



Eastern State Hospital has failed to meet evaluation deadlines in 99 percent of cases. CHRIS BOVEY PHOTO

# Waiting for Rights

A class-action lawsuit challenges the state on its failure to provide mental health treatment for those in jail

BY JACOB JONES

All across the state, defendants with mental health issues face routine delays of weeks or months waiting in cramped jail cells for a legally required mental evaluation from the state's overburdened psychiatric hospitals — before they can even start their trials. Still presumed innocent, scores of defendants remain penned for longer than if they had been convicted, often without treatment and isolated in solitary confinement 23 hours a day.

While state law calls for such evaluations to be conducted within seven days, records show average wait times stretching from 30 to 50 days. In at least one case, a defendant has waited more than 120 days.

“The current [wait] lists are unprecedented,” says attorney Emily Cooper with the nonprofit Disability Rights Washington. “That’s a lot of people waiting.”

Right now, a 28-year-old man has spent more than 45 days in the Spokane County Jail awaiting a mental evaluation after a charge of driving under the influence, an offense that would

commonly result in a 30-day sentence. After a psychotic episode, records say he recently was put on suicide watch.

Less than a year ago, 25-year-old Amanda Cook, a young mother who once enjoyed drawing and shopping with her sisters, wrote her family a series of letters describing her mental anguish as she waited for an evaluation at the Spokane County Jail. Her wait stretched several weeks and ultimately she took her own life in a jail showering area on Dec. 3.

Officials with the Department of Social and Health Services, which oversees jail mental evaluations through its psychiatric hospitals, acknowledge longstanding failures to meet deadlines on evaluation times. Agency reports point to staff limitations, ward overcrowding and budget cuts.

With wait lists now stretching longer than any time since at least early 2013, mental health advocates last week filed a federal class-action lawsuit against DSHS on behalf of dozens of defendants waiting for evaluations. Many groups, including Disability Rights Washington and the

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A MENTAL HEALTH SYSTEM IN CRISIS

ACLU of Washington, have signed onto the lawsuit in hopes of forcing a systemic change.

“We’ve reached the breaking point,” Cooper says. “We can’t wait any longer for a solution because people are dying and people are being irreparably harmed.”

**T**he new class-action lawsuit filed Thursday in Seattle cites four cases in which defendants, including the 28-year-old Spokane man, have waited weeks in jail without trial or conviction for a mental health evaluation. Advocates argue the Fourteenth Amendment of the U.S. Constitution and the Americans with Disabilities Act prohibit the state from holding defendants indefinitely without proper medical or mental health care.

“Unfortunately, [state psychiatric hospitals] have persistently failed to perform these services on a timely basis,” the lawsuit states. “[D]elays have caused individuals with mental health disabilities to suffer needless deterioration in their mental health as they sit in jails, frequently in prolonged isolation, for weeks and months before receiving the ... services [hospitals] are responsible for providing.”

A 2013 audit of evaluation times at Eastern State Hospital, which conducts jail evaluations for the state’s 20 eastside counties, found the hospital failed to meet its seven-day deadline 99 percent of the time. Monthly reports show the number of defendants waiting in jail for evaluations continues to increase this year, with 67 individuals waiting in early September.

DSHS regional spokesman John Wiley acknowledges Eastern State Hospital rarely has the resources to meet the seven-day deadline. He explains that the hospital has hired additional staff in recent months, but still struggles with a regional shortage of qualified psychiatrists and licensed evaluators.

## ▶ LETTERS

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“[E]ven when patients are evaluated, there are not enough beds available for treatment and restoration,” he writes in an email. “DSHS will be asking the Legislature for funding to deal with the problems.”

Advocates argue insufficient funding does not justify violating the constitutional rights of a vulnerable population. They hope bringing the lawsuit to federal court will draw new attention to the issue.

“It’s deeply troubling,” says Margaret Chen, an attorney with the ACLU of Washington. “These are individuals who need to be evaluated and treated. ... Jails are not the appropriate places for them.”

**W**hile the Washington State Supreme Court recently banned a common practice known as “psychiatric boarding,” in which state hospitals temporarily house mental health patients without treatment in underequipped emergency rooms, jail evaluations will likely continue to face delays. State law does not include consequences for failing to meet deadlines. Some defense attorneys have resorted to filing motions to hold hospitals in contempt, but most are denied.

“Unless enjoined by the court,” the class-action lawsuit states, “[state hospitals] will continue to violate and cause the violation of the constitutional rights of the class plaintiffs and the class members.”

Cooper explains that hospitals have requested more staffing and resources, but also have failed to meet efficiency guidelines outlined by the legislature. She hopes a judge can bring some clarity to the stalemate and set new goals.

“The federal court is in the best position to provide relief,” she says. “Clearly the state hospitals haven’t been able to fix it on their own.”

Cooper says state representatives have agreed to meet on the issue, which she finds encouraging. She also finds hope in the broad coalition of attorneys and advocates who have joined the effort to address a problem that has stood for years, impacting the care and well-being of thousands of people.

“At this point, we’re left with no other options,” she says. “These are our mothers and our sisters and our children. ... And this is how we treat them? It’s just appalling.” ■