

REPORT TO THE LEGISLATURE

**Forensic Admissions and Evaluations – Performance Targets 2016
Third Quarter (July 1, 2016-September 30, 2016)**

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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EXECUTIVE SUMMARY

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 3 of 2016 (July 1, 2016-September 30, 2016), and describes the plans to meet these performance targets.

COMPETENCY EVALUATION AND RESTORATION DATA

RCW 10.77.068(1)(a)(i) establishes a performance target 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 in seven days or less. Figure 1 below shows results for inpatient competency evaluation cases, and figure 2 shows results for post-dismissal referrals.

Figure 1

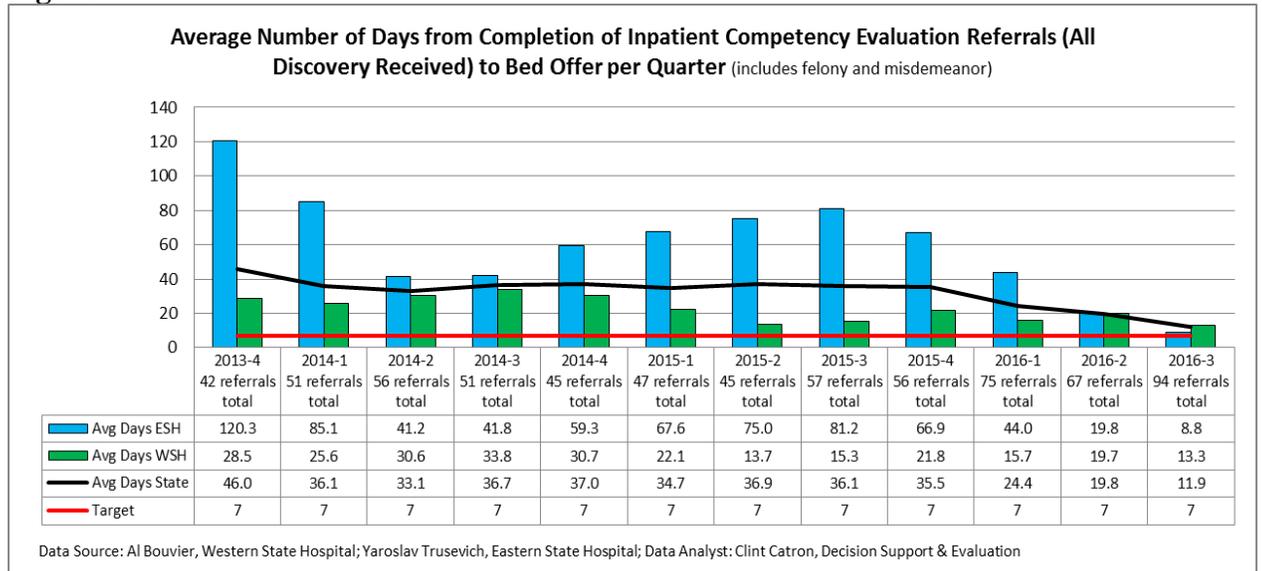
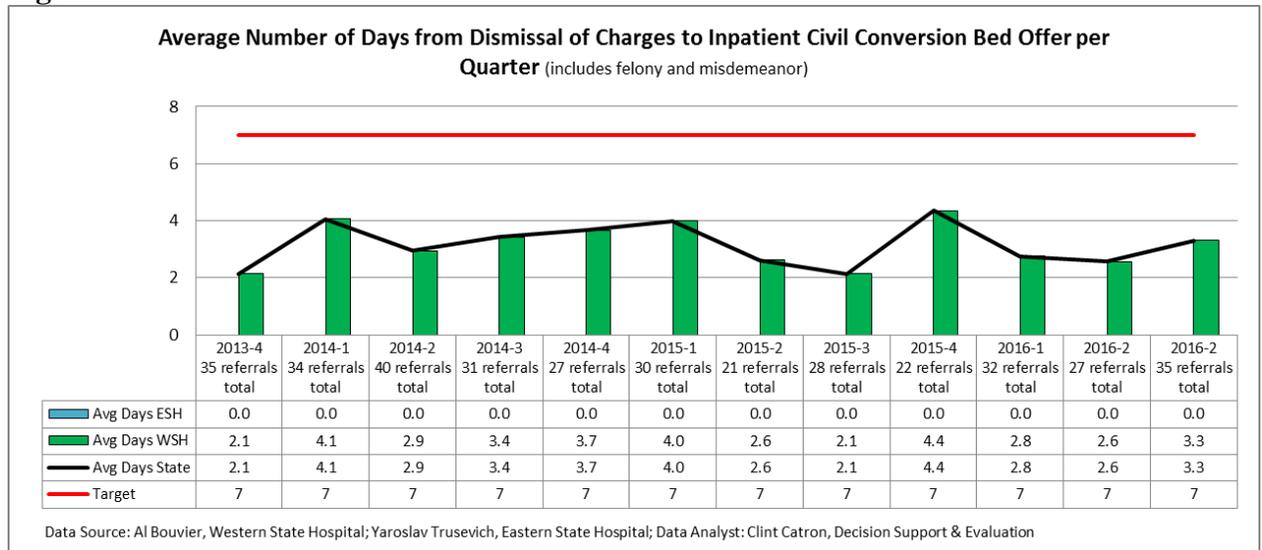
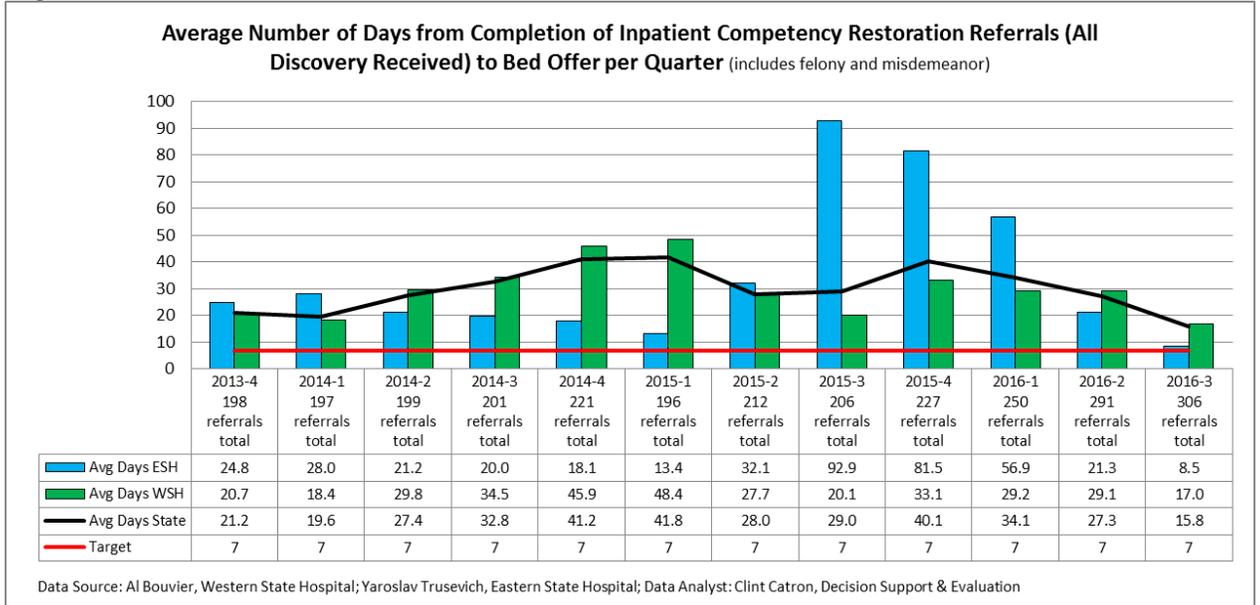


Figure 2



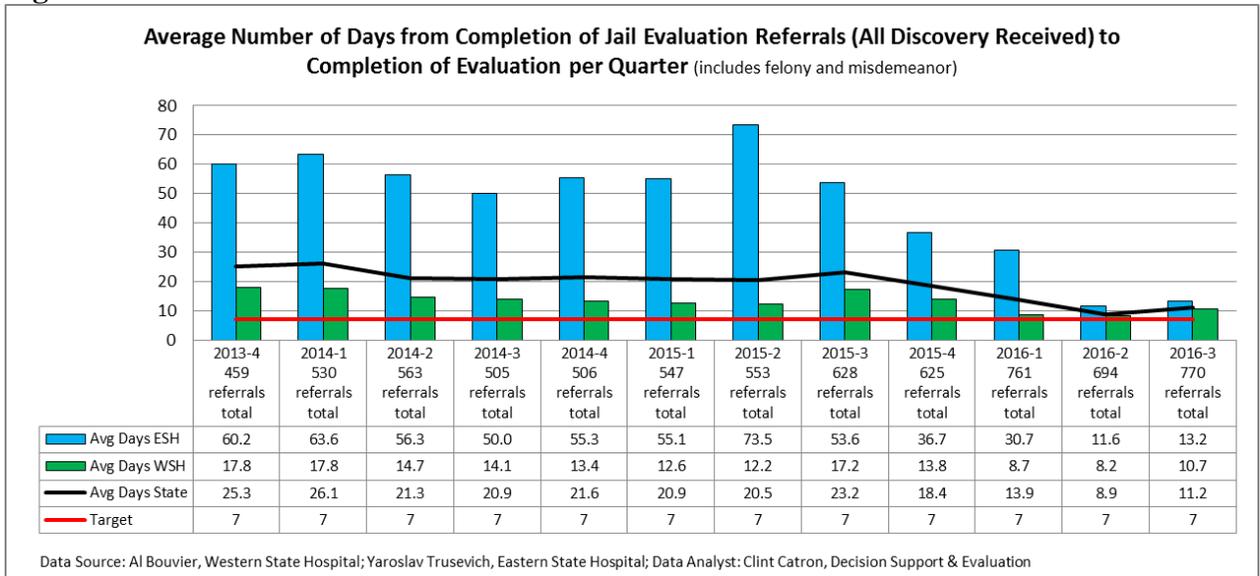
RCW 10.77.068(1)(a)(ii) establishes a performance target for a state hospital to extend an offer of admission to a defendant in pretrial custody for legally authorized inpatient restoration treatment related to competency in seven days or less. Figure 3 below shows results for competency restoration cases.

Figure 3



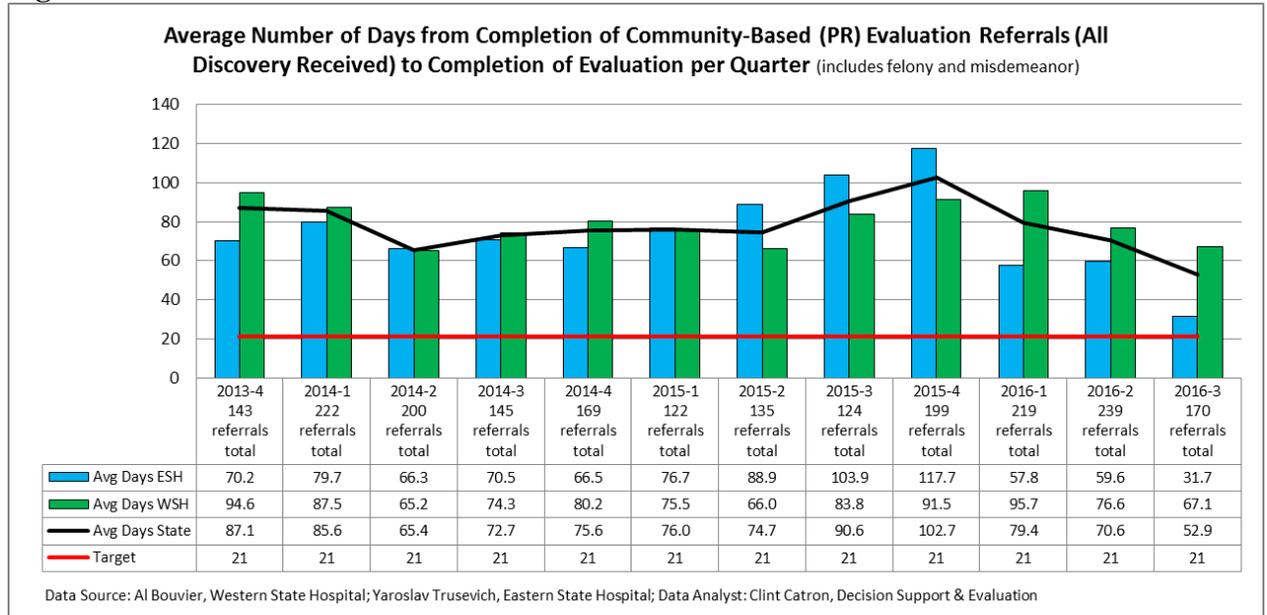
RCW 10.77.068(1)(a)(iii) sets a performance target that competency evaluations for a defendant who is in jail will be completed and distributed within seven days or less. Figure 4 shows results for this reporting period.

Figure 4



RCW 10.77.068(1)(a)(iv) sets a performance target 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 days or less. Figure 5 shows results for this reporting period.

Figure 5



Summary Points

Note: These are key highlights and if additional information/detail is needed, please visit <https://www.dshs.wa.gov/bha/division-behavioral-health-and-recovery/trueblood-et-al-v-washington-state-dshs> to review the most recent Trueblood court report.

- The average number of days to completion of statewide jail-based evaluation orders from receipt of discovery was 11.2 days during quarter three of 2016. This average is a slight increase from the previous quarter (8.9) but lower than the other quarters in Figure 4. Vacancies, use of leave time, and an all-time high of 770 referrals for quarter three of 2016 likely explains the increase in average time compared to quarter two. Supervisors have been reminded to monitor and approve leave time in a manner that comports to the Collective Bargaining Agreement.
- The average number of days to bed offer for inpatient evaluation orders from receipt of discovery decreased to 11.9 days in quarter three of 2016, which is the shortest time to bed offer in the reported quarters. Both hospitals made notable decreases in time, with a decrease to an average of 13.3 days from 19.7 days in quarter two (a difference of 6.4 days) at WSH and a decrease to an average of 8.8 days from 19.8 days in quarter two (a difference of 11 days) at ESH. This decrease was accomplished during a

quarter when there were far more referrals ordered than any other quarter (i.e., a total of 94). The decrease at ESH can likely be attributed to the management of the added bed capacity (27 beds in the last year) and active outreach to community partners by the forensic center director, Karen McDonald. For WSH, the decrease could likely be attributed to outreach in the community and work completed to fully utilize available beds in the alternate sites which allow inpatient evaluation patients to be admitted sooner. Additionally, a position (Admissions Coordinator) has been filled at Headquarters to assist primarily WSH but also ESH in active bed management including outreach to counties to manage patient flow.

- The average number of days to bed offer for restoration orders from receipt of discovery decreased to 15.8 days in quarter three of 2016, which is the shortest time to bed offer in the reported quarters. This was a notable decrease in time to bed offer compared to quarter one (34.1 days) and two of 2016 (27.3 days). WSH reduced its number of days to bed offer from 29.1 days in quarter two to 17 days in quarter 3 (a difference of 12.1 days), and ESH reduced its number of days to bed offer from 21.3 in quarter two to 8.5 days in quarter 3 (a difference of 12.8 days). This decrease in the average number of days to bed offer was accomplished during a quarter when there were more referrals ordered than any other quarter (i.e., a total of 306) which is likely a result of having two alternate sites for competency restoration running at near capacity (54 beds dedicated solely to competency restoration), focused bed management at ESH, the hiring of an Admissions Coordinator, and the additional staff adjustment to fill vacant beds at WSH.
- For both hospitals, patients receive an offer of admission for legally authorized services following dismissal of charges based on incompetence to proceed or stand trial in seven days or less within 3.3 days on average. This is under the requirement of seven days and has been met since the fourth quarter in 2013.
- The average number of days from referral for Personal Recognizance evaluation to completion in the third quarter of 2016 was a combined average for both State Hospitals of 52.9 days, the lowest completion timeframe to date. This decrease in the average number of days would be attributed to increased evaluator capacity at both State Hospitals since 2013, quarter 4.

DISCUSSION OF RESULTS

The data displayed on previous pages reflects continued progress in the past quarter for improving the timeliness of forensic services. With alternate sites for competency restoration established and ongoing efforts to address timeliness (see below for updates), the trend lines are variable but continue toward meeting established targets. Work to fully meet the performance targets and maximum time limits will continue as DSHS pursues plans on how to address any delays and deficiencies to meet the noted time frames.

Following the April 2, 2015 decision by the U.S. District Court for the Western District of Washington in the *Trueblood v. DSHS* litigation, DSHS provided detailed public updates on progress in a monthly report to the Court-Appointed Monitor, Dr. Danna Mauch. These reports are available on the DSHS website at: <https://www.dshs.wa.gov/bha/division-behavioral-health-and-recovery/trueblood-et-al-v-washington-state-dshs>.

In addition to these monthly reports, 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.

Efforts to improve the timeliness of forensic services and reach compliance with the *Trueblood* decision over the last quarter include the following:

A. Workforce

In July 2016 the Department identified an opportunity to increase timely restoration services through more expedited re-evaluations for those receiving restoration treatment. In order to implement this strategy, authority was granted to hire eight additional Forensic Evaluators and one Supervisor. Training is anticipated to take 60 to 90 days after which each new evaluator will contribute 12 additional evaluations per month. The Office of Forensic Mental Health Services also continued efforts to fill existing vacant positions. The status of all Workforce actions is identified in the table below:

Positions	Number to be Deployed	Current Status
Forensic Evaluators—New Positions		
Western State Hospital	4	Hired as of October 2016
Eastern State Hospital	2	Interviews in progress

Thurston County Outstation	1	Interviews in progress
Yakima Outstation	1	Interviews in progress
Supervisor Position	2	Interviews in progress
Existing Vacancies	Number to be Deployed	Current Status
Forensic Evaluator—North Region Office Weekend/Extended Hours	1	Filled effective 11/1/2016
Supervisor	1	Offer extended 10/2016
Evaluator Support	1	Background/reference checks being made on top applicant

B. Alternate Facilities

Two Residential Treatment Facilities (RTF's) were established to provide additional capacity and more timely admission for competency restoration treatment. The first RTF, opened in Yakima in March 2016, has capacity to serve up to 24 male patients at a time. As of September 30, 2016, the census at the Yakima Competency Restoration Program was 20 (83% occupancy). This was higher than the previous quarter when the facility was still in its infancy and is lower than the over 90% occupancy rates currently being experienced at Eastern and Western State Hospitals.

The second RTF, opened in Rochester at the Maple Lane facility in April 2016, has capacity to serve up to 30 patients at a time. As of September 30, 2016, the census at the Maple Lane Competency Restoration Program was 26 (87%) which was higher than the previous quarter when the facility was still new in its operations. This is slightly higher than the Yakima occupancy rate and lower than the hospital rate observed at both WSH and ESH.

C. Technology

As of September 30, 2016:

- DSHS out-stationed evaluators have the capacity to access DSHS systems and electronic health records remotely;
- Mobile equipment has been deployed to the evaluators; and
- Microphones for dictation software (Dragon) have been procured and deployed.

The use of VPN (Virtual Private Network) by the evaluators as they travel has been positively received. Reports from the field confirm it is a much more efficient method for submitting and reviewing dictation and editing work, and that access to VPN reduces the turnaround time on reports.

Future Actions to Improve Timeliness and Quality

The Department's plans for continuing to improve the timeliness and quality of forensic services fall into *four* broad categories. The categories and associated updates are listed below.

1. Increase evaluation capacity and timely access to evaluations

As previously noted, eight evaluator positions have been established. During the next quarter the remaining four positions will be filled, training will be completed and we will track the impacts of additional evaluation capacity on timeliness for competency evaluations and admission into more quickly vacated restoration beds.

2. Explore opportunities to increase restoration treatment bed capacity

Yakima and Maple Lane are showing successful outcomes in the first year of operation. The Department is evaluating other options for increasing capacity by April 2017 and will report on those efforts in Trueblood monthly reports and in subsequent 6492 quarterly reports.

3. Develop more robust and reliable data systems to better forecast demand for services and monitor program performance

DSHS is working toward building an integrated Forensic Data system to include consistent data entry and tracking of all class members from creation of court order for mental competency evaluation through completion of evaluation and/or restoration services. The new system will provide evaluators the ability to access discovery documents and any status changes, regardless of location, to reduce delays. It will also provide a platform for quality reporting from a single system, eliminating the variability currently inherent in leveraging legacy applications not meant for this purpose.

4. Create opportunities to safely divert people with mental illness from arrest, prosecution or incarceration

The Governor's Office executed a contract with Joplin Consulting to examine how to best divert persons with mental illness from the criminal justice system and identify appropriate funding mechanisms. Joplin Consulting started the process of interviewing key stakeholders and sending out a survey during the month of August 2016. The final report was submitted in November 2016 and can be found at: http://www.governor.wa.gov/sites/default/files/documents/5_Jail%20Dive%20rsion_Joplin_SCQISH_11.22.16.pdf. Next steps are dependent upon the upcoming Legislative Session and final budget decisions. In the meantime,

the Department continues work on existing diversion efforts which include:

Collaboration with Disability Rights Washington (DRW) and the Trueblood Court Monitor in July, 2016 to develop a contract with third parties who will use the contempt funds to divert class members out of the criminal justice system and into systems and programs better designed to treat class members' needs. An RFP was released by DRW in December, 2016. Proposals are due in early January, 2017 with expected start dates of July 1, 2017.

BHA continues to fund four prosecutorial diversion programs. All sites will provide first data report-outs at the end of January.

Project	Desired Outcomes	Start Date	Services Provided	Number Served	Notes
Spokane County – program focused on those with misdemeanor and low-level felonies	<ul style="list-style-type: none"> - Reduction in arrests/convictions - Reduction in competency evaluation referrals - Successful completion of diversion requirements - Housing stability 	October, 2016	Liaising with prosecutors office, pre-trial services and jail; assessment and referral; care management, med management/monitoring; intensive supports	8	31 referrals made; 8 accepted into the program
Pacific County-program focused on misdemeanors	<ul style="list-style-type: none"> - Reduction in arrests/convictions - Reduction in competency evaluation referrals - Successful completion of diversion requirements - Housing stability 	September, 2016	Liaising with prosecutors office and jail; care management, med management/monitoring; intensive supports; peer support	3	Program changed eligibility criteria as the assisted outpatient treatment outcome was too restrictive (change was made on 10/25/16)
King County-program focused on misdemeanors and low-level felonies	<ul style="list-style-type: none"> - Reduction in arrests/convictions - Reduction in competency evaluation referrals - Successful completion of diversion requirements - Housing stability 	January, 2017	Liaising with prosecutors office; care management, med management/monitoring; intensive supports; respite beds; day support	12	Start date delayed because of inability to secure a provider
Greater Columbia-program focused on misdemeanors	<ul style="list-style-type: none"> - Reduction in arrests/convictions - Reduction in competency evaluation referrals - Successful completion of diversion requirements - Housing stability 	November, 2016	Liaising with the prosecutor's office and jail; MH assessment and treatment planning while in jail; initial and ongoing care coordination post release for up to one year (med management, SUD treatment, crisis intervention; limited capacity for housing)	7	11 referrals made, 7 accepted into the program

Next steps:

The Department will continue to work on three main areas to address compliance:

1. Capacity (restoration/evaluation capacity);
2. Throughput (early referral evaluations); and
3. Demand (Diversion).

Future reports will focus on: efforts to increase additional capacity for inpatient competency services, filling remaining evaluator vacancies, updating the competency restoration training, improving the referral process for competency restoration evaluations, and steps taken related to decreasing demand within various diversion programs.