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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CASSIE CORDELL TRUEBLOOD, et
al.,

Plaintiffs,

v.

WASHINGTON STATE DEPARTMENT
OF SOCIAL AND HEALTH SERVICES,
et al.,

Defendants.

CASE NO. C14-1178 MJP

ORDER MODIFYING PERMANENT
INJUNCTION

THIS MATTER comes before the Court on Defendants’ Motion to Modify Injunction to extend Defendants’ compliance deadline to May 27, 2016. (Dkt. No. 174.) Having heard oral argument and having considered the testimony submitted, the Parties’ briefing, the Parties’ stipulation regarding benchmarks, the Court Monitor’s reports to the Court, and the related record, the Court GRANTS the Motion to extend the compliance deadline and makes additional modifications to the injunction as follows.

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Introduction

The Washington State Department of Social and Health Services (“DSHS”) is violating the constitutional due process rights of Plaintiffs and class members by failing to provide timely competency evaluation and restoration services. (Dkt. No. 104.) Class members are all pretrial detainees waiting in jail for court-ordered competency services that Defendants are statutorily required to provide. (See Dkt. No. 131.) Class members’ criminal cases are stopped and their trials cannot happen until Defendants provide these services. At all times relevant to this case, class members are presumed innocent and have not been convicted.

At trial, the Court found seven days to be the constitutionally permissible waiting time. (See Dkt. No. 131.) While DSHS claimed, and continues to claim, barriers and obstacles prevent it from providing timely services, the gravity of the harm to class members caused by prolonged incarceration while awaiting services is great, and the constitutional due process balancing favors class members. Seven days, therefore, is the maximum justifiable period of incarceration absent an individualized finding of good cause to force a class member to continue to wait for competency services.

In order to remedy the constitutional violation and protect the rights of Plaintiffs and class members, the Court issued a permanent injunction on April 2, 2015. (Dkt. No. 131.) The Court ordered Defendants to take appropriate steps to immediately reduce wait times, and ordered Defendants to secure sufficient staff and bed space to allow for the provision of competency services within seven days. The Court ordered Defendants to reduce wait times as soon as practicable, but not later than January 2, 2016. Because Defendants had not demonstrated that they were adequately planning for future growth in the demand for competency services, the Court also ordered Defendants to prepare a long-term plan laying out

1 | how Defendants will continue to provide services within seven days into the future. Finally,
2 | because Defendants demonstrated a longstanding and consistent pattern of intentionally
3 | disregarding court orders that conflicted with their internal policies, the Court appointed a Court
4 | Monitor to oversee Defendants' implementation of the injunction's requirements.

5 | Instead of complying with the Court's order or seeking a timely extension, Defendants
6 | waited until December 30, 2015, to ask to delay the injunction's compliance deadline. (Dkt. No.
7 | 174.) Defendants argue an extension is warranted, and contend that they could not comply with
8 | the January deadline due to the enforcement actions and demands from the federal Centers for
9 | Medicare & Medicaid Services ("CMS"), which issued six notices of immediate jeopardy to
10 | Western State Hospital ("WSH") following an investigation into patient and staff safety in the
11 | fall of 2015. DSHS must achieve compliance with CMS's conditions of participation by March
12 | 1, 2016, or risk losing sixty-four million dollars in federal funding as well as WSH's
13 | certification. Arguing that they have made significant efforts and taken concrete steps to reach
14 | compliance even while having to reconfigure their compliance plan due to the CMS actions,
15 | Defendants now seek an extension of the compliance deadline to allow for their efforts to yield
16 | the hoped for results.

17 | **Legal Standard**

18 | "A party seeking modification or dissolution of an injunction bears the burden of
19 | establishing that a significant change in facts or law warrants revision or dissolution of the
20 | injunction." Sharp v. Weston, 233 F.3d 1166, 1170 (9th Cir. 2000) (citing Bellevue Manor
21 | Assocs. v. United States, 165 F.3d 1249 (9th Cir.1999) and Rufo v. Inmates of Suffolk County
22 | Jail, 502 U.S. 367 (1992)). Fed. R. Civ. P. 60(b) provides a means for parties to seek
23 | modification of an injunction "if a significant change either in factual conditions or in law
24 |

1 renders continued enforcement detrimental to the public interest.” Horne v. Flores, 557 U.S.
2 433, 447 (2009) (internal quotation marks omitted); see also Rufo, 502 U.S. at 384 (Modification
3 may be appropriate where changed factual conditions make compliance with a decree
4 substantially more onerous, where a decree proves to be unworkable because of unforeseen
5 obstacles, or where enforcement of a decree without modification would be detrimental to the
6 public interest.). Once the party seeking relief meets its burden of demonstrating that changed
7 circumstances warrant relief, a court abuses its discretion when it refuses to modify an injunction
8 in light of such changes. Horne, 557 U.S. at 447.

9 **Factual Findings**

10 After hearing testimony and reviewing the Parties’ submissions, the Court makes the
11 following factual findings:

12 DSHS has failed to comply with the Court’s order to reduce wait times for the provision
13 of competency services to class members to no more than seven days from the signing of a court
14 order no later than January 2, 2016. Indeed, while there has been a slight reduction in wait times
15 for some services since trial, wait times have actually increased for most services. (See Court
16 Monitor’s Second Quarterly Report to the Court, Dkt. No. 180 at 25.)¹ Wait times are especially
17 egregious for services to be provided at Eastern State Hospital (“ESH”), where data from
18 December 2015 shows that class members who have been found incompetent spent an average of
19 ninety-four days in jail waiting for competency restoration services at ESH. (Id.)

20 DSHS contends it has been unable to comply because of the enforcement actions and
21 related demands from CMS, which DSHS believes constitute a significant factual change
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23 ¹ The Court incorporates into this order the factual findings of the Court Monitor in her
24 Second Quarterly Report to the Court. (Dkt. No. 180.)

1 warranting modification of the injunction to extend the time by which DSHS must comply.
2 DSHS and WSH have successfully remedied the immediate jeopardy issues, but as of the date of
3 the status hearing, did not yet know whether their Plan of Correction would be accepted by CMS.
4 None of the CMS actions that form the basis for Defendants' Motion apply to ESH.

5 While the timing of CMS's most recent review of WSH and the specific demands
6 resulting from the review have created problems for DSHS's long-term plan to comply with the
7 injunction, the problems identified by CMS are not new ones but rather are perpetual ones.
8 Indeed, shortages of staff and acceptable physical facilities were identified by the Court in April
9 2015 as the primary causes of DSHS's failure to provide timely competency services. (See Dkt.
10 No. 131 at 11.) The deficiencies identified by CMS cannot be rectified until more staff is hired
11 and improvements to facilities are made.

12 While the CMS actions have hindered compliance, failures by DSHS itself have
13 prevented it from achieving compliance. As discussed in more detail below, DSHS (1) has failed
14 to hire and retain sufficient staff, (2) has failed to implement a data management system, (3) has
15 failed to modify its waiting list methodology to aid class members in critical need of treatment,
16 (4) has failed to take appropriate emergency action to immediately reduce the backlog of those
17 waiting for services, (5) has failed to seek expedited licensure for newly hired staff, (6) has failed
18 to establish a formal forensic training program, (7) has failed to make evaluations available on
19 evenings and weekends, (8) has failed to make any meaningful progress on the use of video and
20 telemedicine to conduct evaluations in remote parts of the state, (9) has failed to take any
21 meaningful steps towards establishing diversion systems with other stakeholders, (10) has failed
22 to make meaningful progress on out-stationing evaluators throughout the state but especially in
23 Eastern Washington, (11) has failed to hire high-level management staff who could bring
24

1 | experience, education, and leadership to the challenges faced by DSHS, and (12) has failed to
2 | follow its own long-term plan created just seven months ago. All of these failures, in addition to
3 | the CMS actions, have led to DSHS's inability to comply with the Court's deadline.

4 | DSHS's primary barrier to compliance remains its inability to hire and retain staff.
5 | DSHS has struggled to recruit qualified staff because despite some salary increases, DSHS
6 | continues to pay below-market wages. DSHS also struggles to recruit and retain qualified staff
7 | because of its unattractive workplace culture and rampant safety concerns, which themselves are
8 | caused in large part by understaffing. Additionally, DSHS's ability to hire sufficient staff has
9 | been hampered by cumbersome labor contracts that limit the categories of medical professionals
10 | that can serve in the state hospitals, and by an institutional unwillingness on DSHS's part to
11 | commence the bargaining process with labor partners who would be affected by changes in
12 | working conditions.

13 | DSHS's failure to hire and retain sufficient staff has prevented it from utilizing already-
14 | existing facilities and has caused it to instead seek private contractors to perform competency
15 | services. Empty beds cannot be opened without sufficient staff. Thirty beds at WSH and fifteen
16 | beds at ESH currently sit empty because DSHS does not employ enough doctors, nurses, and
17 | other staff to open them.

18 | DSHS has failed to hire a Forensic Director, leaving the department without a leader with
19 | sufficient education, training, and creativity to effectively recruit staff and push plans forward.
20 | After its initial search for a Forensic Director failed, DSHS waited months to restart the process.
21 | The lack of a Forensic Director and the other significant vacancies among high-level
22 | management staff have hindered recruitment and diffused decision-making responsibility among
23 | already-overburdened agency staff, making it difficult to determine who actually made certain
24 |

1 decisions on behalf of DSHS. Because the Court cannot identify which decision maker has made
2 critical decisions on behalf of DSHS, the Court cannot know what education and experience the
3 decision maker is relying on when making those decisions and cannot evaluate whether or not
4 the decisions were made using appropriate considerations.

5 DSHS was given funding to hire two additional full time evaluators to conduct
6 competency evaluations, but decided not to fill those positions despite the fact that current wait
7 times for evaluations are far in excess of seven days. (See Dkt. No. 180 at 25.) The positions
8 remain vacant in part because DSHS has been unable to find candidates who meet its eligibility
9 requirements, and in part because DSHS believes it can process the current volume of evaluation
10 referrals with the quantity of evaluators it now employs. DSHS was not able to provide an
11 explanation as to why it would not benefit from having the two additional evaluators allocated by
12 the Legislature.

13 DSHS has failed to acquire the technical expertise necessary to achieve compliance.
14 Throughout the last nine months, medical records have remained inaccurate and inconsistent
15 across WSH and ESH. DSHS has failed to procure and put into effect an electronic medical
16 records system, and has not moved forward on an electronic records system that could store both
17 medical and court records. DSHS continues to struggle to understand the demand for its services
18 because of its lack of adequate data, and data on wait times is still relatively in flux due to
19 inconsistencies and inaccuracies.

20 Despite a \$4.8 million appropriation from the Legislature, DSHS has failed to make any
21 significant progress on diversion. While a DSHS diversion specialist and liaison has held a few
22 preliminary meetings with several counties, DSHS has failed to make any meaningful progress in
23 coordinating with counties, prosecuting attorneys, community mental health systems, or police
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1 departments to develop any concrete plans or systems to divert class members from the criminal
2 justice system.

3 DSHS has made no attempt to develop any triage methods or systems in order to sort
4 class members waiting for competency services by the acuity of their mental illnesses, their need
5 for medication, the amount of resources their cases will require, or the seriousness of the crimes
6 with which they have been charged. Instead, DSHS continues to use the first in, first out waiting
7 list methodology it has used for years, treating class members more like boxes on a warehouse
8 shelf than human beings in need of care. Defendants assert that this decision was based on
9 DSHS's professional judgment, but have not identified the actual decision maker who made that
10 determination and what experience, training, or education that judgment is based on. Although
11 Defendants contend that they view the state courts as their clients, Defendants continue to ignore
12 court orders for immediate transport where judges have identified class members urgently in
13 need of services—including when held in contempt—instead choosing to prioritize admissions
14 using the existing waiting list system. Two class members have died in jail while waiting for
15 competency services from Defendants over the last nine months.

16 DSHS does not know, and does not take into account, the cost to Washington's taxpayers
17 of continuing to incarcerate and care for class members in county jails during periods of time
18 where that responsibility is properly with DSHS. DSHS does not know, and does not take into
19 account, the cost to the public caused by significant delays in moving class members through the
20 criminal justice system. DSHS does not know, and did not take into account, the cost to the
21 public of retrofitting the Yakima and Maple Lane alternative restoration facilities for one or two
22 years of use as compared to the cost of securing sufficient staff to use the available empty bed
23 space in the existing state hospital campuses.

Discussion

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2 The Court gave Defendants an opportunity to reduce wait times according to a plan of

3 their own design, and provided nine undisturbed months for the hoped-for results to materialize.

4 The compliance deadline now having expired, Defendants have failed to satisfy the Court’s

5 mandate, have failed to meet the goals they themselves laid out in their long-term plan, and have

6 failed to meaningfully improve the lives of class members, who continue to languish in jail while

7 waiting for services from Defendants. Although Defendants claim to be on the brink of

8 providing timely services to those afflicted with mental illnesses, their efforts to date inspire little

9 confidence that compliance can be achieved without stricter oversight and increased participation

10 by the Court, even if the compliance deadline is extended. The recent deaths of two class

11 members incarcerated while waiting for competency services highlight the importance of the

12 constitutional rights at stake here, and the gravity of Defendants’ failure to protect those rights.

13 The Court does not find that the CMS actions constitute a significant change in factual

14 circumstances. Indeed, Defendants’ failure to properly staff the state hospitals is the root cause

15 of both DSHS’s failure to provide timely competency services and the recent CMS enforcement

16 actions. Nevertheless, Defendants’ actions leave the Court with few options other than holding

17 Defendants in contempt or providing the requested extension with a substantial increase in Court

18 oversight. In weighing this decision, the Court is mindful of the fact that dozens of contempt

19 orders by state court judges—with contempt fines imposed now totaling more than one million

20 dollars—have failed to alter DSHS’s conduct or improve the lives of class members in any way.

21 Therefore, at this stage, the Court believes the public interest is best served by extending the

22 compliance deadline while also increasing the Court’s supervision and the authority of the Court

23 Monitor, by scheduling visits by the Court to the DSHS facilities at issue, and by setting interim

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1 | deadlines between now and the compliance deadline so that the Court can ensure progress is
2 | being made. Furthermore, because Defendants have demonstrated that they are unable to protect
3 | the rights of class members when left to determine their own priorities, the Court finds that the
4 | public interest is best served by ordering Defendants to take specific actions recommended by
5 | the Court Monitor and outlined below. **Accordingly, the Court ORDERS the permanent**
6 | **injunction be modified as follows:**

7 | The deadline for Defendants to come into compliance with the injunction is hereby
8 | continued to May 27, 2016. Because the Defendants have demonstrated that they are unable to
9 | achieve anything resembling compliance when left to determine their own timeframes and
10 | priorities, the Court now sets a series of interim deadlines for the completion of specific discrete
11 | actions on the path to provision of timely competency services. Whereas Defendants were free
12 | to achieve compliance on their own terms before, Defendants will now be required to take the
13 | specific actions outlined below. Each of these actions and their associated deadlines are based
14 | on recommendations from the Court Monitor, whose appointment was jointly proposed by the
15 | Parties. (See Dkt. No. 144.) The Court Monitor's recommendations for these actions are based
16 | on, inter alia, her more than fifteen meetings with the Parties in this case, her more than twenty
17 | site visits throughout Washington, and her multiple decades of experience planning, managing,
18 | and evaluating systems of care, including ten years in Massachusetts, eight years in Rhode
19 | Island, and eight years as a court expert and special master in the District of Columbia. (See
20 | Dkt. No. 142-1.)

21 | In response to solicitation by the Court, the Court Monitor has recommended the below
22 | actions as necessary in order for DSHS to be in compliance by May 27, 2016, and into the future.
23 | The Court has considered the less restrictive agreement submitted by the Parties, (Dkt. No. 185),
24 |

1 and finds that the proposal leaves too much to Defendants’ discretion, a result the Court finds
 2 unacceptable based on DSHS’s performance under the injunction thus far. Stated differently, the
 3 Court finds it necessary to require specific actions and set its own schedule because allowing
 4 Defendants to work according to a schedule of their choosing has resulted in an increase in wait
 5 times since trial. Failure to meet any one of these deadlines will trigger a hearing on that issue,
 6 at which time the Court will determine whether a contempt hearing is necessary or whether other
 7 orders should be issued so that compliance is achieved no later than May 27, 2106.

8 In order to reduce wait times for competency evaluations, Defendants are ORDERED to:

9 1. Implement a triage system to sort class members waiting for <u>in-jail evaluations</u> by the acuity of their mental illnesses and their current manifestations, by the seriousness of their crimes, and by the amount of resources their cases require, by:	Dates for Completion:
10 11 12 A. Producing a triage plan for review and comment	March 1, 2016
13 14 B. Putting the triage plan into effect, after accounting for the comments received	March 15, 2016
15 16 C. Reporting on the implementation and effectiveness of the triage plan in Defendants’ monthly reports to the Court Monitor	Beginning April 15, 2016, ongoing
17 18 2. Eliminate the backlog of class members currently waiting for in-jail evaluations ² by:	Dates for Completion:
19 20 21 A. Formally notifying DSHS’s forensic evaluators and Pierce County’s panel evaluators of plan to eliminate the backlog of people waiting for in-jail evaluations and requesting their help in doing so, and	February 15, 2016

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 23 ² For purposes of this requirement, “backlog case” means any case where a class member
 24 has been waiting for an in-jail competency evaluation for more than seven days as of the date of this order.

1	providing plans to get evaluations done through the use of extra duty pay and other methods available	
2		
3	B. Preparing a list of all backlog cases, organized by jail and by county	March 1, 2016
4	C. Finalizing recruitment of evaluators to aid in the backlog elimination effort and setting a schedule for the evaluation of each backlog case	March 1, 2016
5		
6	D. Initiating the backlog elimination effort	March 7, 2016
7		
8	E. Completing evaluations for all backlog cases	April 15, 2016

9		
10	3. Implement a triage system to sort class members waiting for <u>in-hospital evaluations</u> by the acuity of their mental illnesses and their current manifestations, by the seriousness of their crimes, and by the amount of resources their cases require, by:	Dates for Completion:
11		
12		
13	A. Producing a triage plan for review and comment	March 1, 2016
14	B. Putting the triage plan into effect, after accounting for the comments received	March 15, 2016
15	C. Reporting on the implementation and effectiveness of the triage plan in Defendants' monthly reports to the Court Monitor	Beginning April 15, 2016, ongoing
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In order to reduce wait times for competency restoration, Defendants are ORDERED to:

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19	4. Implement a triage system to sort class members waiting for <u>restoration</u> services by the acuity of their mental illnesses and their current manifestations, by the seriousness of their crimes, and by the amount of resources their cases require, by:	Dates for Completion:
20		
21		
22		
23	A. Producing a triage plan for review and comment	March 1, 2016
24		

1	B. Putting the triage plan into effect, after accounting for the comments received	March 15, 2016
2	C. Reporting on the implementation and effectiveness of the triage plan in Defendants' monthly reports to the Court Monitor	Beginning April 15, 2016, ongoing
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4		
5	5. Report on the implementation status of the CMS Plan of Correction by:	Dates for Completion:
6	A. Producing a written report of compliance issues and the dates associated with required work to be done	February 21, 2016
7		
8	B. Reporting on the implementation status in Defendants' monthly reports to the Court Monitor	Beginning March 15, 2016, ongoing
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10		
11	6. Plan for recruiting and staffing 30 beds at WSH after compliance with CMS's terms of participation is achieved in March by:	Dates for Completion:
12		
13	A. Producing a written outline of steps that need to be taken to secure sufficient staff to open the 30 currently empty beds at WSH	March 15, 2016
14	B. Producing a timeframe for opening those 30 beds	March 15, 2016
15		
16	C. Reporting on the implementation status of the plan and timeframe in Defendants' monthly reports to the Court Monitor	Beginning April 15, 2016, ongoing
17		
18	7. Complete Operations Plans for the <u>alternative restoration facilities</u> in Yakima and Maple Lane by:	Dates for Completion:
19		
20	A. Finalizing and publishing admissions criteria for alternative facilities	February 21, 2016
21	B. Submitting staffing plans for the alternative facilities	February 28, 2016
22		
23	C. Producing policies on seclusion and restraint, risk management, and critical incidents for the alternative facilities	March 7, 2016
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1	D. Producing policies on client rights and rights monitoring	March 7, 2016
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3 In order to plan for growth in the demand for competency services, Defendants are

4 ORDERED to:

5	8. Remove barriers to the expenditure of the \$4.8 million in currently allocated diversion funds by:	Dates for Completion:
6		
7	A. Providing to the Court Monitor the diversion services request for proposals that was issued	February 15, 2016
8		
9	B. Providing to the Monitor the proposals received and the review and award criteria to be used by DSHS in evaluating proposals	February 28, 2016
10		
11	C. Announcing the award of diversion funds	March 11, 2016
12	D. Executing contracts for implementation by the selected providers	April 15, 2016

13	9. Appoint a Director of Forensic Services at BHSIA Headquarters by:	Dates for Completion:
14		
15	A. Determining and executing the State of Washington's re-posting and personnel recruiting requirements	February 15, 2016
16		
17	B. Engaging experts in the field to identify potential candidates, to be accomplished by seeking a list of suggested contacts from the Court Monitor to add to DSHS's current contacts	February 15, 2016
18		
19	C. Revamping DSHS's approach to recruiting by engaging senior system leaders to personally make contact with identified candidates and incorporating other recruitment suggestions by the Court Monitor	February 28, 2016
20		
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22		
23	D. Scheduling interviews with identified candidates, and responding in writing to the	March 15, 2016
24		

1	Monitor's suggestions to improve the attractiveness of the position	
2	E. Completing interviews with identified candidates and securing references for those candidates	April 15, 2016
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4	F. Checking references and completing all employment application requirements	April 30, 2016
5	G. Extending offer of appointment and setting start date, or reporting to the Court and the Court Monitor on reasons why no candidate was hired	May 15, 2016
6		
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8	10. Develop a reliable and valid client-level data system to support better management and accountability of the forensic services system by:	Dates for Completion:
9		
10		
11	A. Defining the functionality required of the data system, potentially including: data collection, recording, analysis, reporting, knowledge and content management, DSHS resource planning, and forensic decision support systems	February 28, 2016
12		
13		
14	B. Performing a gaps analysis to determine if the current system can be modified to accommodate all the functionality required or if new system design is required	March 7, 2016
15		
16		
17	C. Developing a task list and a timeline for implementation	March 7, 2016
18	D. Reviewing the above with the Monitor	March 15, 2016
19	E. Implementing revisions to the existing system or initiating development of a new forensic data and management information system	May 27, 2016
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21
22 Defendants are further ORDERED to submit to the Court no later than February 21,
23 2016, the uniform orders for competency services developed by the Administrative Office of the
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1 Courts, as well as a plan for disseminating those orders to all judges in the state who issue such
2 orders.

3 Defendants are further ORDERED to submit a revised long-term plan to the Court. The
4 revised plan should take into account the actions to date and should include all actions being
5 planned to achieve compliance by May 27, 2016. The revised plan should address DSHS's plan
6 for how it will continue to provide services within seven days into the future as demand grows at
7 a rate of eight to ten percent per year, whether it be through expanded diversion efforts or other
8 means. The revised plan should address Senate Bill 5177 implementation plans, including
9 incentives to promote participation by counties, and should address the plan for returning the
10 beds opened at Yakima and Maple Lane to the accredited clinical setting of the state hospitals.
11 The revised plan should also include plans for evaluating performance in the provision of
12 competency services across the various settings and facilities. A draft revised long-term plan
13 shall be submitted to the Court Monitor no later than March 15, 2016. Defendants shall address
14 in writing any comments or recommendations from the Court Monitor no later than March 31,
15 2016, and should submit the finalized plan to the Court no later than April 15, 2016.

16 Defendants are further ORDERED to work with county executives across the state to
17 determine how much money is currently being expended by the counties to incarcerate and care
18 for class members who await services from DSHS. A report on costs to the counties should be
19 submitted to the Court no later than April 15, 2016.

20 All materials required above should be submitted to the Court Monitor unless otherwise
21 indicated. The Court Monitor, in her discretion, shall determine whether an issue should be
22 brought before the Court for further review and a determination of whether Defendants have
23 failed to meet one of their obligations under this order. Questions regarding the obligations of
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1 Defendants under this order should be directed to the Court Monitor, who shall correspond with
2 the Court to determine the appropriate answer.

3 As discussed above, the Court also finds it necessary to expand the Court Monitor's role
4 and increase her authority so as to ensure compliance is achieved. Accordingly, the Court
5 ORDERS that any written suggestion, recommendation, or document request made by the Court
6 Monitor to DSHS must be responded to in writing within ten (10) days, with an explanation for
7 DSHS's position as to the recommendation or request and a rationale for that position, and with
8 the name of the decision maker(s) responsible for that decision. If the Court Monitor, in her
9 discretion, determines that a decision or rationale is inappropriate, the Court Monitor shall
10 immediately bring that issue to the Court for further review.

11 The Court Monitor is ORDERED to increase oversight of DSHS efforts to achieve
12 compliance and of its facilities, particularly the alternative restoration facilities run by private
13 contractors in Yakima and Maple Lane. To the end, the Court Monitor is hereby empowered to
14 hire a local consultant to do more frequent monitoring of the Yakima and Maple Lane facilities.
15 The Court Monitor and her experts and consultants shall have full access to all DSHS facilities at
16 issue in this case at any time. Furthermore, the Court will personally conduct on-site visits to the
17 DSHS facilities in coordination with the Court Monitor.

18 Finally, based upon the agreement of the Parties (See Dkt. Nos. 185 at 5, 185-1 at 5) and
19 the recommendations of the Court Monitor, wait times for competency services for all class
20 members not part of the in-jail evaluation backlog group discussed above are to be reduced
21 according to the following schedule of benchmarks:

22	March 1, 2016	Competency evaluations completed within fourteen (14) days for both state hospitals
23	April 1, 2016	Competency evaluations completed within ten (10) days for both state hospitals
24		

1	April 1, 2016	Competency restoration admission provided within twenty-six (26) days for both state hospitals
2		
3	May 1, 2016	Competency evaluations completed within seven (7) days for both state hospitals
4	May 1, 2016	Competency restoration admission provided within thirteen (13) days for both state hospitals
5		
6	May 27, 2016	Competency evaluations completed and restoration admission provided within seven (7) days for both state hospitals
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9 The Court shall set monthly status hearings beginning in March by separate order to
10 ensure observance of the Court's directives and progress towards compliance with the injunction
11 by May 27, 2016. The clerk is ordered to provide copies of this order to all counsel.

12 Dated this 8th day of February, 2016.

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16 Marsha J. Pechman
17 United States District Judge
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