

Behavioral Health Administration

**Fact Sheet**

**Title: Trueblood: Timeliness of Competency Services**

Updated: October 2017

<p><b>Overview</b></p>	<p>Washington State law requires that a defendant be mentally competent to stand trial. When such competence is called into question, the court may order a competency evaluation be completed to assess competence. Roughly half of competency evaluations in Washington result in a finding that the defendant is not competent to stand trial. In these cases, the court may order the person into competency restoration treatment.</p> <p>In April, 2015, <i>Trueblood v. DSHS</i> (Department of Social and Health Services) ruled that defendants may not be held for more than 7 days in jail in wait of a court-ordered competency evaluation. This standard was revised to 14 days in August of 2016 for jail evaluations, but remains at 7 days for inpatient evaluation orders. <i>Trueblood v. DSHS</i> also stipulated that when a defendant has been found not competent to stand trial, they may not wait longer than 7 days to be placed into treatment. DSHS continues to make rigorous efforts to meet the 7 day limit. These efforts include expanding bed capacity and staff, hiring more forensic evaluators, contracting with private facilities for restoration services, collaboration with the state-wide court system, and streamlining internal DSHS processes.</p> <p>DSHS was found in civil contempt in July of 2016 due to its inability to comply with court requirements. Contempt fines were implemented for inpatient services at the rate of \$500/day when waiting 8-13 days, and \$1,000/day when waiting 14 days or more.</p> <p>DSHS received a second order for civil contempt in October 2017 which expanded contempt fines to include class members waiting in jail for an evaluation. DSHS is required to pay \$750 for each day waiting in jail beyond the shorter of these two parameters: a) 14 days from receipt of the court order, or b) 21 days from the date the court order was signed.</p>
<p><b>Eligibility Requirements</b></p>	<p>For defendants waiting in jail, DSHS must: 1) provide an in-patient evaluation within 7 days; 2) provide an in jail evaluation within 14 days; 3) provide a bed within 7 days of a restoration court order. <i>Trueblood</i> set a deadline for compliance of January 2, 2016. In December 2015, DSHS requested an extension until May 27, 2016. DSHS was found in contempt of court in June, 2016 and currently must pay fines for those not admitted within 7 days for inpatient competency evaluation or inpatient competency restoration.</p>
<p><b>Authority</b></p>	<p>Chapter 10.77 Revised Code of Washington outlines the requirements for competency services and the establishment of the Office of Forensic Mental Health Services.</p>

<b>Budget</b>	The 17-19 Biennial Budget included an investment of \$48.0 million of maintenance level funding from the 2015-17 biennium (\$46.0 mil GF-State and \$2.0 mil GF-Federal) and \$2.78 million of new GF-State funding in the 2017-19 biennium, for a total of \$50.78 million.
<b>Rates</b>	N/A
<b>Numbers Served</b>	Between January-August of 2017, DSHS's <i>monthly</i> average of court orders for: <ul style="list-style-type: none"> <li>• jail-based evaluations was 294,</li> <li>• restoration services was 116, and</li> <li>• inpatient evaluation was 31.</li> </ul>
<b>Partners</b>	DSHS is working with the court system and with counties to standardize the referral process and promote the diversion of individuals out of the criminal justice system into more effective treatment where appropriate. In FY 2017, four prosecutorial diversion programs were funded: Spokane, Pacific, Greater Columbia and King. In FY 2018, three programs received renewed programming: Spokane, Greater Columbia, and King.
<b>Oversight</b>	A Court Monitor was appointed to DSHS to follow progress made in coming into compliance with the <i>Trueblood</i> decision.
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