

**Competency to
Stand Trial,
Phase II
Report 14-01**

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STATE OF WASHINGTON

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REPORT SUMMARY

DSHS Provides Services Related to Defendants' Competency to Stand Trial

Federal and state policies are intended to prevent the prosecution of defendants who are not mentally competent to stand trial. If a defendant's competency is raised as an issue in a criminal or civil case, the court suspends the trial so that the defendant's competency can be evaluated.

Competency evaluations are usually performed by psychologists from the Department of Social and Health Service's (DSHS) Western State Hospital or Eastern State Hospital. The initial evaluations can take place in a local jail, at one of the hospitals, or in a community setting such as an attorney's office.

Following this initial evaluation, a court may find that a defendant is not competent to stand trial and may direct that the defendant be admitted to one of the hospitals for competency restoration. Restoration involves services, such as medication management, that attempt to restore the defendant to competency to resume the trial. Once the treatment team believes competency has been restored, the defendant receives a follow-up evaluation.

If the defendant needs to be admitted to one of the hospitals for an evaluation or for competency restoration services, the defendant may have to wait for a hospital bed to become available.

2012 Legislature Set New Targets to Expedite the Competency Evaluation Process

DSHS reports that the number of referrals for competency evaluations has increased over time to approximately 3,000 initial referrals in 2012. This increase has raised concerns about the amount of time defendants spend waiting in jail or in the community for an evaluation.

In 2012, the Legislature passed a bill intended to sustainably improve the timeliness of services related to competency to stand trial (SSB 6492). The Legislature set the following specific targets for the completion of outpatient competency evaluations and admission to the state hospitals:

- In jail setting, completion within 7 days;
- In community setting, completion within 21 days; and
- Defendants' admission to state hospitals within 7 days for an initial evaluation or restoration.

The legislation also directed the Joint Legislative Audit and Review Committee (JLARC) to complete two performance assessments of DSHS's implementation of the bill. JLARC released the Phase One report in December 2012, which addressed DSHS's plans for meeting the requirements in SSB 6492. This report is the second of the two reviews and focuses on results.

DSHS Is Not Meeting the Targets for Competency Services

DSHS is not consistently meeting the performance targets for competency services, as intended by statute. DSHS is also not consistently meeting its assumed evaluator staffing and productivity levels. In response to the 2012 JLARC audit, the agency developed a plan to meet the 2012 legislative requirements, but DSHS has not completed implementation of the plan. The agency has also struggled to provide accurate and timely performance information.

Analysis of Existing Data Can Help DSHS Determine the Best Strategies for Reaching the Targets

DSHS has not completed the basic planning and analysis necessary to identify the best approach to meet the targets. This report identifies the kinds of analyses the agency can undertake to help identify the best path forward. These analyses can identify and address internal capacity and workforce issues, external factors, and strategy effectiveness. In several instances, JLARC staff are providing the initial analysis to aid in the process. One key analysis that needs to be completed is to compare the current service delivery approach to other options.

No Mechanism Ensures a Defendant's Movement through the Competency Process in a Timely Manner

JLARC's December 2012 report pointed out that the competency to stand trial process involves more parties than the state psychiatric hospitals. In Phase Two, JLARC staff reviewed court and hospital data to provide a more complete picture of defendants' experiences. We identified impacts other parties have on the competency process, the varied responses of Washington counties to address their own concerns with the process, actions other states have taken to improve the timeliness of the competency process and recommended best practices from the National Judicial College (NJC).

Legislative Auditor Recommendations

The Legislative Auditor makes five recommendations. Three recommendations are intended to help DSHS meet statutory requirements and accurately assess and effectively manage its resources. Two recommendations are intended to improve coordination and communication among system partners to improve the delivery and efficiency of competency services.

1	Improve performance reporting
2	Develop and implement a service delivery approach and staffing model to meet the targets
3	Address non-compliance with statutory requirements
4	Improve collaboration between key system partners
5	Establish ongoing training