

The Honorable MARSHA J. PECHMAN

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

TRUEBLOOD *et al.*

Plaintiffs,

v.

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

Defendants.

NO. 2:14-cv-01178-MJP

DECLARATION OF  
DR. BARRY WARD  
IN SUPPORT OF DEFENDANTS'  
RESPONSE TO PLAINTIFFS'  
MOTION FOR SUMMARY  
JUDGMENT (ECF NO. 87)

**NOTED FOR DECEMBER 5,  
2014**

I, Barry Ward, am over the age of 18 years of age, competent to testify to the matters below, and declare based upon personal knowledge:

1. I am the Center for Forensic Services Psychology Services Supervisor at Western State Hospital (WSH) in Lakewood, Washington. By way of background, I am a 2001 graduate of Baylor University, where I also obtained my doctorate in psychology. I am licensed to practice psychology in the state of Washington. I am also an inactive attorney and have previously practiced law in the states of Washington and California.

2. Western State Hospital has three centers: the Psychiatric Treatment and Recovery Center (PTRC), the Habilitative Mental Health Unit, and the Center for Forensic Services (CFS). CFS is the WSH unit that admits patients awaiting forensic evaluation,

1 restoration and other forensically related matters. I am an authorized representative of the  
2 Department of Social and Health Services.

3 3. As Psychology Services Supervisor, I am familiar with the process concerning  
4 admission to WSH for competency evaluation and restoration treatment services. My overall  
5 responsibilities include supervising forensic evaluators and coordinating with the clinical  
6 supervisor on the provision of competency services at WSH, and ensuring that the program  
7 meets statutory, constitutional, regulatory, and community standards. My responsibilities also  
8 include working with the prioritization algorithm that I developed for the admissions waitlist.

9 4. The Legislature has authorized WSH to staff a finite numbers of beds: 270  
10 forensic beds and 557 non-forensic beds. In addition to the competency-related admissions,  
11 the forensic wards also house those adjudicated as not guilty by reason of insanity (NGRI)  
12 (including those detained pending revocation of a conditional release and those in the  
13 "Community Program" – a conditional release status in which the patients are housed at WSH)  
14 and those awaiting civil commitment proceedings after their felony or misdemeanor charges  
15 have been dismissed due to incompetency ("felony conversion" cases).

16 5. In early 2014, WSH reinstituted the use of a prioritization algorithm for the  
17 admissions waitlist that had previously been successful in decreasing waiting times for  
18 inpatient competency services. This algorithm is based on the historical average number of  
19 days a particular category of court-ordered criminal defendant occupies bed space at WSH,  
20 otherwise known as "bed days". For example, a felony inpatient evaluation uses an average of  
21 12.4 bed days, and a misdemeanor inpatient evaluation uses an average of 11 bed days.  
22 Misdemeanor restorations use an average of 21.4 bed days. A 45-day felony restoration uses  
23 an average of 34.9 bed days, and a 90-day felony restoration uses an average of 69.9 bed days.

24 6. WSH's prioritization algorithm for bed allocation of defendants on the  
25 admissions waitlist is necessarily complex, as it takes advantage of the different average  
26 lengths of stay described above to most efficiently use available bed space. To account for

1 these differences, WSH has assigned a certain portion of forensic beds based on the average  
 2 number of "bed days" used, which results in a more rapid turnover of these beds. Because  
 3 some categories of court-ordered criminal defendants have lower average lengths of stay (or  
 4 "bed day" utilization), those shorter-term categories of beds turn over 3-6 times faster than the  
 5 longer-term categories allowing for more forensic admissions in those categories over time.

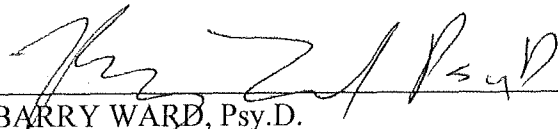
6 7. To effectuate the prioritization algorithm, WSH uses two "wheels" to allocate  
 7 available forensic beds: a fast-turning "wheel" for shorter average stays and a slow-turning  
 8 "wheel" for longer average stays (typically felony restoration). This use of a fast-turning  
 9 wheel for the shorter term admissions improves admission efficiency for at least some criminal  
 10 defendants. This algorithm has reduced the wait times for the inpatient competency evaluations  
 11 and misdemeanor restoration, and has somewhat slowed the rise in the 45-day restoration wait  
 12 times despite the increased referrals for competency services and the reduction in available  
 13 beds due to increased number of beds occupied by Not Guilty by Reason of Insanity referrals.

14 8. The waiting times for the shorter stays will continue to decline in the coming  
 15 months. Between August 8, 2014 and November 25, 2014, inpatient felony evaluation wait  
 16 times have dropped from 42 days to 27 days, and the misdemeanor restoration waiting times  
 17 have dropped from 42 days to 21 days. Inpatient referrals for misdemeanor evaluation are  
 18 currently waiting an average of 13 days. For this class of criminal defendant the wait times  
 19 have come down, and the statutory target of seven days or less to admission is expected to be  
 20 reached sometime in December 2014 or January 2015 for inpatient evaluations and  
 21 misdemeanor restoration at WSH.

22 9. The class members in this case have been charged with a wide variety of  
 23 crimes, including murder, serious assaults and sexual assaults.

24 I declare under penalty of perjury under the laws of the State of Washington that the  
 25 foregoing is true and correct to the best of my knowledge.  
 26

Executed this 1st day of December 2014, at Lakewood, Washington.

  
BARRY WARD, Psy.D.  
*Psychology Services Supervisor* Western State Hospital

**CERTIFICATE OF SERVICE**

*Beverly Cox*, states and declares as follows:

I am a citizen of the United States of America and over the age of 18 years and I am competent to testify to the matters set forth herein. I hereby certify that on this 1 day of December 2014, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

David Carlson: [davide@dr-wa.org](mailto:davide@dr-wa.org)

Emily Cooper: [emilyc@dr-wa.org](mailto:emilyc@dr-wa.org)

Sarah A. Dunne: [dunne@aclu-wa.org](mailto:dunne@aclu-wa.org)

Margaret Chen: [mchen@aclu-wa.org](mailto:mchen@aclu-wa.org)

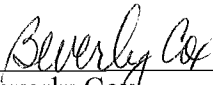
Anita Khandelwal: [anitak@defender.org](mailto:anitak@defender.org)

Christopher Carney: [Christopher.Carney@CGILaw.com](mailto:Christopher.Carney@CGILaw.com)

Sean Gillespie: [Sean.Gillespie@CGILaw.com](mailto:Sean.Gillespie@CGILaw.com)

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Dated this 1 day of December 2014, at Olympia, Washington.

  
Beverly Cox  
Legal Assistant

Office of the Attorney General  
7141 Cleanwater Drive SW  
PO Box 40124  
Olympia, WA 98504-0124  
(360) 586-6565