

REPORT TO THE LEGISLATURE

**Forensic Admissions and Evaluations – Performance Targets 2017
Second Quarter (April 1, 2017-June 30, 2017)**

Substitute Senate Bill 6492, Section 2 (Chapter 256, Laws of 2012)
As amended by Substitute Senate Bill 5889, Section 1 (Chapter 5, Laws of 2015)
RCW 10.77.068(3)

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Behavioral Health Administration
Office of Forensic Mental Health Services
PO Box 45050
Olympia, WA 98504-5050
(360) 725-3820
<https://www.dshs.wa.gov/bha>

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BACKGROUND

On May 1, 2012, Substitute Senate Bill 6492 added a section to chapter 10.77 RCW that established performance targets for the “timeliness of the completion of accurate and reliable evaluations of competency to stand trial and admissions for inpatient restoration services related to competency to proceed or stand trial for adult criminal defendants.” These targets were codified under RCW 10.77.068 and phased in over six months to one year.

After full implementation of each performance target, the bill required the Department of Social and Health Services (DSHS) to report to the executive and the legislature following any quarter in which it does not meet the performance target. This reporting must address (1) the extent of the deviation, and (2) any corrective action being taken to improve performance.

On July 24, 2015, Substitute Senate Bill 5889 amended RCW 10.77.68. The bill retained the performance targets for competency services but added to these a set of “maximum time limits” phased in over one year. After full implementation of the maximum time limits, SSB 5889 required DSHS to report to the executive and the legislature following any quarter in which it does not meet each performance target or maximum time limit.

As a result of these two bills, current performance targets and maximum time limits under RCW 10.77.068(1)(a) are as follows:

- (i) For a state hospital to extend an offer of admission to a defendant in pretrial custody for legally authorized evaluation services related to competency, or to extend an offer of admission for legally authorized services following dismissal of charges based on incompetence to proceed or stand trial:
 - (A) A performance target of seven days or less; and
 - (B) A maximum time limit of fourteen days;
- (ii) For a state hospital to extend an offer of admission to a defendant in pretrial custody for legally authorized inpatient restoration treatment related to competency:
 - (A) A performance target of seven days or less; and
 - (B) A maximum time limit of fourteen days;
- (iii) For completion of a competency evaluation in jail and distribution of the evaluation report for a defendant in pretrial custody:
 - (A) A performance target of seven days or less; and
 - (B) A maximum time limit of fourteen days, plus an additional seven-day extension if needed for clinical reasons to complete the evaluation at the determination of the department;
- (iv) For completion of a competency evaluation in the community and distribution of the evaluation report for a defendant who is released

from custody and makes a reasonable effort to cooperate with the evaluation, a performance target of twenty-one days or less.

Section (1)(b) of RCW 10.77.068 establishes the beginning and end points for applying the performance targets and maximum time limits set forth above. Section (1)(c) identifies six conditions that shall serve as defenses to an allegation that the department has exceeded the maximum time limits.

As mandated by RCW 10.77.068(3), the following quarterly report explains the extent to which the hospitals deviated from performance targets in Quarter two of 2017 (April 1, 2017-June 30, 2017), and describes the plans to meet these performance targets.

COMPETENCY EVALUATION AND RESTORATION DATA

RCW 10.77.068(1)(a)(i)(A) and (ii)(A), as amended by SSB 5889, establishes a performance target of seven days or less for the state hospitals to:

- 1) Extend an offer of admission to a defendant in pretrial custody for legally authorized treatment or evaluation services related to competency; or
- 2) Extend an offer of admission for legally authorized services following dismissal of charges based on incompetence to proceed or stand trial.

RCW 10.77.068(1)(a)(iii)(A), as amended by SSB 5889, sets a performance expectation that competency evaluations for a defendant who is in jail will be completed and distributed within seven days or less.

RCW 10.77.068(1)(a)(iv), as amended by SSB 5889, sets a performance expectation that competency evaluations for a defendant who is released from custody and makes a reasonable effort to cooperate with the evaluation will be completed and distributed within twenty-one day or less.

DATA ANALYSIS AND DISCUSSION

In this section, the report is organized in the following manner: 1) Statewide Forensic System Data and 2) Actions Taken.

Additional detailed data and information about timely competency services is available in monthly reports published by the Department of Social and Health Services in compliance with requirements established in the April 2015 *Trueblood* court order. These reports are available at: <https://www.dshs.wa.gov/bha/division-behavioral-health-and-recovery/trueblood-et-al-v-washington-state-dshs>.

Please note that the data presented in this report differs slightly than in the *Trueblood* reports because the statute begins the count for timely service at the date of receipt of Discovery while the *Trueblood* order begins the count at the date the court order for services is signed.

Figure 1: shows results for inpatient competency evaluation cases

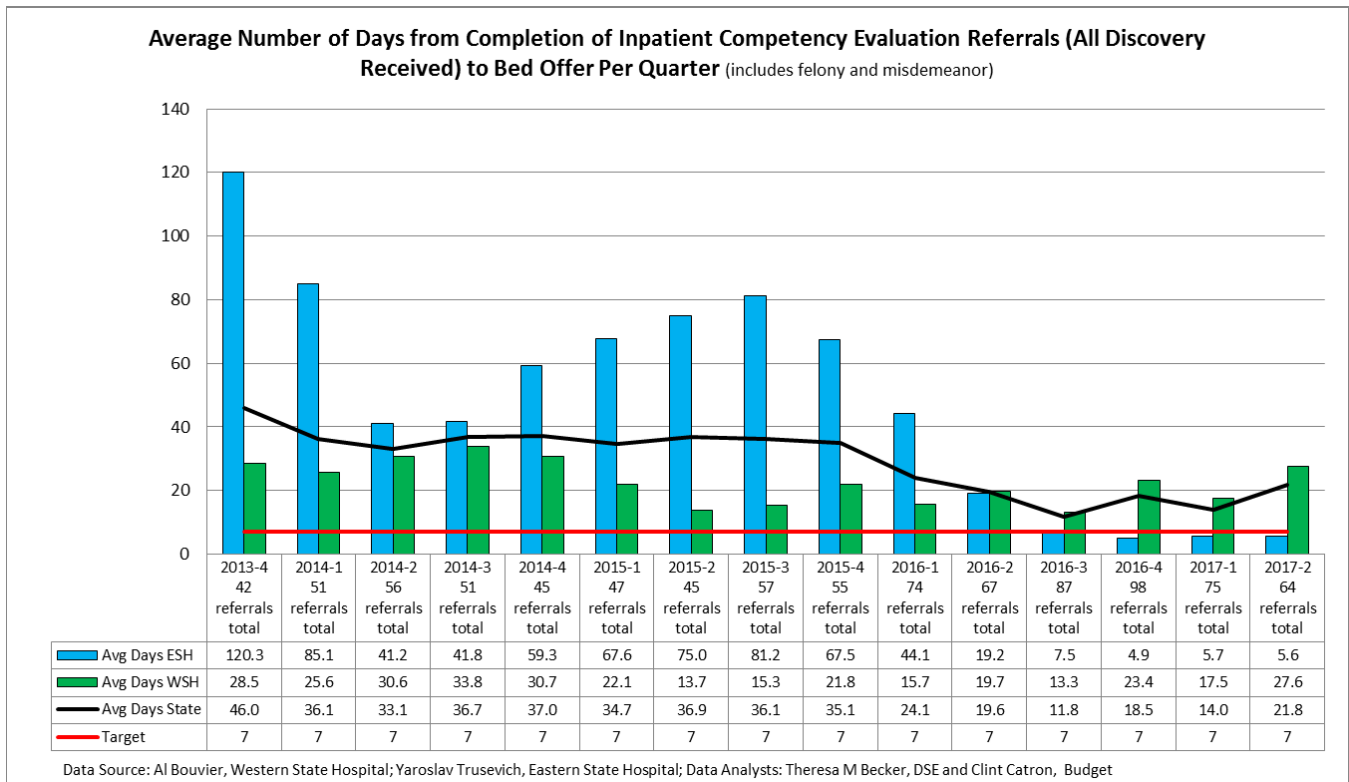


Figure 1. These are the average wait times related to hospital admission for inpatient competency evaluations only (including Personal Recognizance (PR) cases).

- *Outcomes:* During quarter two Western State Hospital (WSH) experienced an increase in average wait times by approximately 10 days while Eastern State Hospital (ESH) experienced a nominal decrease in average wait times by nearly one-tenth of a day.
- *Drivers:* The increase at WSH is related to an increase in referrals for inpatient services during this quarter while ESH had a slight decrease in days to admission but were still under the required seven days for admission on average.

Figure 2: shows results for post-dismissal referrals

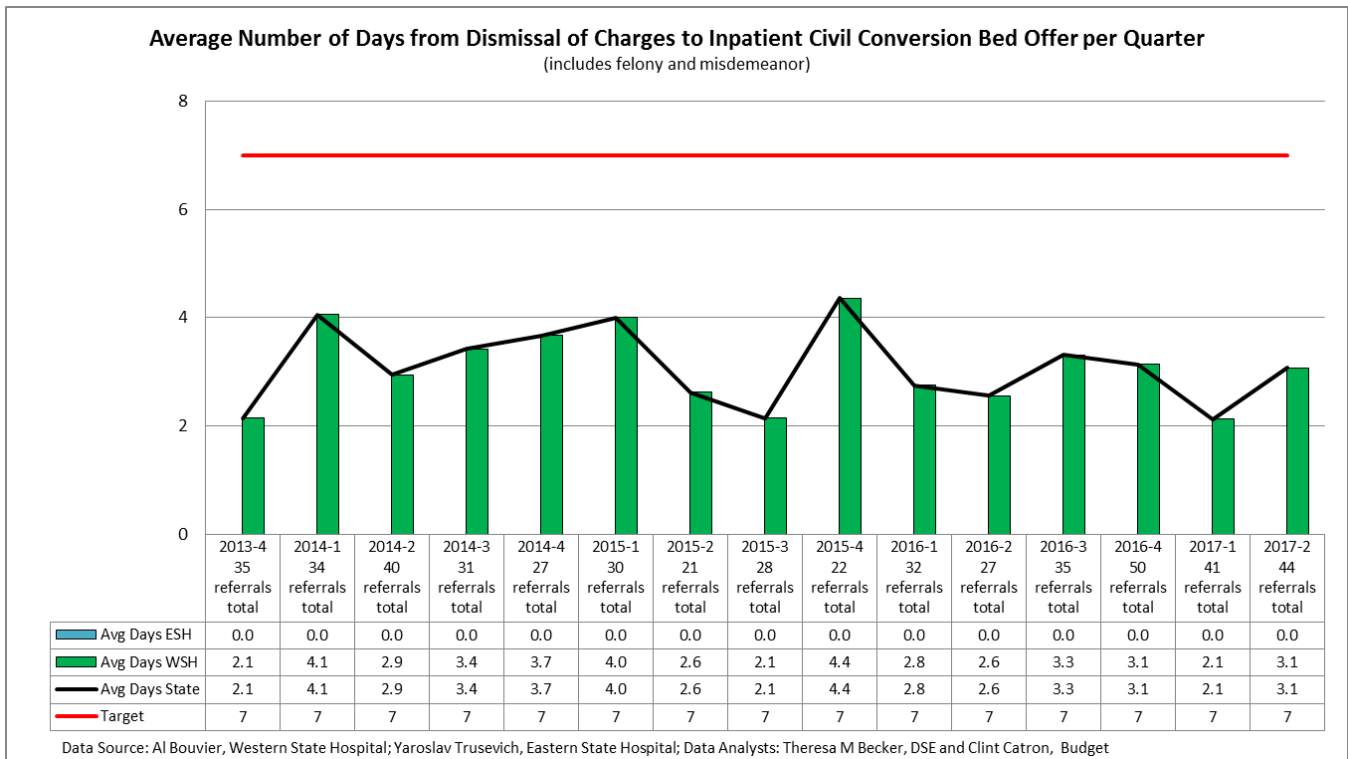


Figure 2. This chart reflects average days from dismissal of charges to an offer to admission at each State hospital and a combined State average

- *Outcomes:* During the reporting period both ESH and WSH were under the seven day target although WSH had a one day increase on average number of days during this quarter.
- *Drivers:* The targeted compliance at WSH and ESH are attributed to a continued focus on prioritizing these beds for admissions.

Figure 3: shows results for competency restoration cases.

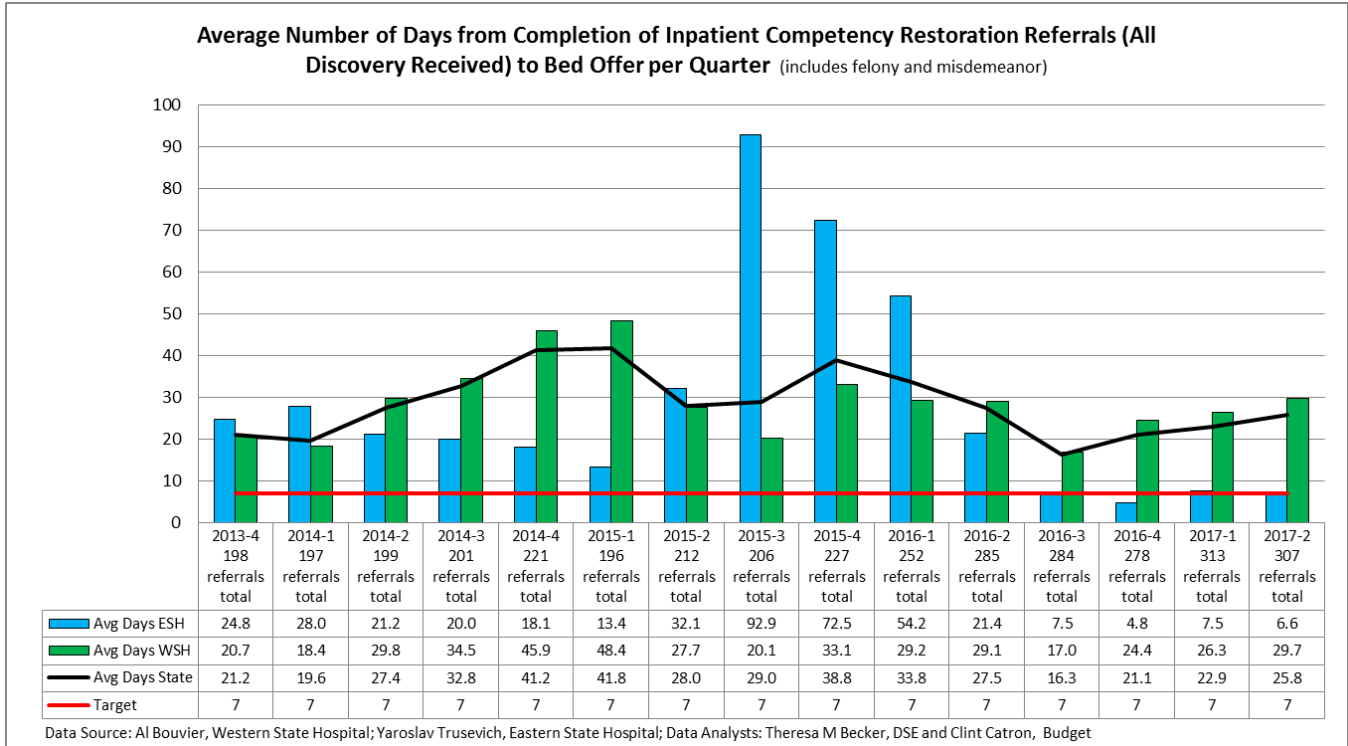


Figure 3. This chart reflects the average wait time for admission times for competency restoration referrals only (including PRs)

- *Outcomes:* During the reporting period, ESH had a decrease of nearly a day on average for admission times for competency restoration referrals. WSH continued to show an increase in this reporting period with a 3.5 on average day increase from Quarter 1 to Quarter 2
- *Drivers:* The increases at WSH and ESH are attributed to increased competency restoration referrals (the second most referrals since tracking began only six referrals behind the last quarter). Additionally, both hospitals are operating at maximum occupancy so there are no available beds for admission.

Figure 4: average number of days to complete a jail based evaluation

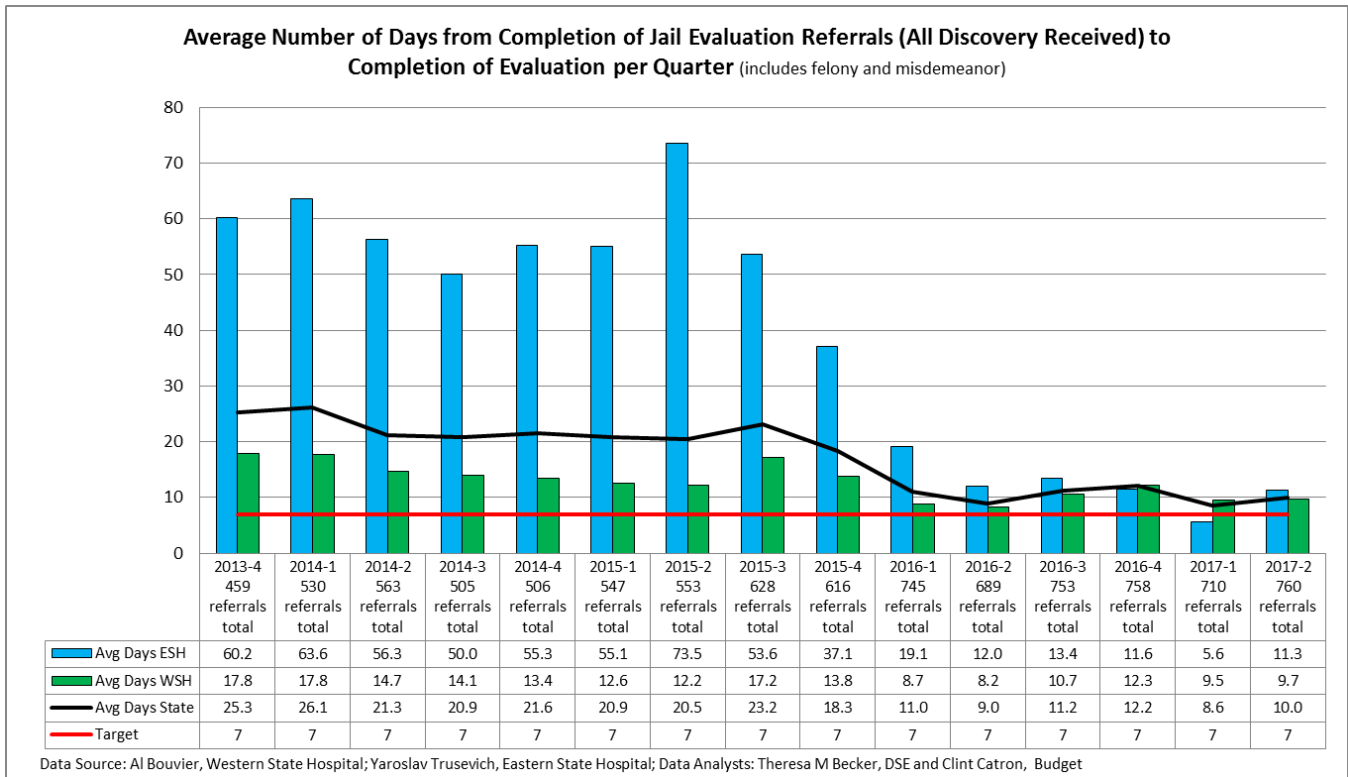


Figure 4. This chart provides information on the average number of days to complete a jail based evaluation from the receipt of all discovery

- *Outcomes:* During the reporting period, both WSH and ESH experienced increases in average completion times with ESH having a significant increase by approximately six days (doubling the time for completion). WSH had a small increase as well in which State average was 10 days on average to complete.
- *Drivers:* The increases at WSH and ESH are attributed to 50 additional referrals this quarter thereby making this quarter the highest referral period since 2013.

Figure 5: Competency evaluation time frame completion for PR cases

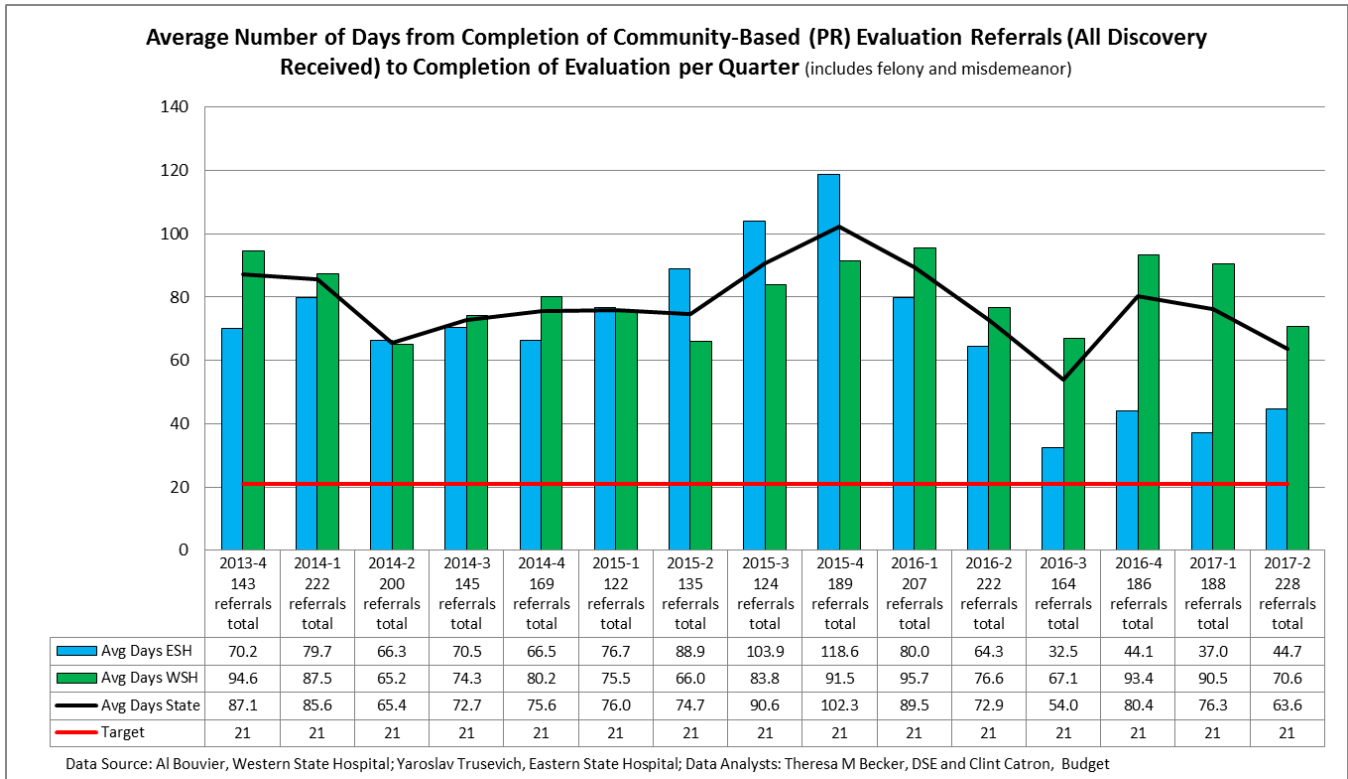


Figure 5. This chart provides information on the average number of days to complete PR evaluations from the receipt of all discovery

- *Outcomes:* During the reporting period, WSH had a 20 day decrease in average completion time while ESH had an approximately eight day increase.
- *Drivers:* The decrease at WSH can be attributed to maintaining a low level of evaluator vacancies, using technology (laptops, digital dictation, cellular phones), and a focus on completing evaluations within the targeted time frame. However, the time frames for all hospitals exceeds the targeted time frame significantly as all current resources have Trueblood cases as the number one completion priority.

ACTIONS TAKEN

DSHS submitted a Long-Term Plan to the Court in July, 2015 which outlines DSHS' plans for coming into compliance with the timelines established in the *Trueblood* decision. On February 8, 2016, the Court issued an order modifying the original April 2, 2015 order, providing a new timeline requiring full compliance as of May 27, 2016. Pursuant to the Court's February 8, 2016 order, DSHS revised the long-term plan and submitted this plan to the Court on May 6, 2016. The Long Term plan can be found by visiting:

<https://www.dshs.wa.gov/sites/default/files/BHSIA/FMHS/Trueblood/2016Trueblood/Combined-Long-Term-Plan-2016-05-06.pdf>

The Office of Forensic Mental Health Services is responsible for the leadership and management of Washington's forensic mental health care system, and is addressing the increase in demand for mental health services for adults and youth in the criminal justice system. The OFMHS provides forensic evaluations, competency restoration, Not Guilty by Reason of Insanity (NGRI) treatment services, and liaison services to effectively coordinate efforts with system partners to meet shared goals. The OFMHS additionally provides ongoing training and technical assistance to improve quality and timeliness of forensic mental health services; data management and resource allocation; training and certification of evaluators; quality monitoring and reporting. The OFMHS works in collaboration with the Governor's office to lead and implement robust diversion efforts to prevent citizens with mental illness from entering the criminal justice system. Significant public resources have been invested in providing the high quality and empirically supported services of OFMHS. Two major goals for OFMHS during this period were 1) building workforce, and 2) building bed capacity.

Below are the key actions that occurred during this period to decrease wait times.

A. Workforce

The status of all Workforce actions during this quarter is identified in the table below:

Positions	Number to be Deployed	Current Status
Forensic Evaluators—New Positions		
Eastern State Hospital	1	Recruitment in progress; interviews scheduled during this rating period with numerous applicants
Thurston County Outstation	1	Recruitment in progress; interviews scheduled during

		this rating period with numerous applicants
Yakima Outstation	1	Recruitment in progress; interviews scheduled during this rating period with numerous applicants
Supervisor Position	2	Interviews and recruitment in progress

B. Capacity

During this period, a focus on keeping beds full at all facilities (ESH, WSH, Maple Lane, and Yakima) was a key strategy. Furthermore, numerous bed plans were submitted to the Federal Court during this time frame, including expansion at Yakima and other units added at both ESH and WSH. Work was done in collaboration with the Governor’s Office, Office of Financial Management, OFMHS, the Assistant Secretary, DSHS facilities, and both ESH and WSH staff to identify work which could be completed to add additional capacity to meet the ever expanding needs. During this reporting period, the system has shown significant increase in demand at unprecedented levels.

NEXT STEPS

Future reports will provide continued progress reporting and focus on efforts focused on four main areas as it relates to compliance: 1) expanding bed capacity, 2) increasing throughput for inpatient services, 3) managing in-custody evaluations to reduce barriers so compliance can be reached, and 4) decreasing demand for competency services. A key area for OFMHS work is to identify and develop with community stakeholders programs to reduce the demand of competency services in addition to working with these entities in establishing the root causes for the continued increases in competency referrals.

SUMMARY

The Department and OFMHS continue to work on what impacts can be made on these four levers: 1) decrease demand (referrals), 2) increase bed capacity, and 3) increase throughput (quicker turnover in hospitals), and 4) managing in-custody evaluations to reduce barriers so compliance can be reached.