

An Abolitionist Guide to Western State Hospital Expansion

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Introduction to Guide

This guide was created by members of the No New Washington Prison (NNWP), a campaign focused on stopping all prison expansion in Washington. The goal for this guide is to provide as much information about: (1) Governor Inslee's Western State Hospital expansion plan; (2) NNWP's campaign to stop the expansion of Western State Hospital; (3) an overview of involuntary commitment in Washington State; (4) reformist stances on the expansion of Western State Hospital; and (5) visions for abolitionist futures.

This guide is intended to be a "living" document and will be updated as research continues and as the campaign adapts over time. For requests for edits or additions, please contact us at nnwpresearchcoordinator@gmail.com.

Western State Hospital Campaign

Governor Inslee's capital budget includes \$612 million towards expanding Western State Hospital by building a brand new 350-bed forensic hospital as part of Governor Inslee's 5-Year Plan for the mental health system in Washington (see below for more details).

Context for the Expansion: Trueblood Lawsuit

Why is the state increasing forensic beds? In 2014, a class action lawsuit, *Trueblood v. DSHS*, was filed that challenged the Department of Health and Human Services arguing that there were unconstitutional delays in providing competency evaluations and restoration services (definition below). Plaintiffs were represented in part by Disability Rights Washington (DRW). This case resulted in a [settlement agreement](#). Per the settlement, the State is required to provide initial competency evaluations within 14 days and subsequent competency restoration services within 7 days of court orders. "Forensic" relates to legal issues. Forensic beds are for people who have been accused of a criminal offense and have a mental health-related issue. Competency restoration takes place in state psychiatric hospital forensic units (like at Western State Hospital) or within a private mental health institution that has been contracted to provide this function.

What is competency restoration? Competency restoration is a part of the criminal punishment system when someone has been charged and the State is

seeking to move forward with prosecuting the person. The intended outcome for competency restoration is to allow for the State to continue its prosecution process by ensuring that the defendant (person accused of the crime) is considered “competent to stand trial.” A person might receive competency restoration services if someone raises concerns about the defendant’s competency or fitness to stand for trial (to participate in their own defense) and the individual is then forced into a competency evaluation where a state-identified mental health care provider makes a determination about that person’s mental state.

No New Washington Prison’s position

We oppose this expansion as we oppose all forms of coercive and involuntary incarceration Governor Jay Inslee’s administration is using choice language to paint a picture of “holistic” and “community-based mental health” resources when in reality this funding is going towards an unquestionable extension of the criminal punishment system. Forensic incarceration removes people from their communities and families, traumatizes individuals in ways that negatively impact their communities, and fails to provide material support or care for community members.

No New Washington Prison drafted a public statement in opposition of the expansion of Western State Hospital, which can be found at the following [link](#). Our statement, in part, reads: “All forms of forced or coerced institutionalization are forms of incarceration. The WSH expansion project, as with all forms of incarceration, fails to: (1) address the needs of those impacted by mental illness, (2) empower communities to care for each other, and (3) alleviate harm on a systemic level.”

Involuntary Commitment

Involuntary commitment is forcible confinement of individuals by the state because they have alleged that the individual is a threat to themselves or others, or deemed incompetent to stand for trial. Civil commitment and forensic commitment are two forms of involuntary confinement in Washington State. Together these make up an expansive system of involuntary commitment that people get stuck in, and that exposes people to humiliation, abuse, and a lack of autonomy instead of healing. This section contains an overview of the involuntary commitment beds and legal frameworks in Washington State -- a system that should be abolished rather than expanded.

Forensic vs Criminal Commitment

When a person has been arrested and suspected of crime, a judge can request a competency evaluation to determine if they are capable of assisting in their own defense. The evaluation can be done either in jail, Western State Hospital, or Eastern State Hospital. Sometimes, the state's evaluator determines that a person can't stand trial until they receive "treatment" to "restore competency". When this occurs, the person is admitted to a "forensic bed" at Western State Hospital (or Eastern State) for a longer period of time. If the forensic evaluator (most frequently, a DSHS employee) finds the person "non-restorable," their criminal charges can be dropped and they can be civilly committed (see definition below) to the hospital. Other times, people are found *not guilty by reason of insanity*. These patients can stay at WSH for up to the amount of time of what would have been a maximum sentence for their crime.¹

Civil Commitment

After a mental health professional evaluates a person in crisis, they have the authority to detain the person to an evaluation and treatment center for up to 72 hours. If evaluators determine that further detainment is needed, they will petition the court. The court will hold a hearing where a decision is made whether or not to admit the person to a behavioral health facility. Unlike in other behavioral health facilities, patients are not admitted into Western or Eastern State Hospital until after receiving a court order for "treatment" of their mental illness.²

¹ [RCW 10.77](#)

² [RCW 71.05](#)

Forensic facilities in WA

The forensic facilities system in Washington is in flux. Governor Inslee has a plan to expand forensic beds in response to the Trueblood settlement.

Washington State Psychiatric Hospitals

	Western State Hospital	Eastern State Hospital
Location	Lakewood, WA	Medical Lake, WA
Satellite locations	Maple Lane and Yakima (locations are closing)	
Other facilities included	<ul style="list-style-type: none"> - The Specialized Treatment, Assessment and Recovery (STAR) ward <ul style="list-style-type: none"> - where the 10 folks deemed to be the “most violent” are housed at WSH Lakewood campus - Child Study and Treatment Center <ul style="list-style-type: none"> - 47 beds in 3 “cottages” at Lakewood campus 	
Counties served	Clallam, Jefferson, Kitsap, Grays Harbor, Mason, Pacific, Wahkiakum, Cowlitz, Clark, Skamania, Lewis, Thurston, Pierce, King, Snohomish, Skagit, Whatcom, San Juan, Island	Okanogan, Ferry, Stevens, Chelan, Douglas, Kittitas, Grant, Yakima, Klickitat, Grant, Benton, Franklin, Walla Walla, Columbia, Garfield, Asotin, Whitman, Lincoln, Spokane, Pend Oreille
Total beds	800 total beds ³	317 total beds ⁴
Forensic beds	Approximately 500 ⁵	At least 95 ⁶

³ <https://www.dshs.wa.gov/bha/division-state-hospitals/western-state-hospital>

⁴ <https://www.dshs.wa.gov/bha/division-state-hospitals/eastern-state-hospital-overview>

⁵ <https://www.dshs.wa.gov/bhsia/wsh-faq>

⁶ <https://www.dshs.wa.gov/bha/division-state-hospitals/eastern-state-hospital-overview>

Civil beds	Approximately 200 ⁷	At least 192 ⁸
How do people end up there?	Court order required ⁹	Court order required
Expansions under development	<ul style="list-style-type: none"> - 30 bed “cottage” scheduled to open at Maple Lane in 2023 - 4 new wards scheduled to open at Lakewood campus in 2021 and 2023 	
Proposed expansions	<ul style="list-style-type: none"> - Proposal to expand by 350 forensic beds at Lakewood campus (NNWP is currently campaigning to oppose this expansion) 	

Civil commitment facilities in WA

Civil Commitment and Behavioral Health Facilities.¹⁰

These include: Behavioral Health Administration, Developmental Disabilities Administration, Rehabilitation Administration, RA Community Facilities, Special Commitment Centers¹¹

Facilities With Civil Commitment or Lockdown.

These include the two big public psychiatric hospitals with forensic beds: Western State and Eastern State. Some hospitals have Evaluation & Treatment facilities to take patients for civil commitment. Behavioral health hospitals like Fairfax Hospital, Cascade, Navos, Harborview, Swedish Ballard, Auburn MultiCare and Northwest have civil commitment facilities.

Special Commitment Center (“McNeil Island”) -- Civil Commitment Center

There are 214 people incarcerated at McNeil Island, a so-called “Civil Commitment Center”. Each of these people has been deemed a “sexually violent predator” by the state (this language is particularly atrocious and dehumanizing and is in no way endorsed by NNWP researchers). Those incarcerated at McNeil Island are there indefinitely, if not for the rest of their lives.

⁷ <https://www.dshs.wa.gov/bhsia/wsh-faq>
⁸ <https://www.dshs.wa.gov/bha/division-state-hospitals/eastern-state-hospital-overview>
⁹ <https://www.dshs.wa.gov/bhsia/wsh-faq>
¹⁰ <https://www.dshs.wa.gov/ffa/office-capital-programs/facilities>
¹¹ <https://www.multicare.org/multicare-locations/>

The state uses the pathologizing language of “mental illness” to argue that those imprisoned at McNeil Island are particularly “dangerous” and very likely to recidivate upon release, which is why they’re kept at the facility indefinitely. However, according to Dr Michael Miner, a professor of human sexuality at the University of Minnesota, this has more to do with a moral panic around so-called “sex crimes” and less to do with anything like an actual likelihood to recommit. The Guardian reports: “Of the offenders convicted of rape and sexual assault who were released from prison in 30 states in 2005, an estimated 5.6% were rearrested for rape or sexual assault five years later, according to a 2016 study by the US Department of Justice.”¹²

Single Bed Certification

Under the Involuntary Treatment Act (ITA), people are supposed to be detained at designated Evaluation and Treatment (E&T) facilities. However, when there are no available E&T beds, facilities which are not certified E&T can apply for single bed certification, which allows them to legally hold people.¹³

Laws and Regulations for Forensic/Criminal Commitment

According to Washington Department of Social & Health Service’s Washington State Legal System Guide to Forensic Mental Health Services¹⁴:

“Competence to stand trial, or adjudicative competence, is the legal construct that refers to a criminal defendant’s ability to participate in legal proceedings related to an alleged offense (Mossman et al., 2007). The U.S Supreme Court established the current legal standard for determining competency to stand trial in *Dusky v. United States* (1960). The standard of competence is whether a defendant lacks the “sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding and whether he has a rational as well as factual understanding of the proceedings against him.” (*Dusky v. US*; 362 U.S. 402; 1960). In Washington, ‘incompetency’ means a person lacks the capacity to understand the nature of the proceedings against him or her or to assist in their own defense as a result of mental disease or defect (RCW 10.77.010). Incompetence may occur during any stage of legal proceedings and

¹²

<https://www.theguardian.com/us-news/2018/oct/03/dangerous-sex-offenders-mcneil-island-commitment-center>

¹³ In one NNWP member’s experience as a public defender, the most flagrant abuses tend to happen when people are held in this context: she reported that 15-20% of civilly committed people are detained on SBC and that the use of 4-point restraints is common.

¹⁴

<https://www.dshs.wa.gov/sites/default/files/BHSIA/WSH/WA%20State%20Legal%20System%20Guide%20to%20Forensic%20Mental%20Health.pdf>

“no incompetent person shall be tried, convicted, or sentenced for the commission of an offense so long as such incapacity continues.” (RCW 10.77.050).” (p. 10).

Laws and Regulations for Civil Commitment

Criminalizing Patients

According to the Disability Rights Washington report “From Hospitals to Handcuffs”, if a person “assaults” a healthcare worker an otherwise misdemeanor assault can be charged as a felony since the person assaulted is a healthcare worker. Prosecutors can then file felony charges on the individual seeking treatment, even if assault took place during a mental health-related episode that they were receiving services for.¹⁵

Involuntary Hospitalization

“Under state behavioral health laws (RCW 71.05 and RCW 71.34)¹⁶, there are the specific circumstances where a person can be detained for involuntary hospitalization:

- threatened harm towards others or themselves
- substantially damaged someone else's property
- endangered because they are not caring for their basic needs such as eating, sleeping, clothing and shelter
- demonstrate severe deterioration in functioning ability and are not receiving essential care

AND

- The above is due to a behavioral health disorder

If imminent danger exists, the person will be immediately detained and placed into an Evaluation and Treatment facility for up to 72 hours.”¹⁷

Law pertaining to “Sex Offenders--Civil Commitment”

Specifically re: McNeil Island

- “*Sexually violent predator*’ means any person who has been convicted of or charged with a crime of sexual violence and **who suffers from a mental abnormality or personality disorder** which makes the person likely to engage in predatory acts of sexual violence if not confined in a secure facility.”

¹⁵ <https://www.disabilityrightswa.org/wp-content/uploads/2020/05/Hospitals-to-Handcuffs-FINAL.pdf>

¹⁶ RCW 71.05: <https://apps.leg.wa.gov/RCW/default.aspx?cite=71.05> RCW 71.34: <https://apps.leg.wa.gov/RCW/default.aspx?cite=71.34>

¹⁷

<https://www.kingcounty.gov/depts/community-human-services/mental-health-substance-abuse/services/crisis-services.aspx>

- “‘*Total confinement facility*’ means a facility that provides supervision and sex offender treatment services in a total confinement setting. Total confinement facilities include the special commitment center and any similar facility designated as a secure facility by the secretary.”
- “‘*Secure facility*’ means a residential facility for persons civilly confined under the provisions of this chapter that includes security measures sufficient to protect the community. Such facilities include total confinement facilities, secure community transition facilities, and any residence used as a court-ordered placement under RCW 71.09.096.”¹⁸

Involuntary Treatment Act

Effective April 1, 2018 this applies to individuals with “Substance Use Disorders.” “When a patient presents an imminent likelihood of serious harm to self or others, or is gravely disabled as a result of a substance use disorder, the hospital has an obligation under law to refer the patient for evaluation by a Designated Crisis Responder (formerly Designated Mental Health Professional.) “Secure detoxification facilities are locked facilities that were newly created under the law to serve substance use disorder patients who are involuntarily detained. The Department of Social and Health Services informed WSHA that only two adult secure detoxification facilities, with a combined total of 48 beds, will be available for patients when the law takes effect. For minors, there will only be one facility with four to eight beds.”¹⁹

Reformist Alternatives in Mental Health

What are reforms?

Reforms are changes to policies, practices, systems, and institutions with the goal of shifting and improving them. Reformist measures, in the context of the Prison Industrial Complex, seek to make changes to the systems of policing, prisons, jails, and psychiatric institutions, to ultimately improve conditions. Examples of reformist measures can include requiring cops to wear body cameras or undergo diversity training, improving the conditions of prisons, jails, and institutions, and electronic home monitoring. Although these might *seem* better than the status quo, reforms do not adequately address the underlying

¹⁸ RCW 71.09.020 <https://app.leg.wa.gov/RCW/default.aspx?cite=71.09.020>

¹⁹

<https://www.wsha.org/articles/new-law-effective-april-1-2018-involuntary-treatment-act-applies-patients-substance-use-disorders/>

problems that lead to crises or cause people to hurt others nor do they seek to dismantle the institutions perpetuating this cycle. Often, reforms lead to increased funding and capacity for cops, prisons, jails, and institutions, leading to an expansion of the Prison Industrial Complex, rather than re-investing those resources into community care and community-driven solutions.

In Washington, politicians and non-profit organizations are invested in reforming the landscape of mental health care. However, those investments, like Governor Inslee's 5-Year Plan, either support the long-term expansion of psychiatric institutions and involuntary commitment or fail to fully address the ways systems of oppression are deeply embedded in the Prison Industrial Complex.

While often working toward similar goals, within the realm of reformist strategies exist multiple facets whose values often come in direct opposition to one another, including reformist positions that resist state and federal government efforts.

Inslee's 5-year plan to decentralize mental health system

In May 2018, Governor Inslee's office announced a 5-year plan to "modernize and transform the state's mental health system," which includes ending civil commitments at the large state hospitals by 2023 and investing in improvements and updates to the Western State Hospital campus. Per the announcement on the Governor's Medium account, "Western State and Eastern State will continue to focus on serving forensic and certain hard-to-place civil commitment patients, while other patients will be served in the community through a combination of smaller, more cost-efficient, state-run programs that will be disbursed throughout the state and private community hospitals.." ²⁰ This plan expands the state's capacity to commit people to hospitals against their will on the basis of mental health status.

The governor's plan, including the proposed new 350-bed forensic hospital on WSH campus, is expanded upon in the Western State Hospital Master Plan 2020. ²¹ The two main goals of this plan are to expand the number of forensic beds at WSH and to bring the facility back into compliance with federal standards of care so it can receive federal funding. ²²

²⁰

<https://medium.com/wagovernor/inslee-announces-5-year-plan-to-shift-civil-mental-health-out-of-big-state-hospitals-in-favor-of-ffb3549fc5ac>

²¹ <https://cityoflakewood.us/wp-content/uploads/2020/06/WSH-MASTER-PLAN-REPORT.pdf>

²²

<https://static1.squarespace.com/static/5e83b7df9fe1492fdf919863/t/5ecd99cc9259ee3d4517e52d/1590532574985/TOC+and+Exec+Summary,+LU-20-00027+-+MASTER+PLAN+REPORT3.pdf> website: <https://wshmasterplan.org>

Disability Rights Washington

In offering out examples of reformist advocacy, we wanted to share the work of, Disability Rights Washington (DRW) a legal non-profit in Washington that focuses their work on preserving and protecting the rights of individuals with disabilities. DRW files class action lawsuits, publishes reports from investigations, and does legislative advocacy to help carry out its mission.

Disability Rights Washington is also in opposition of the new forensic hospital at Western State Hospital. In 2020, DRW issued a public letter expressing their opposition to the expansion. Their opposition framework is detailed below, along with NNWP's stance on the open letter.

Disability Rights Washington Public Letter Opposing Western State Hospital Expansion

“Say No to Funding an Exceptionally Costly, Ineffective Forensic Hospital. Examine and Invest in Proven Alternatives to Create Stability, Autonomy, and Thriving Communities.”

Disability Rights Washington is in opposition to the expansion of Western State Hospital's new forensic hospital. DRW notes that the State does not need an additional 350 forensic beds; forensic beds are a criminal response and do not provide effective treatment or stable communities; and the new forensic hospital will not effectively help Western State Hospital achieve federal recertification. Federal recertification is necessary so that Western State Hospital is eligible to receive federal funding. Disability Rights Washington, instead, argues that the funds could be used for supportive housing solutions; expanding diversion efforts articulated in the *Trueblood* settlement; and to instead, renovate its existing forensic wards.

It is worth noting that No New Washington Prisons specifically did not sign onto this letter, however, because it still advocates for the expansion and renovation of existing forensic wards at Western State Hospital. Members of No New Washington Prisons wrote a letter from an abolitionist perspective that was referenced earlier and can be found [here](#).

Abolitionist Futures in Mental Health

Abolition grants us the permission to imagine and create alternative futures that center community care and humanity. Abolitionist frameworks seek to end the Prison Industrial Complex by creating a world in which prisons and punishment are not the means by which we keep each other safe or “solve” problems.

This section is not meant to be an exhaustive list of abolitionist alternatives to mental health incarceration, but rather as a place to start the conversation.

Framing

What does abolition within the mental health system mean?

In “Dis-Epistemologies of Abolition,” Liat Ben-Moshe defines abolition of psychiatric institutions “as the act and process of closing down psychiatric hospitals; abolition of the rationale for long hospitalization and lastly the abolition of psychiatry.”²³ Psychiatric institutions specifically, but the mental health system as a whole, can be seen as an extension of the Prison Industrial Complex. It replicates many of the same harms and relies on both abusive and coercive tactics that deny individual’s their autonomy and ability to make choices about their mental health care, this includes forced hospitalization, medication, and “treatment.” The Abolition and Disability Justice Collective specifically name mental health systems as an extension of incarceration and punishment, “people who are Neurodivergent and/or Disabled are simultaneously nonconsensually subjected to violence, incarceration and discrimination and are also excluded from shaping decisions directly impacting our lives.”²⁴ Abolition is not just about closing down institutions of punishment and ending coercive practices, it is also about building new ways of supporting each other through investment in resources that center trauma-informed care, consensual responses for crises that include de-escalation and peer-lead support, and build communities that allow people to thrive without replicating ableism, racism, and other systems of oppression. The Abolition and Disability Justice Collective offers alternatives to the current models that must include leadership by the most impacted, community-centered support and intervention that allows the community to

²³ https://www.academia.edu/41577964/Dis_epistemologies_of_Abolition Ben-Moshe’s Academia.edu homepage: <https://uic.academia.edu/LiatBenMoshe>

²⁴ https://abolitionanddisabilityjustice.files.wordpress.com/2020/09/adjc_pdf_form_.pdf

develop trauma-informed skills, resourcing people directly, dismantling ableism, and decriminalizing our lives.²⁵

Alternatives to (Disability) Incarceration

The following examples embrace voluntary treatment and collaborative approaches to mental health care. We hope this list continues to grow as we learn of other approaches and new practices develop.

Geel, Belgium

For 700 years, people with mental health and cognitive disabilities have taken pilgrimage to the town, where they are taken in to live as “guests” or “boarders” in the homes of strangers.

Guests’ are not stigmatized or harmed because of any disability and they are not subjected to involuntary treatments.

The family care program was taken over by the Belgian state psychiatric system in 1850. Since taking over, the state has imposed more restrictions on the system in Geel such as building a hospital on the edge of town where boarders are assessed before being placed with families and where those experiencing acute crisis may stay temporarily before returning to their residence in town.

- The goal of the program remains to reshape the culture of the town to accommodate the boarders, rather than asking the boarders to change themselves in order to better fit in.

Soteria Houses

Started in California in the 1970’s by psychiatrist Loren Mosher, these therapeutic community houses are seen as an alternative to psychiatric hospitalization for individuals experiencing psychosis.

Based on a recovery model, this approach moves away from the harmful and stigmatizing medical model of most psychiatric practices.

Non-medical staff and rare, non-coercive use of antipsychotic medications. This program seeks to foster and maintain residents’ agency and connection to their community.

²⁵ https://abolitionanddisabilityjustice.files.wordpress.com/2020/09/adjc_pdf_form_.pdf

There are houses in Sweden, Finland, Germany, Switzerland and Hungary. Only one house is currently operating in the US.²⁶

Peer Respite

Voluntary, short-term overnight support for individuals experiencing mental health crises. Staffed by peers- people with psychiatric histories and lived experiences of the mental health system.

Provides community-based, trauma-informed, and person-centered support. Emphasizes personal connections and the importance of residents and staff mutually sharing their experiences and wisdom.

Peer respites are currently operating in at least 10 States. Initial pilot peer respites in Washington state are slated to be partly funded by Medicaid.²⁷

Open Dialogue Approach

This approach, developed in Finland in the 1980's, is an alternative to psychiatric hospitalization. The approach has four key principles:

- Immediate help - a treatment meeting occurs within 24 hours of contacting the crisis line
- Social perspective - everyone connected to the crisis is included in the treatment meetings (family, friends, coworkers, clinicians, etc) and all decisions are made with every stakeholder present.
- Embracing uncertainty - communication is encouraged and assumptions are discouraged
- Creating a sense of “with-ness” rather than “about-ness” and dropping the clinical gaze

Disability Justice and Abolition Resources

This is a non-exhaustive list of abolition resources that include a disability justice analysis that helped to inform this document.

- [Abolition and Disability Justice](#)
- [CAT-911](#)
- Critical Resistance, [Resources page](#)
- [Fireweed Collective](#)
- [Harriet Tubman Collective](#)

²⁶ <https://www.pathwaysvermont.org/what-we-do/our-programs/soteria-house/>

²⁷ HB 1394

- Liat Ben-Moshe, [Resources page](#)
- Mia Mingus, [“Leaving Evidence” blog](#)
- Project Lets, [Disability Justice Resources page](#)
- [Sins Invalid](#)