

Competency to Stand Trial, Phase II:

DSHS Has Not Met Performance Targets—Better Management and Analysis Could Help It Do So

Proposed Final Report

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Joint Legislative Audit & Review Committee

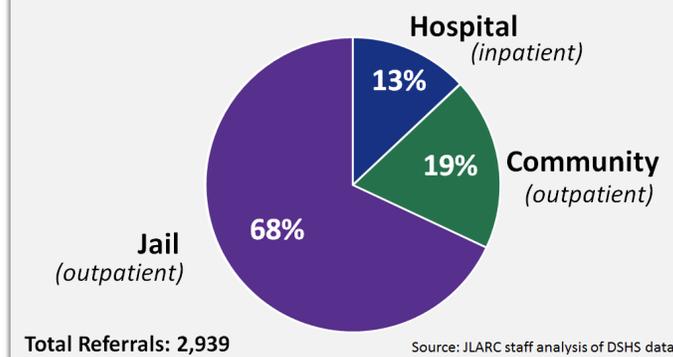
April 23, 2014

Competency Services Intended to Prevent Prosecution of Mentally Incompetent Defendants

- Criminal defendants are not competent to stand trial if they:
 - ♦ Lack capacity to understand the proceedings against them; or
 - ♦ Cannot assist in their defense.
- State statute requires that *“no incompetent person shall be tried, convicted, or sentenced for the commission of an offense so long as such incapacity continues.”* (RCW 10.77.050)

DSHS is Responsible for Providing Competency Services to Courts

Evaluation Referrals By Setting, 2012



In 2012, 80% of initial evaluations were referred by counties served by Western State evaluators.

2012 Legislation (SSB 6492) Provided Guidance to DSHS and JLARC

DSHS's reported increase in referrals raised concerns about amount of time defendants wait for evaluation.

DSHS

- Legislation established performance targets for how long DSHS has to complete competency evaluations and admit defendants to hospitals.

JLARC

- Directed JLARC to complete two performance assessments of the agency's approach and success in meeting targets.
 - ♦ First study completed December 2012.

Phase II Report Summary

- DSHS has not met statutory targets for timeliness in completing evaluations or admitting defendants to state hospitals.
- Agency is not tracking key information about incoming referrals, and lacks information to manage existing staff or determine resource needs.
- Primary focus of JLARC recommendations is to develop capacity to develop and sustain a service delivery model to meet targets.

DSHS Is Not Consistently Meeting Statutory Performance Targets (SSB 6492)

Setting	Days to Admit Defendant or to Complete Evaluation	% Referrals Meeting Targets (11/1/12 to 4/30/13)	Average
Jail	7 days	11%	21 days
Hospital	Admit within 7 days	24%	20 days
<i>Targets effective November 2012</i>			
Community	21 days	8%	113 days
<i>Target effective May 2013</i>			

Source: JLARC staff analysis of hospital data.

DSHS Has Not Provided Accurate or Timely Performance Reporting

- DSHS required to report annually and quarterly if targets not met. Two of six expected quarterly reports released to date:

Inaccurate

Eastern reporting cannot be replicated using DSHS data

Inconsistent

Different timeframes, different approaches to calculating timeliness

Delayed

Quarter ending 12/2012, released 9/2013
Quarter ending 3/2013, released 10/2013

- Annual report due 12/1/2013; not yet released.
- Western staff working to address quality and data management – no recent public reports.

Legislative Auditor Recommendation #1: Improve Performance Reporting

DSHS should provide:

- Accurate, consistent, and timely reporting on the number of defendants referred,
- Number of evaluations completed,
- Timeliness of completing evaluations, and in admitting defendants to the hospitals.

DSHS: Partially concurs. Indicates need for two FTEs – one to coordinate reporting, and one to establish consistent forensic policies and procedures.

DSHS Has Not Determined Why Its Own Assumptions Are Not Being Met

- Reported in 2012 that it could meet statutory targets if it met three assumptions:

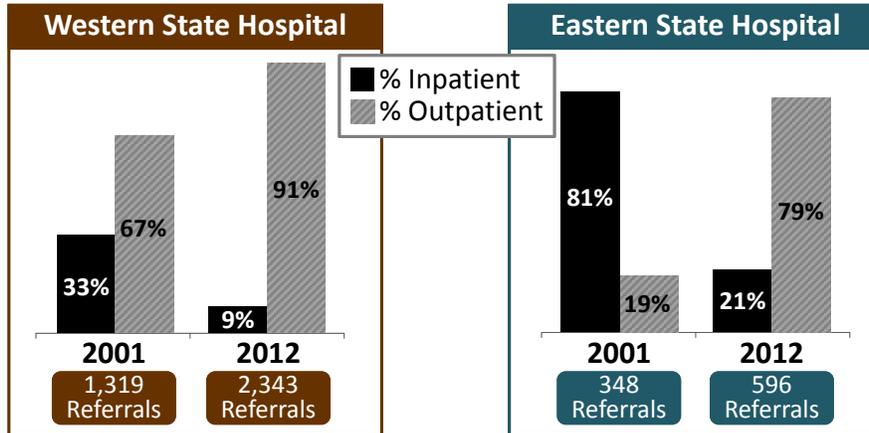
Staffing Level	High turnover at one of three units (15 resignations at WSH since 2009)
Evaluator Productivity	Not consistently met – agency cannot determine why not
Referral Rate	Does not have accurate information

- Has not analyzed whether original assumptions are appropriate, or if other factors have changed to make them impractical.

DSHS Evaluators Are Based at the Hospital and Travel to Outpatient Settings



Approach to Evaluations Remains the Same Despite Shift in Evaluation Referral Location



Source: JLARC staff analysis of DSHS data.

Neither DSHS nor the hospitals can report whether current approach is the most efficient.

Legislative Auditor Recommendation #2: Develop Service Delivery Approach and Staffing Model

After collecting and analyzing descriptive data about its current operations, DSHS should hire an independent, external consultant to develop:

- 1) A service delivery approach that enables DSHS to meet the statutory targets; and
- 2) A staffing model to implement the new approach.

DSHS: Concur.

DSHS Has Not Implemented Other Key Statutory Requirements to Date

Requirement in Statute	DSHS Status
Quality of evaluations shall not diminish.	<i>No definition of "quality evaluation." No process in place to monitor and review quality, nor is evaluators' consistency reviewed.</i>
Ensure that forensic competency resources are spent efficiently and clinically appropriately.	<i>Budget information is estimated. DSHS has not analyzed or compared efficiency of current approaches.</i>
Procedures to monitor length of stay to ensure release when clinically appropriate and within statutory time limit.	<i>Not yet implemented its proposed actions to do so.</i>

Legislative Auditor Recommendation #3: Comply With Addt'l Statutory Requirements

DSHS should take actions to comply with additional statutory requirements from SSB 6492 and report to the appropriate committees of the Legislature before the 2015 Legislative session.

If additional resources or changes to legislation are needed, DSHS should submit a request in the 2015-17 agency budget request.

DSHS: Partially concurs. Indicates need for three additional forensic evaluators.

Auditor's Comment: Use Workload Analysis to Finalize Decisions on Resource Needs

- DSHS may require interim resources; however, it needs better management information to develop a sustainable, long term approach.
- Legislative Auditor urges completion of the workload study first, and to use the results to finalize decisions on resource needs.
- Study can help answer:
 - ♦ Is the centralized approach still appropriate?
 - ♦ If a decentralized approach is warranted, where should staff be out-stationed? How many evaluators would be needed at each station?
 - ♦ How would administrative support and results reporting be handled in a decentralized approach?

System-Level View: Review of Washington's Process and Other States' Practices Highlights Opportunities for Improvements



Courts That Refer Defendants for Multiple Evaluations Impact State and County Resources

Example: All King County misdemeanor defendants January 2011 to April 2013.

- 359 individuals referred for multiple evaluations.

If each was referred once, the decrease in referrals would have been equal to the output of two evaluators over two years.

- DSHS could review referral characteristics and other opportunities such as diversion programs.

Legislative Auditor Recommendation #4: Develop Formal Collaboration Approach

DSHS, its primary judicial system partners, including the Administrative Office of the Courts, and other stakeholders should meet to develop an approach to assure collaboration and communication among the partners.

DSHS: Partially Concur. Indicates need for one FTE to implement Recs. 4 & 5.

Promising Practices From Counties, Other States, and the National Judicial College

Counties

All parties involved in competency processes could benefit from sharing promising practices.

Other States

Have taken actions to improve the timeliness of the process, reorganized certain functions to improve efficiency and ensure referrals are appropriate.

National Judicial College

Drafted best practices for competency evaluations and strongly focused on the need for collaboration and training.

Legislative Auditor Recommendation #5: Establish Cross Training Opportunities

DSHS should work with its judicial system partners, including the Administrative Office of the Courts and other stakeholders, to develop training specific to their professions, as well as training material appropriate for cross training.

DSHS: Partially Concur. Indicates need for one FTE to implement Recs. 4 & 5.

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