

Office of Civil and Forensic Mental Health



COLORADO
Department of Human Services



Office of Civil and Forensic Mental Health

Mental Health Hospitals

Provide inpatient behavioral health services for civil and forensic patients

Forensic Services

Provide evaluation, treatment and case management to the forensic population statewide

Mental Health Transitional Living Homes

Provide a less restrictive setting for individuals with severe mental health conditions

The Consent Decree

- CDHS was sued in 2011 for failure to provide timely competency evaluations and restoration treatment which has created a significant waitlist of pretrial detainees. The delays in services violate their constitutional rights.
- CDHS has been subject to requirements resulting from the lawsuit since then and is currently under a 2019 consent decree.
- CDHS currently pays approximately \$12 million/year in fees and fines for non-compliance and has paid a **total of \$39M so far**.
 - **If the fines were not capped at \$12M:**
 - For FY 2022-23, fines would have been over \$65M

What is Competency?

Competency is a legal construct that refers to an individual's current capacity to function meaningfully and knowingly in a legal proceeding.

Competency services are about due process in criminal cases, *not* about holistic mental health treatment.



Competency raised by defense counsel, prosecutor, or judge (can happen at any point during proceeding)

Judge orders competency evaluation, to be completed by CDHS evaluators

CDHS evaluators enter opinion of competent to proceed

CDHS evaluators enter opinion of incompetent to proceed. The court finds defendant incompetent to proceed.

The court accepts the opinion and finds defendant competent to proceed.

The court orders a second opinion evaluation. The court must order second eval if a party requests one.

Court finds defendant incompetent to proceed.

Court orders restoration treatment (inpatient or outpatient)

Legal case continues

Court finds defendant competent to proceed

CDHS evaluators re-evaluate every 90 days. If found ITP after four rounds, the evaluator must opine on whether the person is permanently ITP.

The court makes final ruling on what should happen to the case.

Competency and the Consent Decree

The **consent decree** requires OCFMH to, **within defined timelines...**

Complete inpatient
competency evaluations

We *are* in compliance with 21-day
timeframe for completing competency
evaluations.

Admit pretrial defendants
for restoration services

We *are not* in compliance with
timeframes for admitting clients to
restoration services.

Current waitlist is ~381

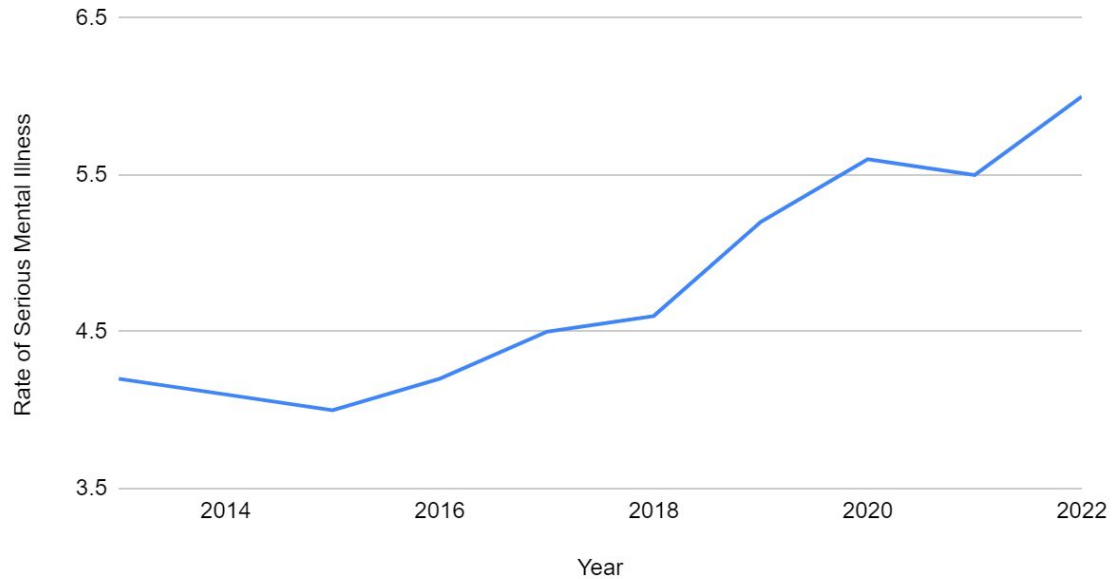
National Mental Health Crisis

There has been a national increase in prevalence of serious mental illness.

The incidence of serious mental illness, has increased by 46% in the past ten years.

*Data from SAMHSA

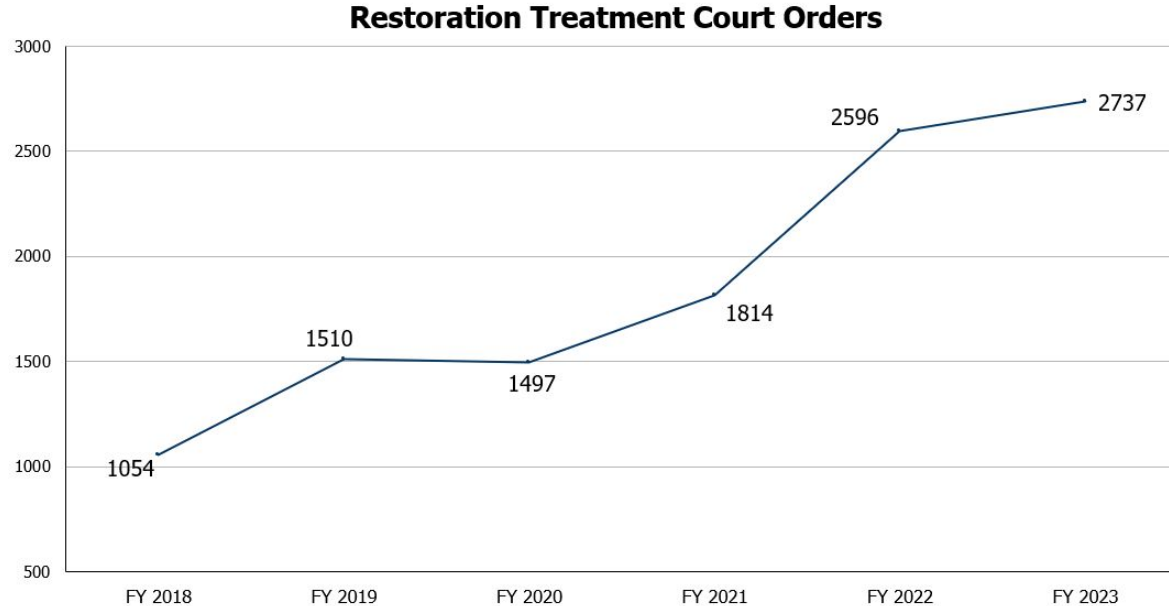
National Ten-Year Trend in Serious Mental Illness



Increase in court orders for competency

The waitlist is growing because of a dramatic increase in court orders.

Fiscal Year 2022-23 had a **159.7% increase** in restoration treatment court orders since Fiscal Year 2017-18.



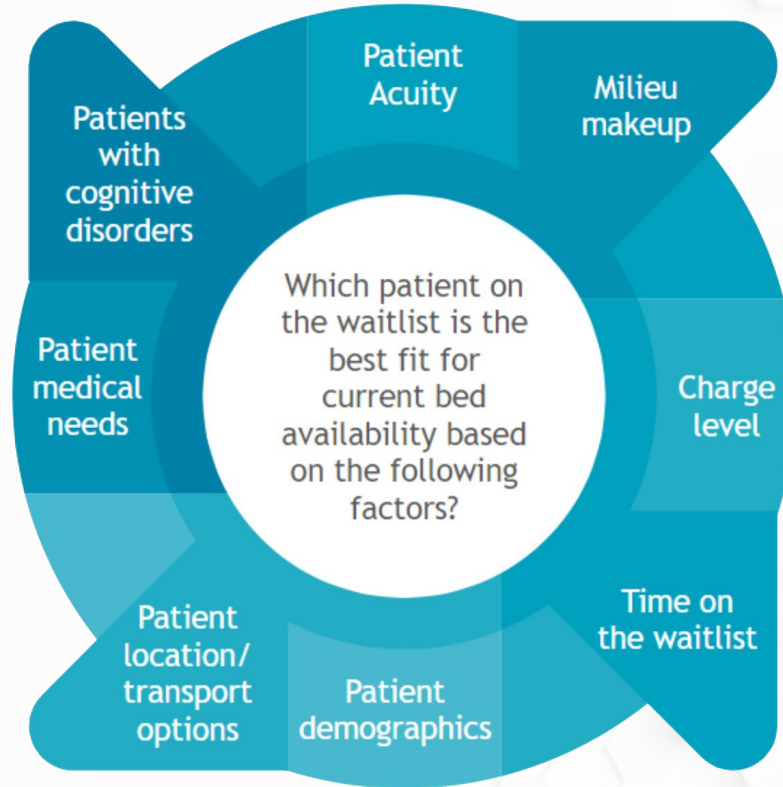
Why is the waitlist growing?

Even though OCFMH has been making a good faith effort to comply with the Consent Decree by **moving an average of 80 patients per month off the waitlist**

During the same period of time, courts **ordered an average of 110 individuals per month** to inpatient restoration.



Admissions



Time spent on the waitlist

Snapshot of the competency waitlist on December 9, 2023

Average number of days waiting	93 days
Median number of days waiting	75 days
Longest wait	418 days
Waiting more than 300 days	7 individuals
Range of days waited	1 - 418 days

Beds Are Making an Impact

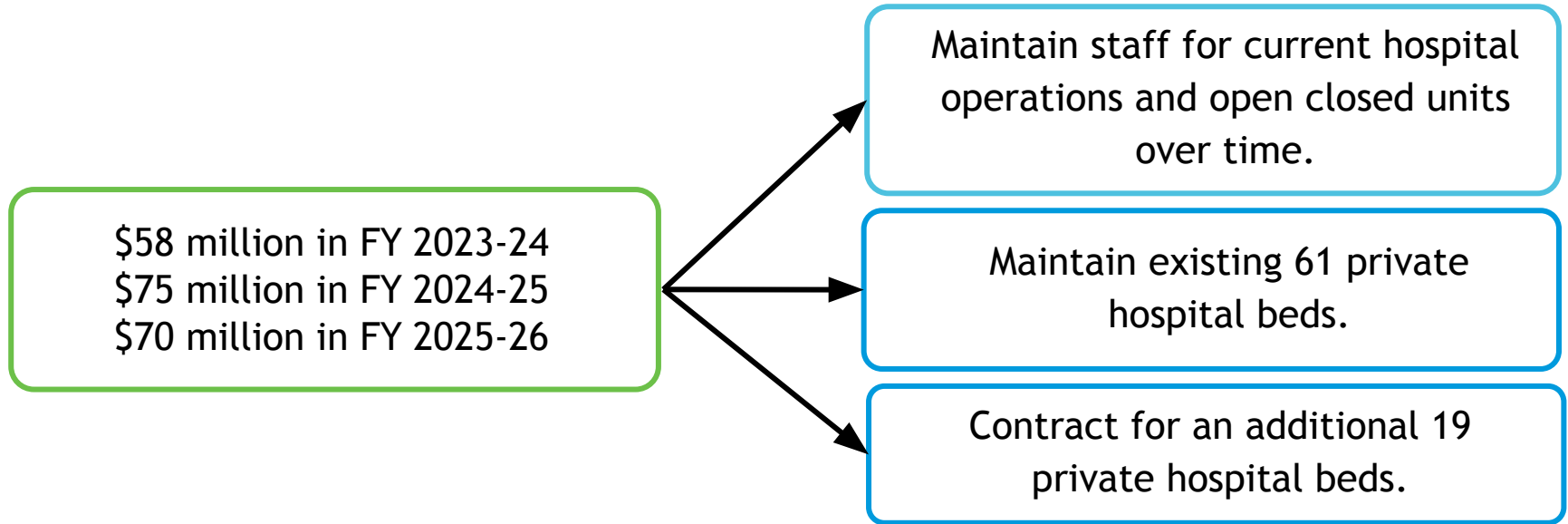
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Perhaps more than at any other point since the pandemic, there is reason to anticipate a decreasing waitlist.

-Special Masters overseeing the Consent Decree

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R-01: Maintain Psychiatric Beds to Reduce the Competency Restoration Waitlist



When we invest in staff, we see the benefits

FY 2023-24 (Started July 1, 2023)

5% Across the Board Pay Increase

\$14,000 hiring bonus for nurses

8% temporary pay differential for nurses and mid-level providers

Re-built Pay Plan: CDHS raised the minimum salary for a starting RN I by 32%.

R-09: increased starting salaries for psychiatrists by 30.8%

FY 2024-25 (Requested July 1, 2024)

Proposed 3% Across the Board Pay Increase

Step Plan:

Employees will receive salary increases based on time on the job.

DPA to include funding for this in their budget submission

Percent increases to be determined via DPA recommendation.

Nurses hired at the Mental Health Hospitals

From Oct. 2022 - Feb. 2023, the MHHs hired 7 net nurses total.

From March 2023 - Sept. 2023, the MHHs hired 42 net nurses.

The difference? CDHS doubled hiring bonuses from \$7,000 to \$14,000.



Systemic Solutions

**Mental Health
Transitional Living
Homes**

**Competency dockets (30%
of clients diverted out of
criminal justice system)**

**Creation of a judicial
liaison to improve
communications**

**Nursing Home
partnerships for geriatric
patients**

**Legislation (HB 23-1138
diverts certain cases to
civil system)**

**Largest outpatient
restoration program in the
nation**



The Miami Model - Jail Diversion

Misdemeanor jail diversion program

- Screened for mental illnesses as they enter the jail.
- Eligible inmates are offered a chance to leave the jail and receive mental health treatment in exchange for putting their case on hold for a year – usually, without having to sign a plea deal.
- Charges are typically dropped upon completion of the program

Felony jail diversion program

- Low-level felonies
- Victims must sign off on defendants participating in the program

Mental Health Diversion Facility

- A \$42 million project to become a one-stop shop for those in need of mental health services, many of whom are homeless. The new facility is expected to provide housing, job training and psychiatric, physical and dental care.

The Miami Model - Decriminalizing Mental Health

HB 23-1138: Procedures Related To Adult Competency

- This bill allows for certain clients involved in the criminal justice system with severe mental health conditions to be transitioned to the civil system.

Civil Remedies

- **Civil Mental Health Certification:** Provider must agree to “hold the certification” following their release.
- **Assisted Outpatient Treatment:** Type of civil court commitment that ensures mental health treatment while being monitored in the community. In Colorado, an AOT program only exists in Denver but the AOT model could be used elsewhere with community support.
- **Application for services** with an agency specializing in TBI or IDD.

The Fines Fund

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- CDHS currently pays approximately \$12 million/year in fees and fines for non-compliance and has paid a total of \$39M so far.
 - If the fines were not capped at \$12M:
 - For FY 2022-23, fines would have been over \$65M
- The fines go into a fund where Disability Law Colorado, CDHS and the Special Masters appointed to oversee the consent decree each get a vote on where the funds are disbursed to. **These funds cannot be used to benefit the Department's operations.**
- Some funded programs include: temporary housing for outpatient clients, competency dockets, medication in jails, and more.



THANK YOU
Questions?



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