

Forensic Examiners: The Need for Increased Compensation

Forensic examinations are required by State statutes (listed below) in a variety of situations. This includes evaluations for civil commitment as mentally ill, chemically dependent, developmentally delayed, sexually dangerous or sexually psychopathic, or mentally ill and dangerous. The adults referred for these evaluations span a range from the state's most vulnerable citizens to those who have been identified as some of the state's most dangerous residents. The work entailed in these examinations is complex, time-consuming, and highly technical. It requires legal knowledge as well as knowledge of specialized assessment instruments and techniques.

The demand for forensic examiners and forensic examinations is high. Mandated evaluations for competency to stand trial, mental state at the time of offense, Mentally Ill & Dangerous (MI&D), Sexually Dangerous Persons (SDP) and Sexual Psychopathic Personalities (SDP) evaluations have increased over the past several years. Our state court administration has indicated that between 2019 and 2023, the number of court-ordered examinations tripled, and the number of civil commitment evaluations increased by nearly 90%.

Recent statutory changes have resulted in greater pressure to complete evaluations rapidly. For example, time limits for competency reports are 60 days, with only 30 days for incarcerated adults who require visits in their respective jails.

The Psychological/Psychiatric Examiner Services Program (PPESP) is comprised of Ph.D. level psychologists and of psychiatrists. The examiners are independent practitioners who are on a list of Qualified Examiners, and may conduct evaluations for the PPESP and for the Commitment Appeal Panel (CAP).

Due to the degree of specialized training and the time involved, the number of examiners available to do this work is limited. Examiners must be able to be qualified as expert witnesses in a variety of areas including testing, evaluation and diagnosis as well as risk assessment. They must be able to be objective, fair-minded, and current with empirical psychological and psychiatric literature.

The number of examiners available for this work is further limited due to the adversarial process involving testimony, prodigious amounts of record review, as well as work with clients with histories of aggression, serious sexually assaultive behavior, and severe mental illness. The stakes are often high in these cases, as continued liberty is often in question.

The relatively low compensation rates (as outlined below), have become a barrier for psychologists who can find other better compensated outlets for practice. Additionally, the time pressures for completion of evaluations create another barrier. Consequently, many

forensic examiners limit their practice as state examiners or have left the roster of state examiners. Notably, independent forensic practitioners face significant costs, including rent payments, self-funded malpractice insurance, and health insurance. (State court administration requires examiners to carry self-funded malpractice insurance.)

It is anticipated that it will be more and more difficult to find early career psychologists willing to engage in this work. It is expected that younger psychologists may not be able to afford the training or the cost to them to allow them to become forensic examiners in the court system. The cost of obtaining undergraduate and graduate education has substantially increased since 2007. (Consequently, many psychologists work for Public Service Loan Forgiveness via ten years of postgraduate experience with a qualifying entity, which includes Regional Psychological Services and the Forensic Mental Health Program. Full time work for the Psychological/Psychiatric Examiner Services Program (PPESP) as an independent practitioner does not confer such benefits, which can be worth many thousands of dollars.)

Given the shortage of qualified examiners the state may be vulnerable to lengthy, expensive lawsuits, as examinees/defendants may be confined for much longer than necessary, placing them at risk for further deterioration in their mental health and physical well-being. (See *Trueblood v. Washington State Department of Social and Health Services*, 73 F.Supp. 3d 1311 (W.D. Wash.2014)). In this case, Washington State has paid \$100 million thus far towards a total of \$400 million in fines (Grace Deng, *Washington State Standard*, December 5, 2023).

Despite the press for these evaluations and the low number of examiners available to perform them, compensation rates for forensic examiners have remained low.

The psychology examiner rate had held steady at \$105/hour in the metro (Hennepin, Ramsey, Anoka, Washington, Carver, and Dakota counties) from 2007-2022, when it was raised to \$125/hour, matching the existing rate in non-metro counties. In fact, prior to 2007, the rate had been \$150 an hour.

If the pay rates had kept pace with inflation, the \$125 rate would be \$171 at present. If the rate had remained at \$150 an hour, the rate would be \$228/hour.

By comparison, most forensic examiners in private practice charge \$300 to \$400 per hour for similar evaluations.

Other parts of the MN court system have already increased the rate for qualified examiners. Independent examiners complete evaluations for the Commitment Appeal Panel (CAP) as well as conducting other types of evaluations through PPSE.

For CAP cases, in 2023 per hour compensation for the PPESP examiners was increased to \$225 an hour due to the backlog of CAP cases and the shortage of CAP examiners. This was presented as a temporary raise as there were no increases in the CAP budget to sustain the rate increase. As of March 1, 2025, the rate was still \$225. However, per Court Administrator Jeff Shorba, he planned to request a permanent increase to \$175 an hour in the 2025 legislative session.

STATUTES

Chapter 253B Civil Commitment

253b.02 – commitment of chemically dependent persons

253b.07 – Judicial commitment, appointment of examiners

Subd 2

Subd 2a

Subd 3 Court shall appoint an examiner

Second examiner

253b.08 – commitment hearing to be held within 14 days of order

253b.092 – Court ordered administration of Neuroleptics (Jarvis)

Subd 8 examiners

Chapter 253.18 Mentally Ill and Dangerous

Subd 1

253D.19 Judicial Appeal Panel

Subd 1c appointment of examiners

MN Rules of Criminal Procedure

Rule 20 Competency (juvenile) and MN Statute 611.43 (adults)

Subd 2 (3) Court appointed examiners

As directed in 253 B

Can be requested by Defendant

If defendant noticed pursuant to Rule 9.02 subd 1(3) (a)

Court ordered mental examination

If found to be incompetent referred to civil commitment court