current quarter, data collection has been centralized in the Cache database. Data previously captured in comment fields such as coding reasons for delays, have been added to the database. The information technology department is currently adding fields to track specific time intervals of each step of the evaluation. This data is being used for both reporting and for daily management. Current priorities center on modifying the manual to reflect the increased functionality of the database, and training the administrative staff that enter the data.

ESH continues to utilize the MILO database (mentally ill legal offender) to summarize data as necessary. These reports are created with existing staff resources. As new areas of collection are identified, the database is modified or new reports written to gather such requests.

Recruitment and Retention

Training programs have historically been a significant contributor to recruitment and retention. Approximately one quarter of current evaluators completed some portion of their formal training at Western State Hospital, and additional one third have been involved in running the training programs. Strategies considered for improving recruitment and retention include strengthening and broadening training opportunities such as the American Psychological Association (APA) accredited internship, improving professional development opportunities, decreasing the amount of time beyond forty hours that overtime-exempt evaluators are currently working. The Hospital does have a history of allowing treatment psychiatrists to earn extra-duty pay by conducting evaluations that exceed their normal

scheduled duties. A similar system of allowing evaluators who have met individual performance targets and worked more than 40 hours per week to earn overtime or bonuses for additional evaluations might not only aid in recruitment and retention, but help WSH meet performance targets. Some of the strategies considered are not fully within the Hospital's control, as they may either require additional funding, or may be not be consistent with the current collective bargaining agreement.

ESH continues recruitment efforts to fill existing vacancies. There have been no issues, other than pay, identified with retaining existing forensic evaluators.

Utilize Other Hospital Resources for Tasks not Requiring Forensic Specialists

Forensic evaluators currently perform almost all of the civil commitment evaluations for patients who entered the system for evaluation of competency (civil conversions). This type of evaluation does not require a forensic specialist, and can be performed by ward-based staff. The Hospital is currently ensuring that ward-based psychologists and psychiatrists understand the procedures for civilly committing patients who are converted from forensic commitments. These resources were sparingly utilized in the current quarter, but are in place for greater use in the second quarter. It is anticipated that forensic evaluators will have a decreasing role with forensic to civil conversion cases, and will be able to better focus on forensic evaluations.

In the second quarter of 2013, there will be a net gain of .5 evaluator positions at Western State Hospital, due to reallocation of a non-evaluating psychologist position to an evaluating psychologist position. A proposal is under review to reallocate a psychology associate position to an evaluator-in-training position. The hospital continues to explore revenue neutral mechanisms for increasing evaluation capacity.

The ESH Forensic Services Unit Clinical Director and Director of Psychology continually review assignments to determine what tasks can be accomplished by psychologists/other staff who are not assigned competency evaluations.

Collaborating with Partners in the Courts and Detention Centers

Except in limited circumstances, Substitute Senate Bill 6492 encourages our partners in the Courts to order evaluations to be conducted in detention or in the community. In the current quarter, WSH's efforts to educate courts have yielded an almost 50% reduction the number of initial inpatient evaluations, with most of those being redirected for evaluation in detention or the community. There has also been a reduction in the number of *mental state at the time of the offense* evaluations, suggesting that the legislation has yielded some of the anticipated economies. The total number of inpatient referrals increased slightly, with an increase in competency restoration referrals and an increase in the number of cases converted from forensic to civil commitments. There continue to be counties that disproportionally order inpatient evaluations. As the statute does give the courts discretion as to whether to order inpatient evaluations, it will be incumbent on the hospitals to educate the courts about the types of cases that can be reliably evaluated without the need for inpatient hospitalization. It is anticipated that this education campaign will reduce the number of inpatient evaluation referrals.

The Passage of SB 5551

With the passage of a senate bill aimed at helping to reduce the backlog of competency to stand trial evaluations (SB 5551 - effective on July 28, 2013) it is anticipated that if counties eligible to hire non-state employees to complete these evaluations do so, the current waitlist for evaluations completed by

state employed forensic evaluators will decrease. It is further anticipated that this will help the state employed forensic evaluators meet the statutory timeframes for in jail competency evaluations.

CONCLUSION

Substitute Senate Bill 6492 was adopted largely in response to a crisis of rapidly growing referrals and extraordinary wait times for defendants awaiting evaluation at the State Hospitals. The increase in wait times was related primarily to a shortage of staffing rather than efficiency. Relative to wait times when the bill was passed, there have been reductions in the wait list, and increases in evaluator productivity. Nevertheless, average wait times remain approximately double the performance targets of seven days, and less than 30% of evaluations are conducted within the recommended timeframes. Recruitment and retention continue to be major challenges, and increases in evaluator productivity were offset by vacancies. Vacancies have been predictable and persistent, and options such as over-filling may be supported by the current patterns. It appears unlikely that there will be significant change in the underlying market forces creating shortages of evaluators. Thus, the hospitals are actively pursuing alternative strategies and more efficient allocation of existing resources.