

REPORT TO THE LEGISLATURE

Forensic Admissions and Evaluations – Performance Targets 2021 First Quarter (January 1, 2021-March 31, 2021)

Substitute Senate Bill 6492, Section 2 (Chapter 256, Laws of 2012)
As amended by Substitute Senate Bill 5889, Section 1 (Chapter 5, Laws of 2015)
RCW 10.77.068(3)

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Table of Contents

BACKGROUND	4
COMPETENCY EVALUATION AND RESTORATION DATA	6
DATA ANALYSIS AND DISCUSSION	6
Global Referral Data	14
ACTIONS TAKEN.....	27
Best-Utilize Current Bed Capacity	27
Gain Efficiencies in Process of Evaluation Delivery	28
Fund Prosecutorial Diversion Programs & RFP's Using Trueblood Fines	30
NEXT STEPS	31
SUMMARY	33
APPENDIX A – Competency Inpatient and Outpatient (Jail) Evaluations Referrals and Restoration Referrals	34
APPENDIX B – Average Number of Days from Completion of Inpatient Referrals (All Discovery Received) to Bed Offer per Quarter	35
APPENDIX C – Average Number of Days for Civil Conversions, In-Jail Evaluations, and Out-of-Jail Evaluations (All Discovery Received) to Bed Offer per Quarter.....	37

Table of Figures

Figure 1. Shows Results for Inpatient Competency Evaluation Cases	7
Figure 2. Shows Results for Post-Dismissal Referrals	8
Figure 3. Shows Results for Competency Restoration Cases	9
Figure 4. Average Number of Days to Complete a Jail Based Evaluation	10
Figure 5. Competency Evaluation Time Frame Completion for PR Cases	12
Figure 6. Shows Total WSH Referrals for Jail-Based Evaluations	14
Figure 7. Shows Total ESH Referrals for Jail-Based Evaluations.....	16
Figure 8. Shows Total WSH and ESH Combined Referrals for Jail-Based Evaluations	17
Figure 9. Shows Total WSH Referrals for Inpatient Evaluations.....	18
Figure 10. Shows Total ESH Referrals for Inpatient Evaluations	19
Figure 11. Shows Total WSH and ESH Combined Referrals for Inpatient Evaluations.....	20
Figure 12. Shows Total WSH Referrals for Inpatient Restoration	21
Figure 13. Shows Total ESH Referrals for Inpatient Restoration.....	23
Figure 14. Shows Total WSH and ESH Combined Referrals for Inpatient Restorations.....	24
Figure 15. Shows Statewide Outpatient Competency Restoration Referrals.....	26

BACKGROUND

On May 1, 2012, Substitute Senate Bill (SSB) 6492 added a section to chapter 10.77 RCW that established performance targets for the “timeliness of the completion of accurate and reliable evaluations of competency to stand trial and admissions for inpatient restoration services related to competency to proceed or stand trial for adult criminal defendants.” These targets were codified under RCW 10.77.068 and phased in over six months to one year.

After full implementation of each performance target, the bill required the Department of Social and Health Services (DSHS) to report to the executive and the legislature following any quarter in which it does not meet the performance target. This reporting must address (1) the extent of the deviation, and (2) any corrective action being taken to improve performance.

On July 24, 2015, SSB 5889 amended RCW 10.77.068. The bill retained the performance targets for competency services but added to these a set of “maximum time limits” phased in over one year. After full implementation of the maximum time limits, SSB 5889 required DSHS to report to the executive and the legislature following any quarter in which it does not meet each performance target or maximum time limit.

As a result of these two bills, current performance targets and maximum time limits under RCW 10.77.068(1)(a) are as follows:

- (i) For a state hospital to extend an offer of admission to a defendant in pretrial custody for legally authorized evaluation services related to competency, or to extend an offer of admission for legally authorized services following dismissal of charges based on incompetence to proceed or stand trial:
 - (A) A performance target of seven days or less; and
 - (B) A maximum time limit of fourteen days;
- (ii) For a state hospital to extend an offer of admission to a defendant in pretrial custody for legally authorized inpatient restoration treatment related to competency:
 - (A) A performance target of seven days or less; and
 - (B) A maximum time limit of fourteen days;
- (iii) For completion of a competency evaluation in jail and distribution of the evaluation report for a defendant in pretrial custody:
 - (A) A performance target of seven days or less; and

- (B) A maximum time limit of fourteen days, plus an additional seven-day extension if needed for clinical reasons to complete the evaluation at the determination of the department;
- (iv) For completion of a competency evaluation in the community and distribution of the evaluation report for a defendant who is released from custody and makes a reasonable effort to cooperate with the evaluation, a performance target of twenty-one days or less.

Section (1)(b) of RCW 10.77.068 establishes the beginning and end points for applying the performance targets and maximum time limits set forth above. Section (1)(c) identifies six conditions that shall serve as defenses to an allegation that the department has exceeded the maximum time limits.

As mandated by RCW 10.77.068(3), the following quarterly report explains the extent to which the hospitals deviated from performance targets in quarter one (Q1) of 2021 (January 1, 2021 – March 31, 2021), and describes the plans to meet these performance targets.

COMPETENCY EVALUATION AND RESTORATION DATA

RCW 10.77.068(1)(a)(i)(A) and (ii)(A), as amended by SSB 5889, establishes a performance target of seven days or less for the state hospitals to:

- 1) Extend an offer of admission to a defendant in pretrial custody for legally authorized treatment or evaluation services related to competency; or
- 2) Extend an offer of admission for legally authorized services following dismissal of charges based on incompetence to proceed or stand trial.

RCW 10.77.068(1)(a)(iii)(A), as amended by SSB 5889, sets a performance expectation that competency evaluations for a defendant who is in jail will be completed and distributed within seven days or less.

RCW 10.77.068(1)(a)(iv), as amended by SSB 5889, sets a performance expectation that competency evaluations for a defendant who is released from custody and makes a reasonable effort to cooperate with the evaluation will be completed and distributed within 21-days or less.

DATA ANALYSIS AND DISCUSSION

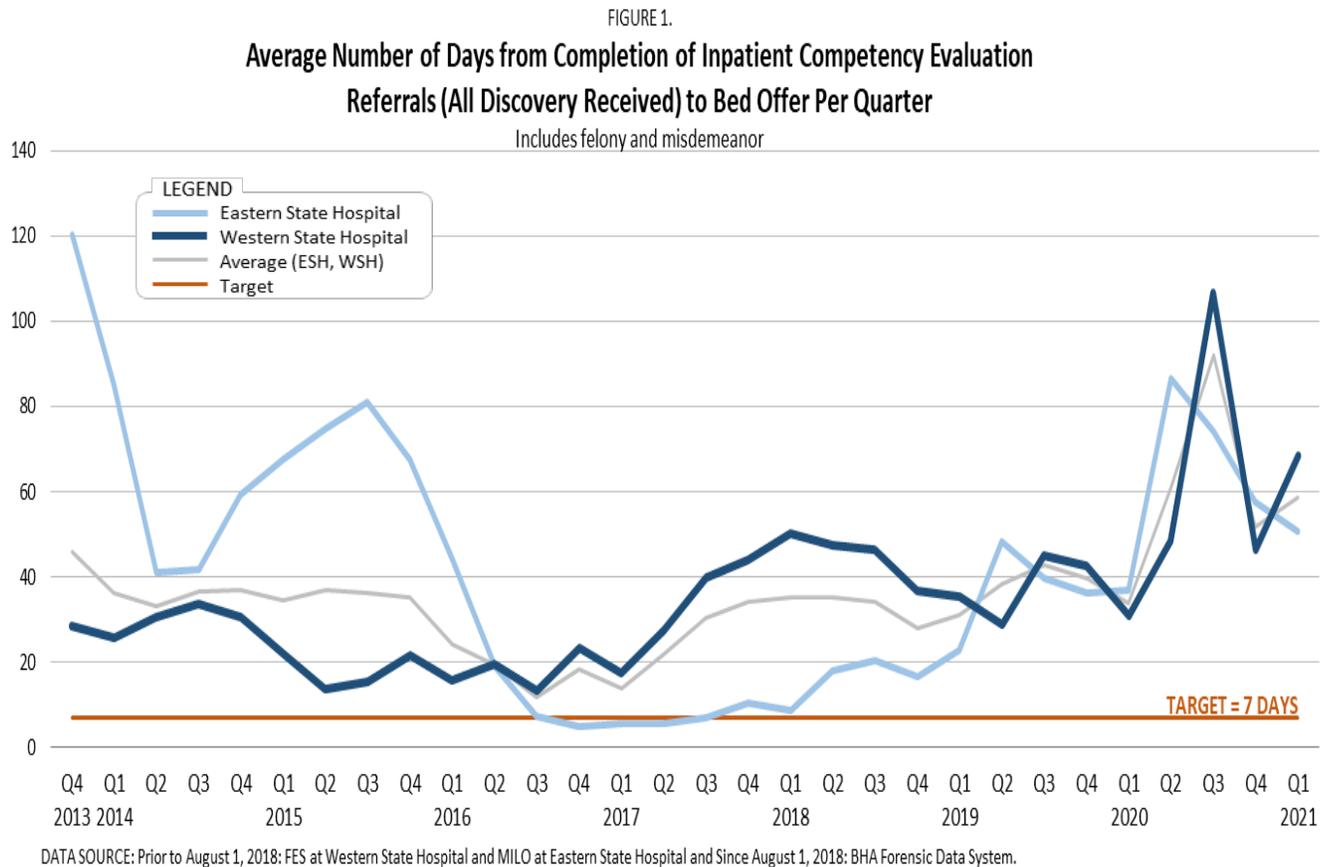
This section of the report provides visual representation of data from the Forensic Data System as well as outcomes and drivers analysis. Additional detailed data and information about timely competency services is available in monthly reports published by DSHS in compliance with requirements established in the April 2015 Trueblood court order. These reports are available on the Office of Forensic Mental Health Services (OFMHS) website at:

<https://www.dshs.wa.gov/bha/trueblood-et-al-v-washington-state-dshs>

Please note that the data presented in this report differs slightly than in the Trueblood reports because the statute begins the count for timely service at the date of receipt of discovery while the Trueblood order begins the count at the date the court order for services is signed, or the date the court order for services is received depending on the number of days between signature and receipt of the order.

In Q4 2020, a new look debuted for data figures throughout the report, which now have a simplified look for easier readability. The comprehensive data accompanying the figures is now located in Appendices A – C.

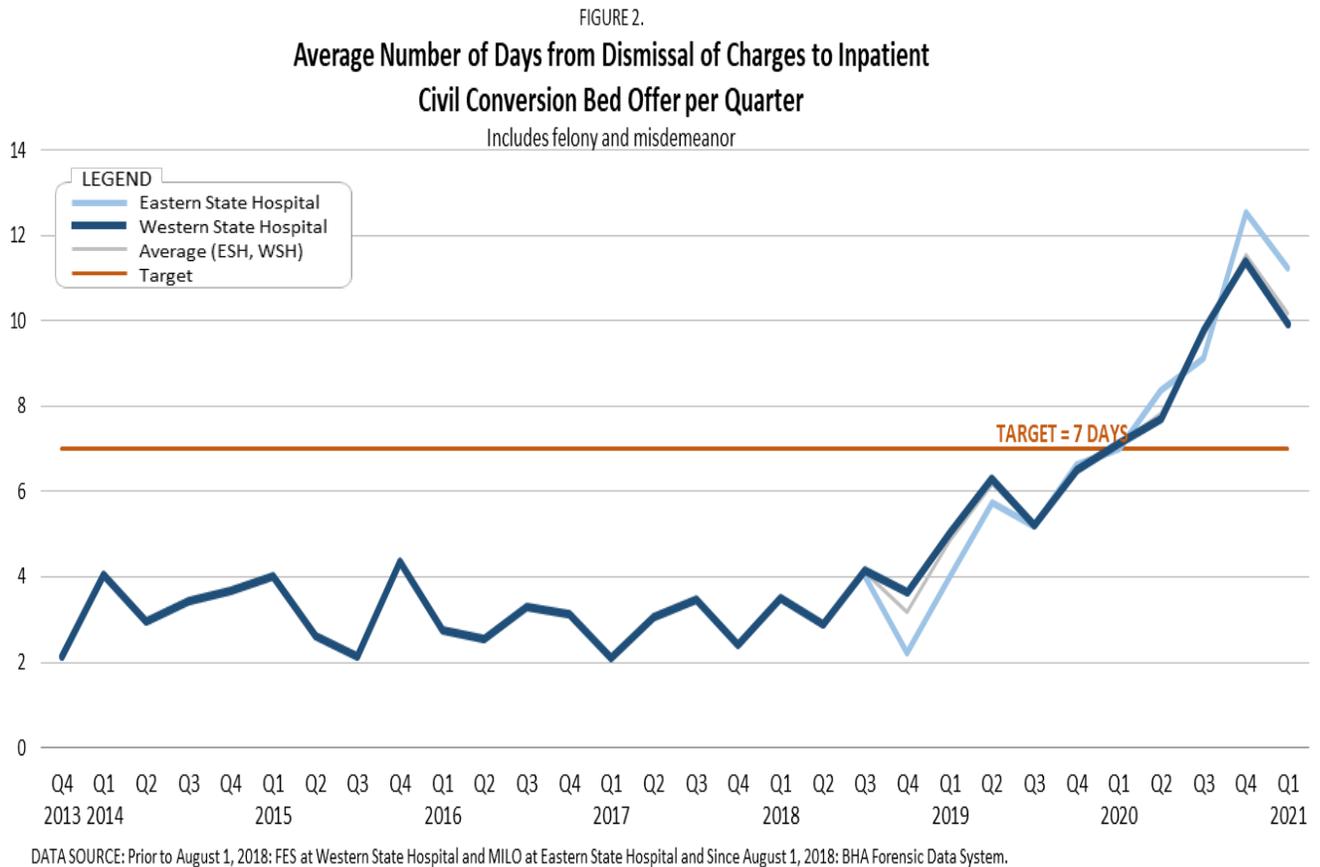
Figure 1. Shows Results for Inpatient Competency Evaluation Cases



The figure above illustrates the average wait times related to hospital admission for inpatient competency evaluations only to include defendants released on personal recognizance (PR).

- Outcomes:** During the first quarter of 2021, the number of admissions increased moderately after more than doubling during Q4 2020. Wait times at WSH, between referral for evaluation and bed offer, increased by 32.4 percent in Q1 2021. ESH wait times declined by 12 percent.
- Drivers:** Although Q1 referrals declined slightly, hospital admissions continued their recovery from the early months of the pandemic when most of our external partners greatly curtailed their activities. Generally, partner organizations have re-opened with COVID-19 protective measures in place to allow for modified operations. This has increased inpatient evaluations and admissions.

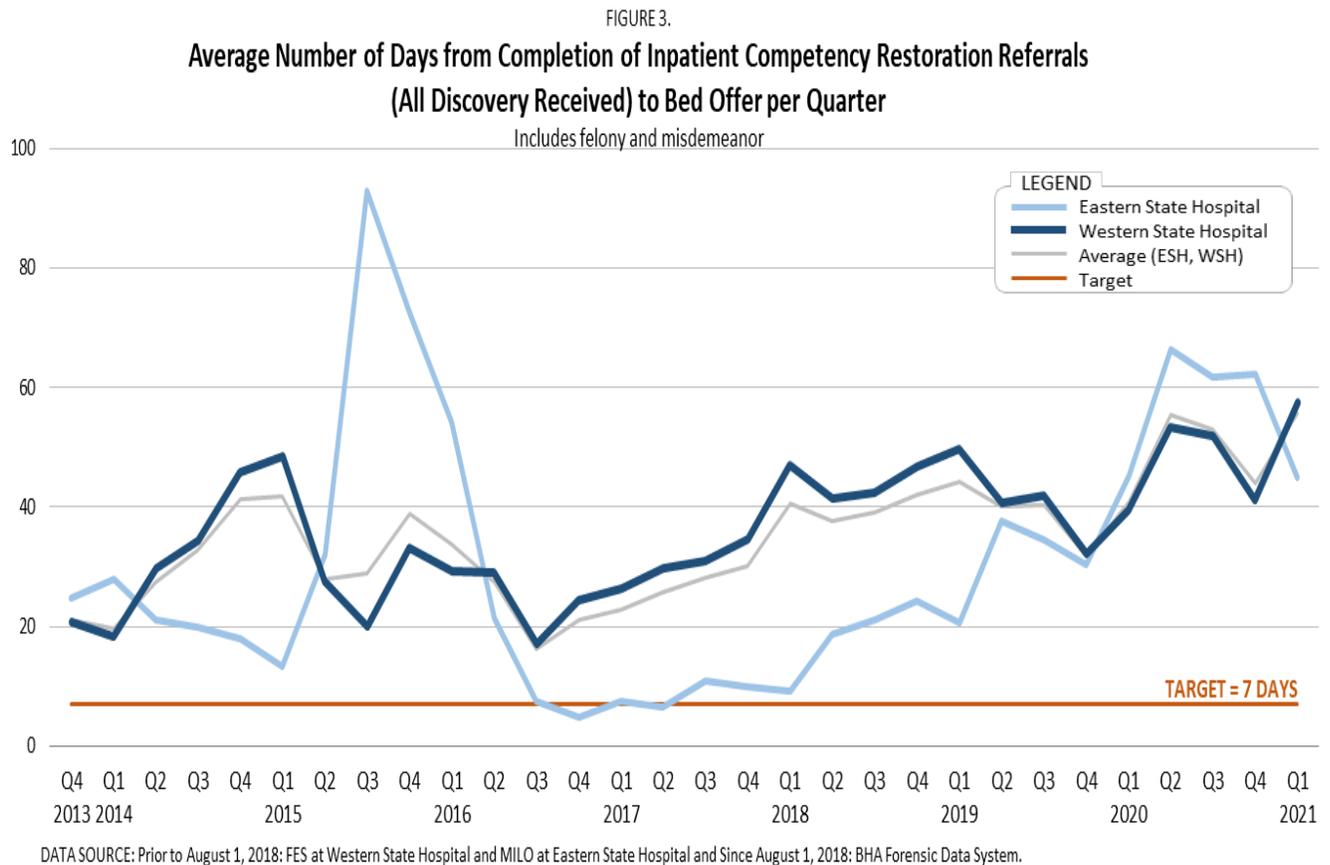
Figure 2. Shows Results for Post-Dismissal Referrals



The above chart reflects average days from dismissal of charges to a civil offer of admission at each state hospital and a combined average for all facilities statewide.

- **Outcomes:** During the reporting period, ESH decreased to 11.3-days and WSH decreased to 9.9-days, which has resulted in the state’s overall average decreasing to 10.2-days.
- **Drivers:** Overall, this metric has been climbing for more than two years; however, the COVID-19 pandemic, which began in February 2020, continued to exert its influence on performance in this area and accelerated performance challenges. More recently, in Q1 2021, solid progress has been made toward meeting the seven-day civil conversion target. Success in this measure will be attributed to staff making substantial progress in completing the backlog of functional risk assessments and maintaining clear focus on prioritizing these beds for admissions. One caveat with this prioritization is that it comes at the cost of negatively impacting Trueblood admissions because of this prioritization.

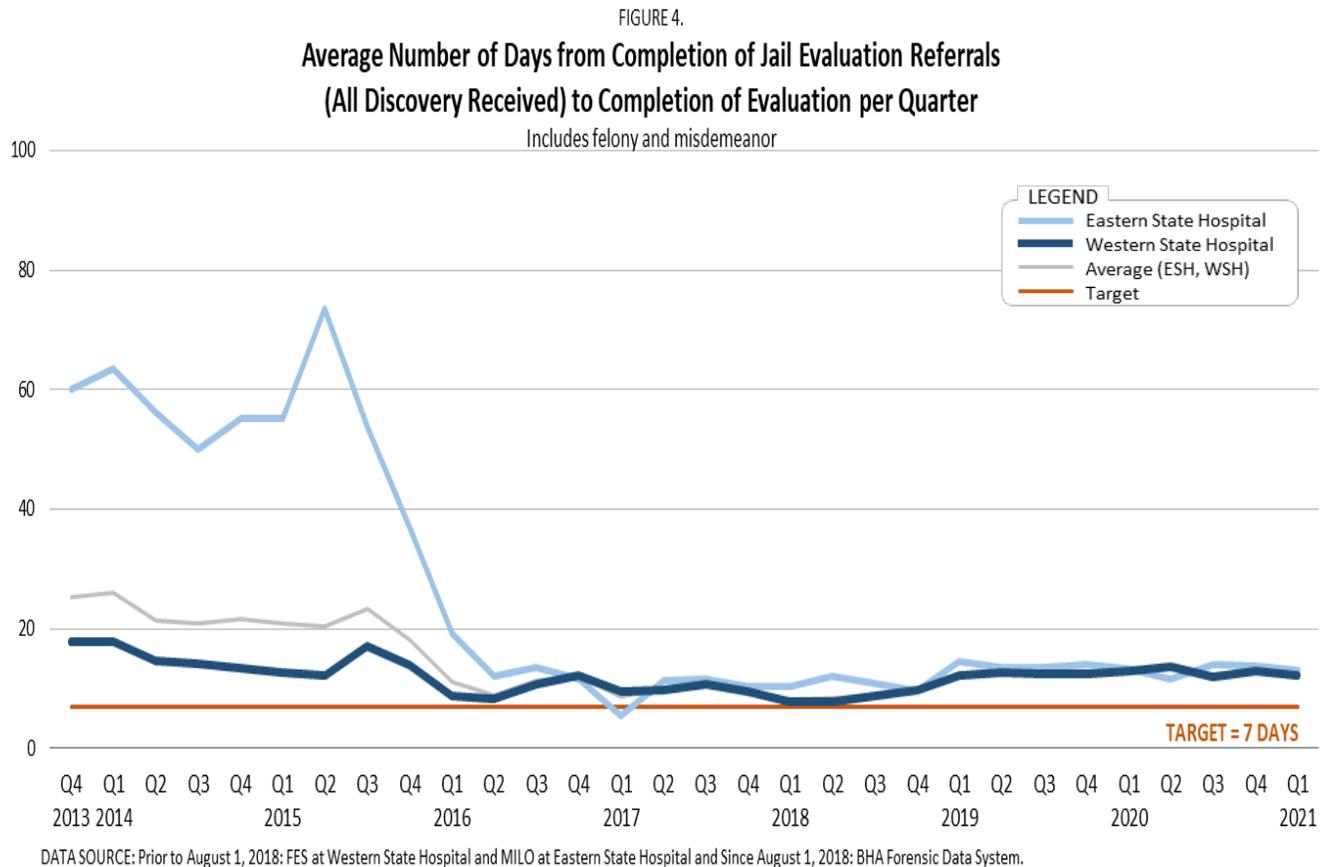
Figure 3. Shows Results for Competency Restoration Cases



This chart shown above reflects the average wait time for admission for competency restoration referrals only to include PR cases.

- Outcomes:** During the first quarter of 2021, the number of admissions increased again for the third straight quarter after two consecutive quarters of steep declines. Wait times at WSH, between referral for evaluation and bed offer, increased significantly in Q1 2021. ESH decreased significantly resulting in a combined increase in wait times of 20.7 percent.
- Drivers:** Admissions referrals climbed for the third consecutive quarter to 306 from 245. This follows Q2 2020 in which only 131 clients were admitted, marking the lowest number of completed admissions referrals during the time represented by this report (October 2013 – March 2021). In response to the COVID-19 pandemic, the criminal court system began dismissing more cases and releasing more defendants on personal recognizance to improve the ability to social distance within jails during the pandemic. At the same time, PR cases were already in environments that could meet social distancing requirements in the community, and the system acted to severely limit its hearing capacity in response to COVID-19.

Figure 4. Average Number of Days to Complete a Jail Based Evaluation



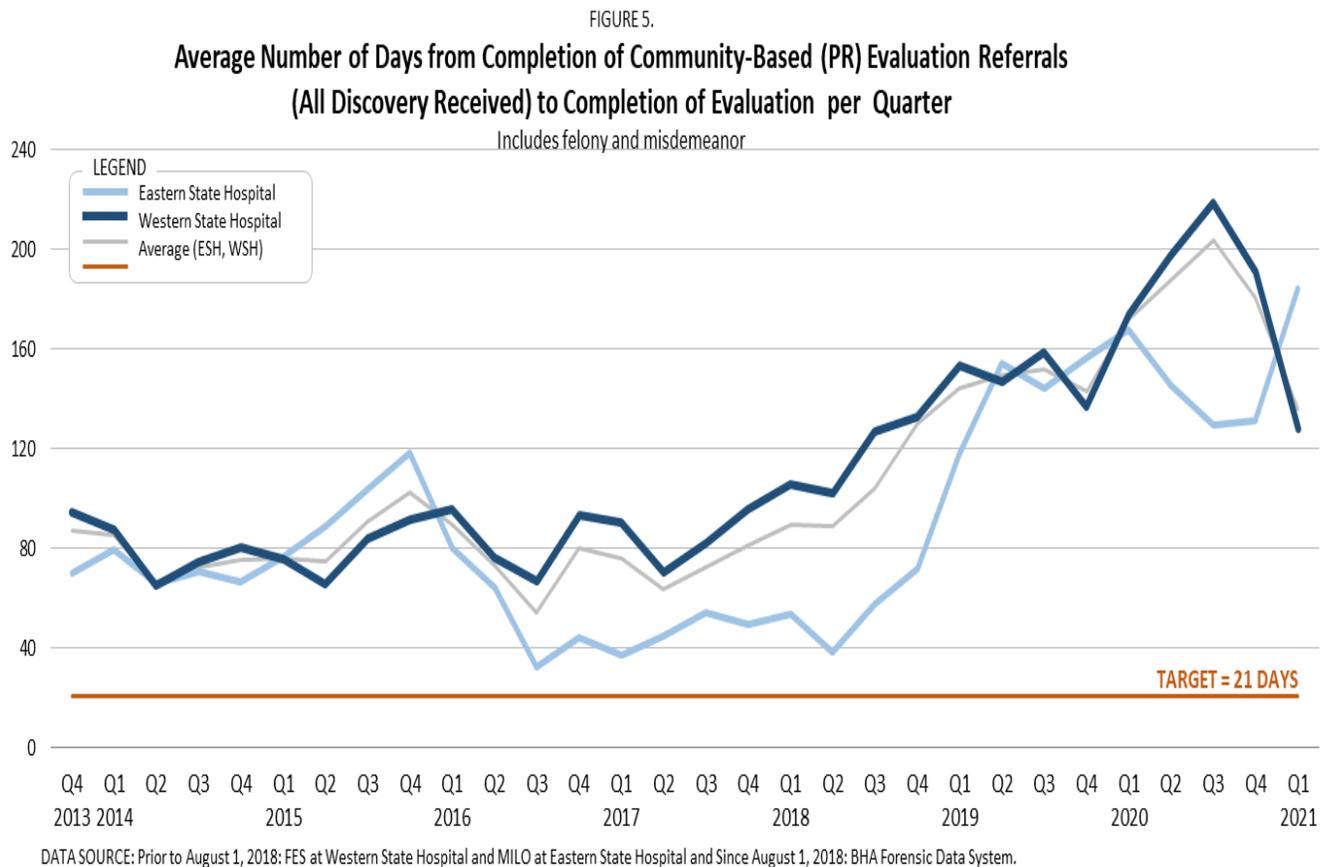
This chart (Figure 4) provides information on the average number of days to complete a jail-based evaluation from the receipt of all discovery.

- Outcomes:** During the Q1 reporting period, WSH and ESH completion times decreased modestly resulting in an overall 0.7-day decrease statewide to 12.4-days on average. Following the Q2 collapse in evaluation demand, jail-based evaluation demand recovered to mid-2018 levels in Q3. Q4 demand was flat, and Q1 demand decreased modestly. While 12.4-days exceeds the legislative targets, it does meet requirements contained within the Trueblood contempt settlement agreement.
- Drivers:** Prior to commenting on the Q1 2021 reporting period, it is important to revisit the context of Q4 2019 moving through Q2 2020. Q1 2020 jail-based evaluation referrals declined slightly [3.9%] compared to Q4; however, it should be noted that a minimum of 1,100 jail-based evaluations had been conducted each of the last four quarters (prior to Q2 2020) when previously, no single quarter ever had more than 973, and only two quarters had even exceeded 900 evaluations completed in a single quarter, so while demand growth did not occur in Q4 2019 or in Q1 2020, referrals continued from already historically

elevated levels. In an effort to both meet this demand and to comply with Phase 1 of the negotiated Trueblood contempt settlement agreement, the Legislature funded and approved the department to hire 18 additional forensic evaluators beginning July 1, 2019. All of those evaluators were hired, prior to the end of Q3 2020.

Due to the COVID-19 pandemic, the demand for jail-based evaluations collapsed in Q2 2020. Evaluation demand, for jail-based evaluations, had not been at this level since Q4 2015. This historic collapse in demand [-47.2% in Q2 to 619 evaluations] further serves to illustrate the significance of month-after-month of increases in forensic evaluations and demand for mental health care services that span years and the ways in which this shapes our systems over time. In Q3 Q4 2020, demand for in-jail evaluations showed substantial recovery, relative to Q2 2020, as the criminal court systems re-open, and all of our partners learn together how to continue serving clients in COVID-19 impacted systems. In Q1 2021, referrals declined modestly but remained above 900 for the quarter. It is common for demand to decrease during Q1, relative to the preceding year's Q4, before demand again picks up and often exceeds the prior year's demand.

Figure 5. Competency Evaluation Time Frame Completion for PR Cases



This chart above provides information on the average number of days to complete PR evaluations from the receipt of all discovery.

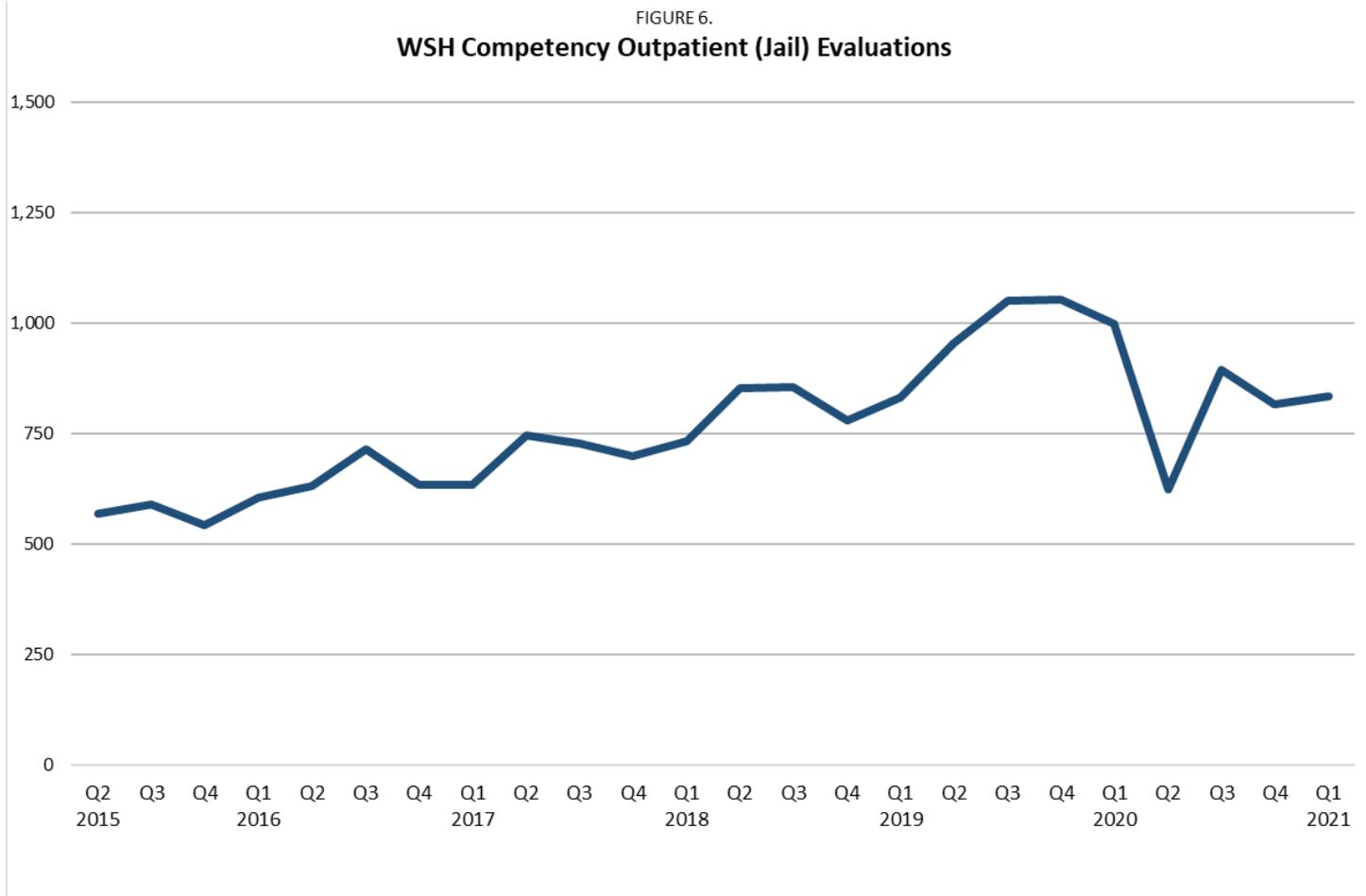
- Outcomes:** During the Q1 reporting period, WSH saw an additional 33 percent decrease in average completion time following a 12.4 percent decrease during the Q4 2020 reporting period. In Q1 2021, ESH wait time increased by 28.7 percent to a new high mark of 184.3-days. WSH set a new high mark in average completion time in Q3 2020 [218.6-days]. As of Q1 2021, WSH’s wait time is 90.6-days below its high mark. Completed orders system wide were flat in Q1.
- Drivers:** The variability in and longtime upward trending completion time, from quarter-to-quarter, is attributed to resources having been directed to cases involving Trueblood class members, as the number one completion priority, based on established constitutional rights, from the Trueblood Court Order representing the negotiated contempt settlement agreement. As such, resource allocation demands that DSHS focus its efforts in such a way as to mitigate, as much as possible, the impacts of these constitutional violations and related fines for jail-based evaluations (e.g., Figures 4 & 6-8). This has resulted in greater

fluctuation with regard to performance measures in this category. However, Q1 2021, especially for WSH, represents substantial improvement in PR cases throughput. As the functional risk assessment backlog continues to diminish, the potential for additional substantial improvement in PR wait times increases.

Global Referral Data

Figures 6-15 show global referral data to illustrate total orders signed by calendar quarter for jail-based evaluations, inpatient evaluations, and restoration services for WSH, ESH, and both hospitals combined. Figure 15 debuted in the Q3 2020 report to illustrate data from the new Outpatient Competency Restoration Program (OCRP) implemented as part of the Trueblood decision's Phase 1 contempt settlement agreement.

Figure 6. Shows Total WSH Referrals for Jail-Based Evaluations



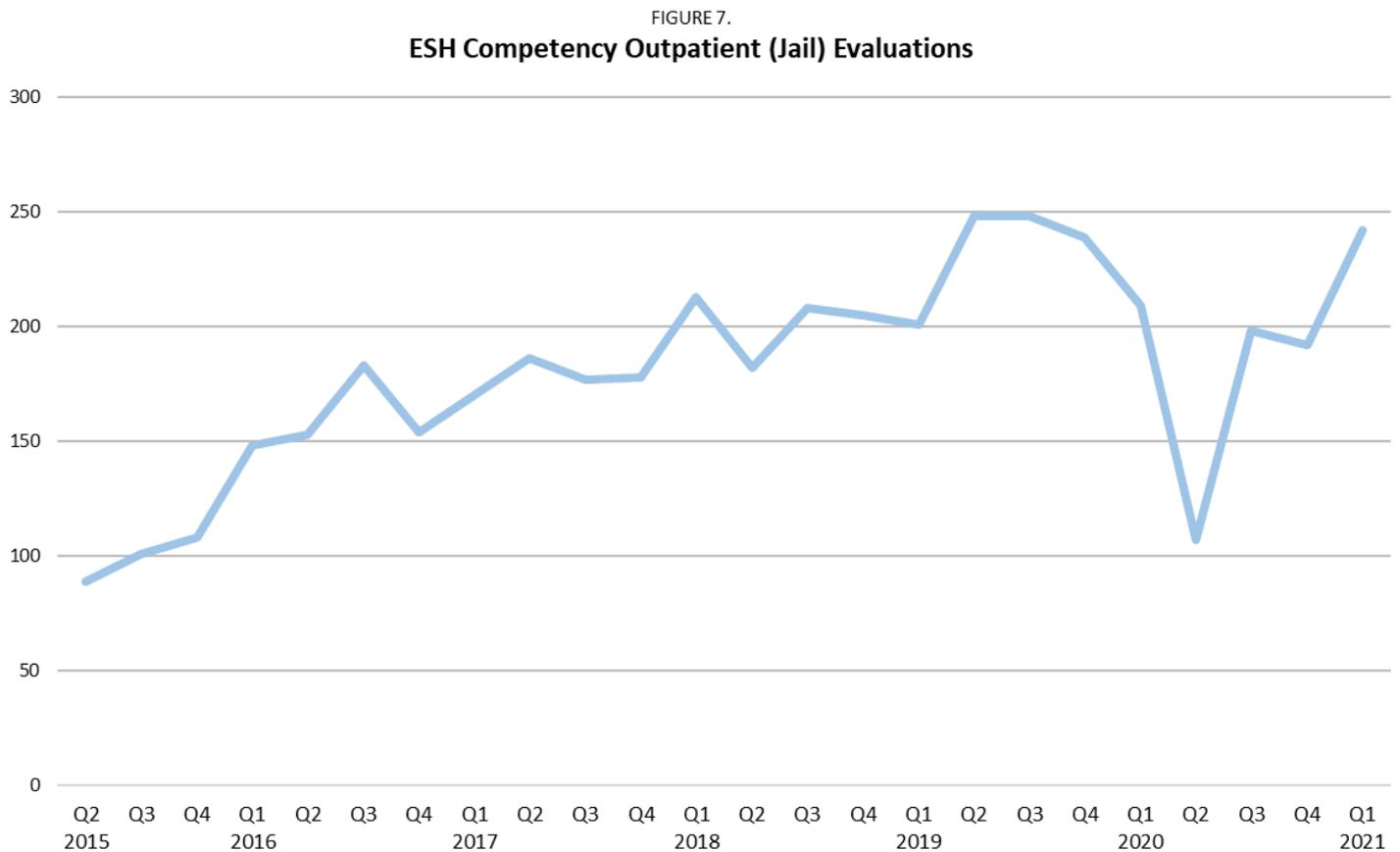
The chart above, Figure 6, illustrates WSH total quarterly referrals for jail-based evaluations.

- **Outcomes:** During the Q1 2021 reporting period, WSH saw a slight increase in quarterly referrals to 835 (annual averages: 2016 = 646.25; 2017 = 701.25; 2018 = 805.5; 2019 = 972.75; 2020 = 833.50; Q1 2021 = 835). For 2020, COVID-19 led to the first annualized demand decrease in outpatient jail evaluations.
- **Drivers:** Referrals for competency evaluations have increased significantly over most of the period illustrated above. With the exception of the drop in demand beginning in March 2020, continuing through the Q2 reporting period, pausing briefly during Q3 before dropping again in Q4, due to the ongoing COVID-19 pandemic, this strongly suggests a

“build it and they will come” effect; improved efficiency in providing consumers with a highly valued forensic service has itself increased the demand for that service. This is a well-known effect also seen in other supply and demand phenomena, such as the energy industry.

The drop in demand for jail-based referrals, referenced above as part of the pandemic, is part of the criminal court system’s strategy to mitigate COVID-19 exposure among staff and existing inmates by arresting, charging, and sending referrals for competency services in a much lower amount than prior to the pandemic.

Figure 7. Shows Total ESH Referrals for Jail-Based Evaluations



The chart above illustrates ESH total quarterly referrals for jail-based evaluations.

- **Outcomes:** During the Q1 reporting period, ESH’s jail-based referrals increased 20.7 percent. This increase followed the dramatic demand swings for much of 2020.
- **Drivers:** While the overall trend of increasing referral totals is driven by systemic demand, the immediate sustained decrease in demand seen in Q1 and Q2 2020 is a result of the arrival of the COVID-19 pandemic in March and its ongoing impacts to the behavioral health and criminal court systems. As the department has increased capacity and gained efficiencies in its processes, the criminal court system and mental health community have demanded the department’s services at a pace that has outstripped gains made in capacity and efficiencies. Q3 and Q4 2020 referrals returned to near normal but still persist a bit below likely non-pandemic demand levels, and the significant increase in referrals for Q1 2021 returned demand to the historic peak in 2019.

Figure 8. Shows Total WSH and ESH Combined Referrals for Jail-Based Evaluations

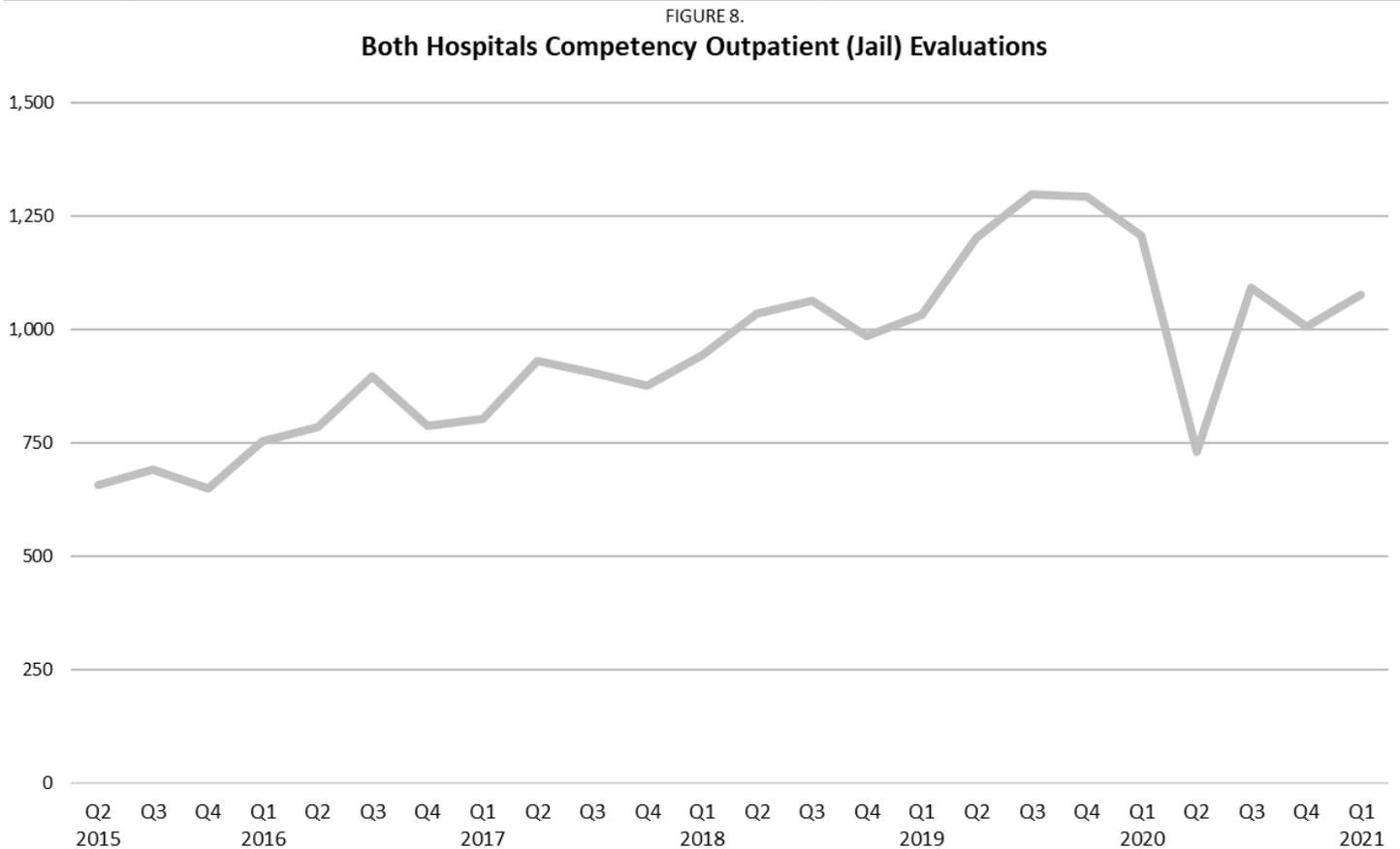


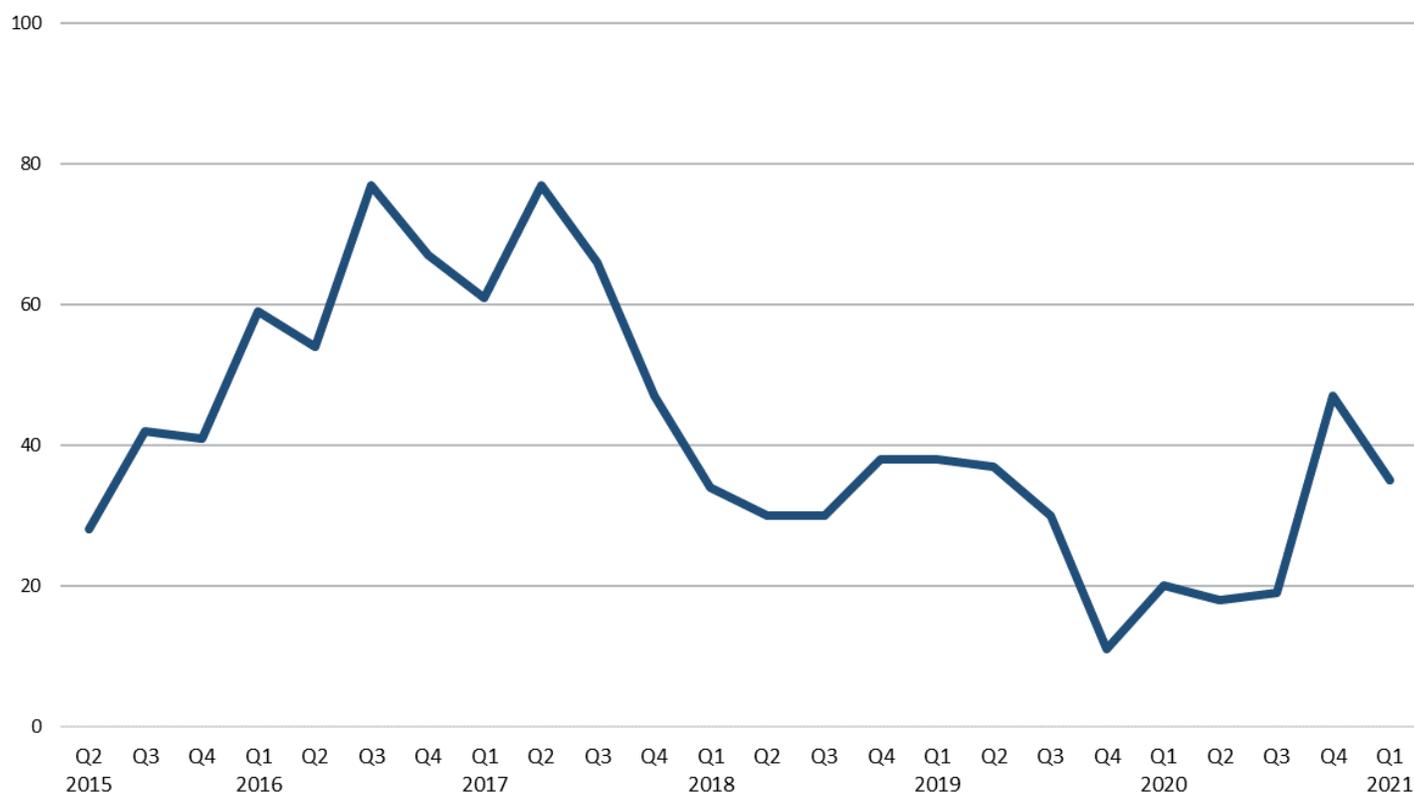
Figure 8 above illustrates the combined total quarterly referrals for jail-based evaluations.

- Outcomes:** During the Q1 reporting period, there was a moderate increase of 6.4 percent in total referrals for both hospitals combined as compared with the previous two quarter’s declines.
- Drivers:** The combined number of jail-based referrals to the hospitals, again, strongly suggests a “build it and they will come” effect; improved efficiency in providing consumers with a highly valued forensic service has itself increased the demand for that service. Likewise, societal trends suggest a growing population of persons who could benefit from mental health services; thus, it is likely that both pent up and increasing demand are adding strain to our systems, and over these periods of significant growth in referrals, periodic plateaus or even small decreases in demand occur regularly prior to the next surge in referrals. Beginning in February 2020 and continuing, the emergence of the COVID-19 pandemic led to the decrease in demand shown in Figure 8, and while jail-based evaluations demand has recovered somewhat, current demand remains 17 percent below the Q3 2019 peak demand.

Figure 9. Shows Total WSH Referrals for Inpatient Evaluations

FIGURE 9.

WSH Competency Inpatient Evaluation Referrals



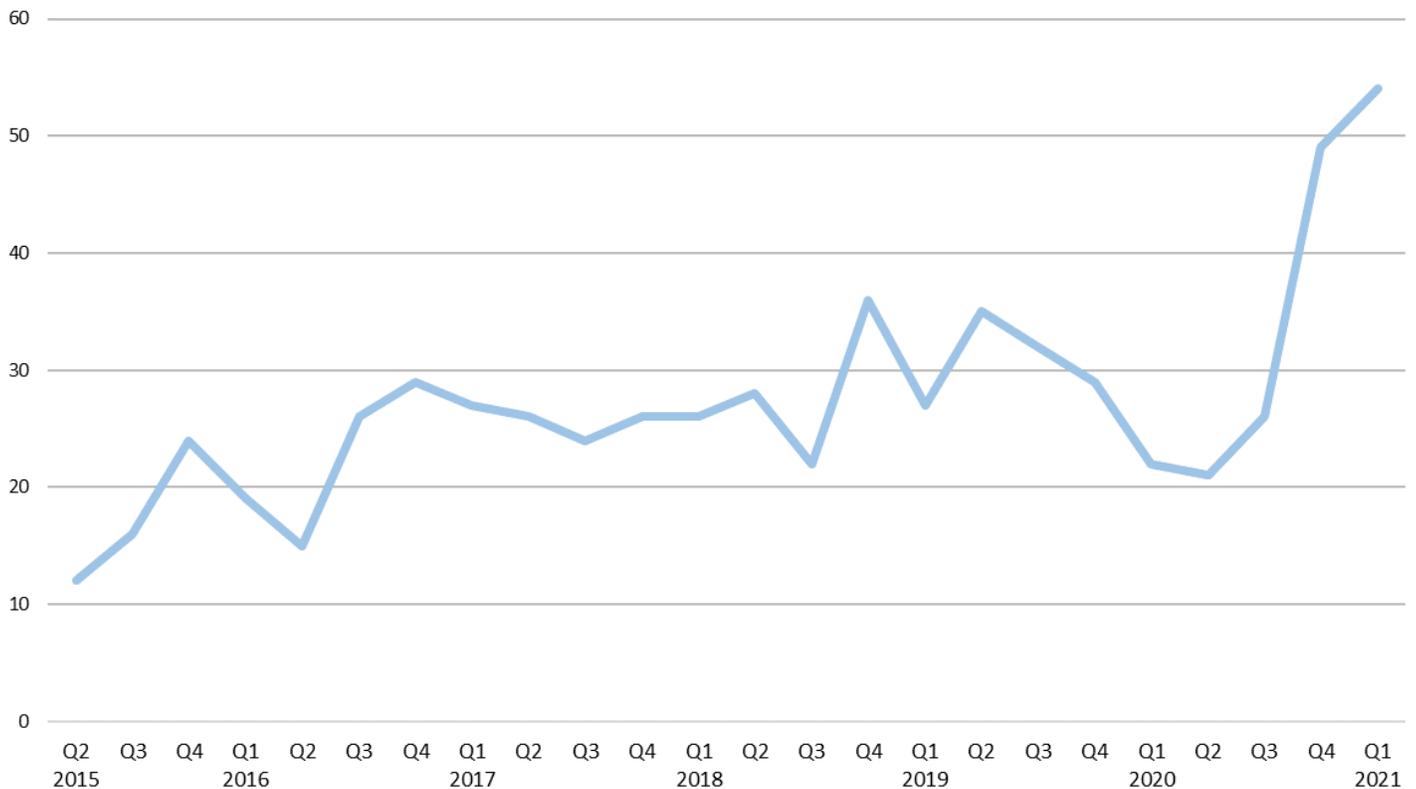
The chart above illustrates WSH total quarterly referrals for inpatient evaluations.

- **Outcomes:** During the Q1 2021 reporting period, referrals to WSH decreased 25 percent as compared to the previous quarter.
- **Drivers:** The large decline in inpatient referrals seen from Q2 2017 through Q2 2018 may have been a rebound effect wherein courts had become aware of the fact that, previously, demand had outstripped capacity resulting in long wait times and completion times. Anecdotal information suggested that courts and defense attorneys had begun to view the wait times for admission to the hospital for an inpatient evaluation to be prohibitively long. Some courts issued new orders that removed the defendant off the inpatient wait list, and directed DSHS to conduct the evaluation in the jail. In other cases, the defendant waited for such an extended period for admission that defense counsel motioned the court for dismissal of charges. Q4 2019’s significant decline in referrals lends additional support to the above interpretations. Q1 2020 rebounded somewhat from the referral floor created during Q4 2019, and then remained flat through Q3 2020 and the most significant COVID-19 effects on forensic admissions. Q4’s increase in referrals was sufficiently substantial to return to inpatient demand levels not seen since 2017 although the demand decrease in Q1 2021 has somewhat moderated the effect of Q4 2020’s demand increase.

Figure 10. Shows Total ESH Referrals for Inpatient Evaluations

FIGURE 10.

ESH Competency Inpatient Evaluation Referrals



The chart above (Figure 10) illustrates ESH total quarterly referrals for inpatient evaluations.

- **Outcomes:** During the reporting period, Q1 2021, ESH inpatient evaluation referrals increased an additional 10 percent from Q4 on top of substantial cumulative demand increases of 57 percent from Q2 – Q4 2020.
- **Drivers:** After experiencing two longer-term plateau trends punctuated and set off by demand spikes and drops at the beginning and end of each plateau, more recent demand appears less regulated and also contrary to BHA’s typical COVID-19 pandemic experience. Demand for inpatient competency evaluations appears to grow substantially during the pandemic. In particular, three counties in central and eastern Washington have increased referrals over the last few quarters, and a new development in Q1 2021 is a 360 percent increase in orders for misdemeanor inpatient evaluations.

Figure 11. Shows Total WSH and ESH Combined Referrals for Inpatient Evaluations

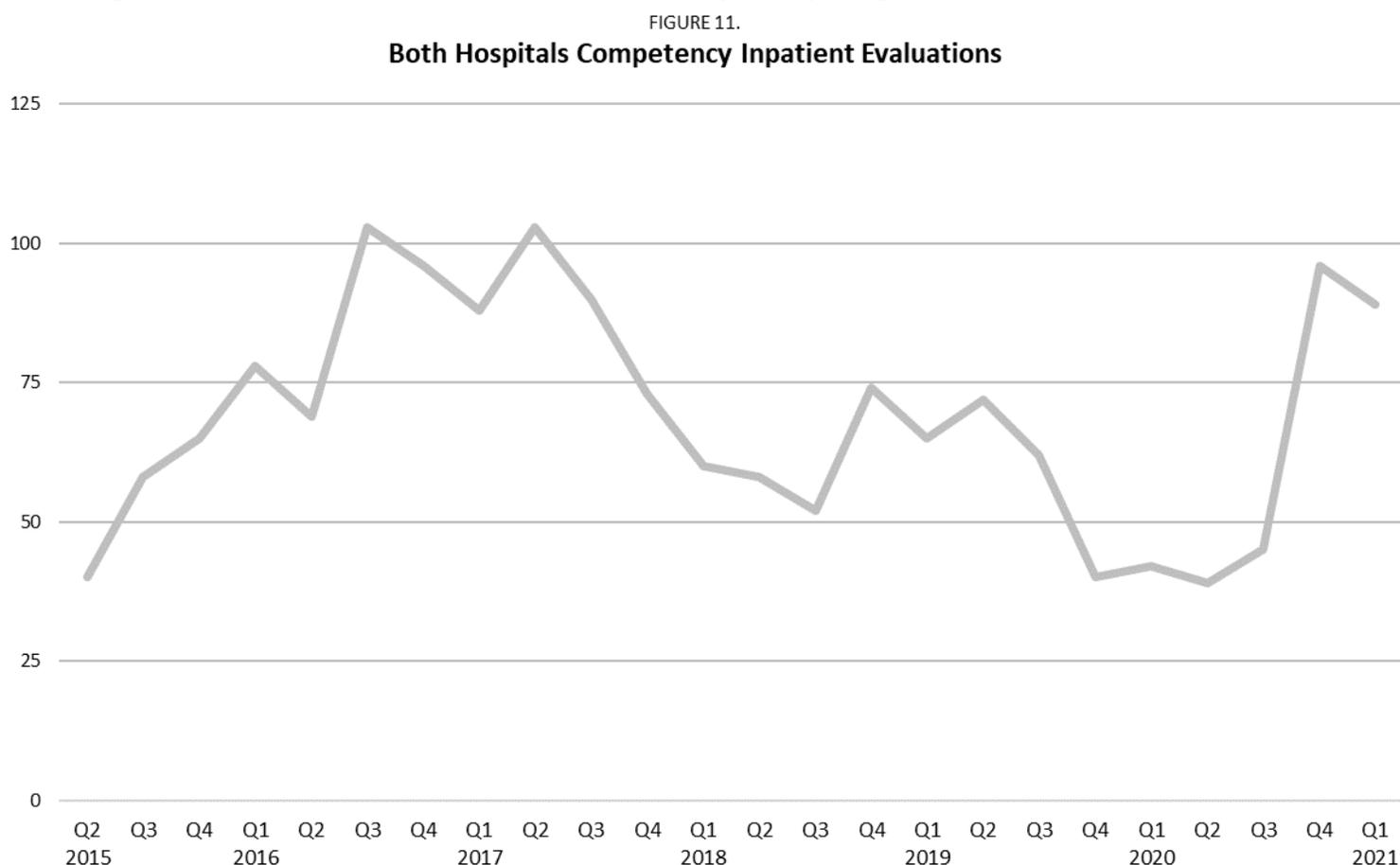
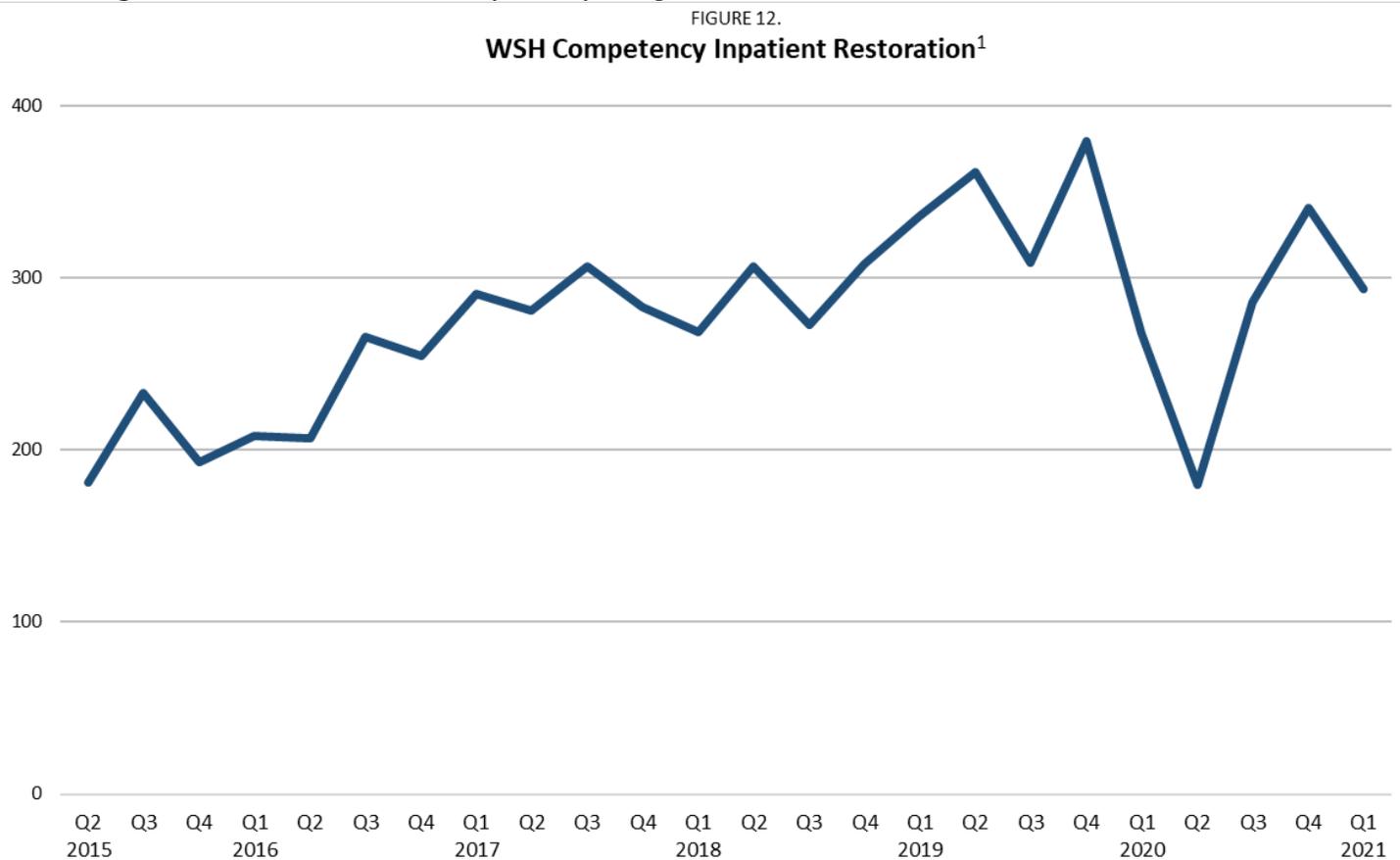


Figure 11 above shows the combined total quarterly referrals for inpatient evaluations.

- **Outcomes:** During the Q1 2021 reporting period, referrals for both hospitals combined decreased modestly.
- **Drivers:** As illustrated in Figure 8, it appears as though an apparent preference by the courts and defense counsel, as it pertains to patient evaluations, to have the vast majority of competency evaluations completed in jail and in community settings as opposed to inpatient settings, continues to persist. Likewise, in response to the COVID-19 pandemic, criminal courts have allowed greater numbers of defendants to be released on PR while awaiting an evaluation. Court orders have flowed to the two hospitals in very different patterns over the last four years. ESH has grown interminably over this time with its referral load tripling before subsiding to 247 percent above Q2 2015 referral numbers just prior to the pandemic's onset. WSH's referrals grew rapidly, peaked twice, and then dropped by Q4 2019 to, on average, 61 percent below Q2 2015's referral numbers just prior to the pandemic's onset. However, contrary to BHA's typical COVID-19 pandemic experience, demand for inpatient competency evaluations has grown substantially [+98%] during most of the pandemic, especially during Q4 2020.

Figure 12. Shows Total WSH Referrals for Inpatient Restoration



¹WSH Competency Inpatient Restoration includes referrals that end up admitting to the RTFs.

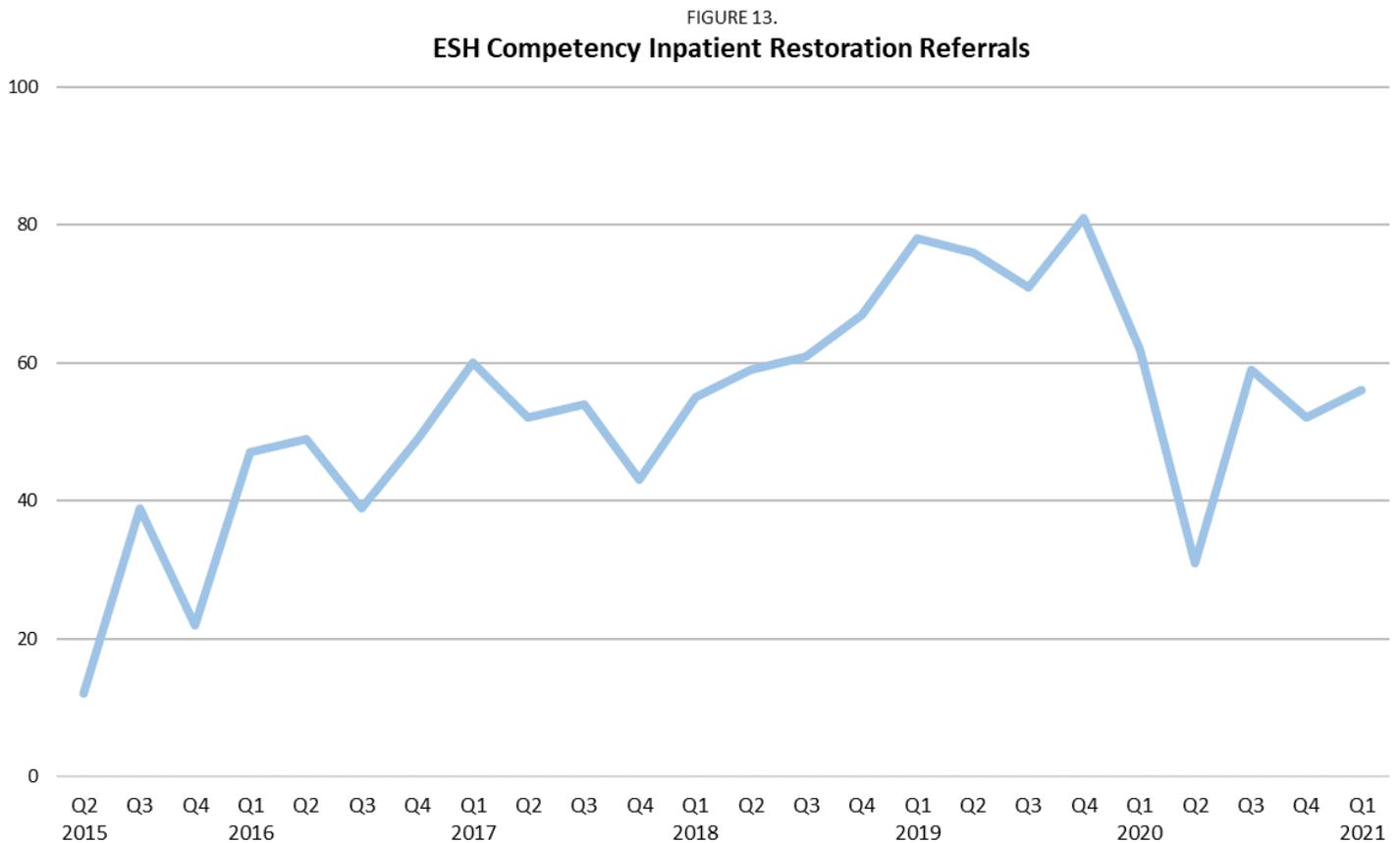
The above chart illustrates WSH’s total quarterly referrals for inpatient restorations.

- **Outcomes:** During the Q1 2021 reporting period, referrals decreased 13.7 percent after fluctuating dramatically throughout the pandemic.
- **Drivers:** During the second half of Q1 2020, demand collapsed for inpatient restorations. This was indicative of the novel Coronavirus’ arrival in the United States in early 2020, the early emergence of western Washington as a hot spot for COVID-19 infections and sustained community spread, and the subsequent lead wave of pandemic restrictions that resulted in collapsed demand for inpatient restorations.

During the months of March through June, WSH had strict limitations on admissions hospital-wide or had wards with identified COVID-19 cases placed on admissions hold. These restrictions have been eased and tightened periodically throughout the pandemic as conditions warrant. Implementation of COVID-19 protocols, reductions in patient census on wards, temporary elimination of inter-institutional transfer, social distancing among clients and staff were among the measures implemented to manage the initial COVID-19 outbreak at WSH and other facilities. Criminal courts and other partners experienced pandemic-related court closures and reductions in court case throughput and pandemic-

related challenges in restoration program delivery. During Q3 and Q4 2020, referrals largely recovered as systems re-opened and attempted to determine responsible paths forward to serving clients within the context of the COVID-19 pandemic. Even with the decrease in referrals during Q1 2021, demand levels are relatively close to 2019's historic referral levels.

Figure 13. Shows Total ESH Referrals for Inpatient Restoration



The above chart illustrates ESH total quarterly referrals for inpatient restorations.

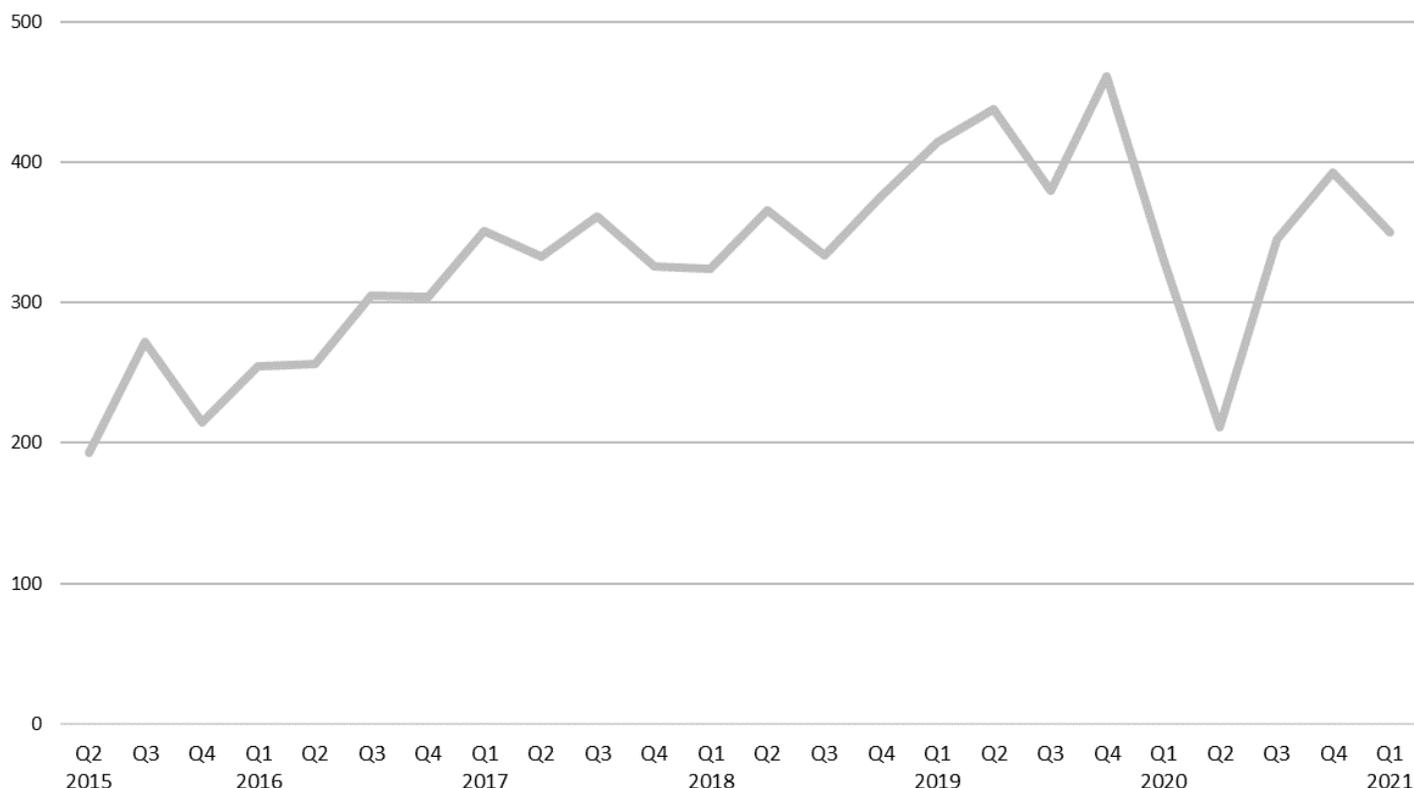
- **Outcomes:** Q1 2021 climbed modestly as compared to Q4 2020. From Q2 2015 through Q4 2019, just prior to the start of the pandemic, inpatient restoration referrals have skyrocketed 675 percent.
- **Drivers:** Restoration referrals represented in this figure increased significantly during Q4 2019 before dropping sharply in the Q1 2020 and Q2 2020 reporting periods. During the entire period covered by Figure 13, a clear upward trend line presents itself in the data showing sustained demand increases, occasionally punctuated by brief, sharp declines, that are outstripping capacity gains and adding strain to our systems.

During the latter half of 2020, and continuing into Q1 2021, restoration demand recovered somewhat but remains well below peak 2019 levels. The pandemic’s cumulative effects have returned restoration demand to first-half 2018 levels.

Figure 14. Shows Total WSH and ESH Combined Referrals for Inpatient Restorations

FIGURE 14.

Both Hospitals Competency Inpatient Restoration¹



¹Includes referrals that end up admitting to the RTFs.

The figure above illustrates the combined total quarterly referrals for inpatient restorations.

- Outcomes:** During the Q1 2021 reporting period, WSH and ESH collectively saw referrals drop moderately to 350 for the quarter. The 2020 quarterly average for referrals is 319.75. The 2019 quarterly average for referrals is 424. The 2018 quarterly average was 349.75. The 2017 quarterly average was 342.75, and the 2016 quarterly average was 280. The growth in the year-over-year quarterly averages, through 2019, clearly illustrates that year-over-year numbers continue to climb dramatically and are significantly higher than was seen in 2016. 2020 average referrals show the impact of the COVID-19 pandemic.
- Drivers:** After referral levels collapsed at both state hospitals during Q1 and Q2 2020 due to the onset of the global pandemic’s effects in Washington state, inpatient restoration referrals recovered substantially by the end of Q4 2020 before moderating somewhat in Q1 2021. With few exceptions, as the department has increased capacity and gained efficiencies in its processes, the criminal court system and mental health community have demanded the department’s services at a greater pace. It is likely that both pent up and increasing demand are adding strain to our systems. Adding the emergence of COVID-19 as a new externality, OFMHS and its partners are beginning to adjust to the new environment in which to safely serve our clients. Numerous pandemic-related changes

include: implementation of social distancing in the forensic wards, in part, by reducing patient census; admissions holds on wards due to active COVID-19 cases among clients, staff, or both; slowdown in referrals due to pandemic-related court closures and reductions in court case throughput; and pandemic-related challenges in restoration program delivery.

Figure 15, on the following page, appeared for the first time in the Q3 2020 report to illustrate referrals from the new OCRP program that began serving clients in seven Phase 1 counties on July 1, 2020 and began serving the last three Phase 1 counties on September 1, 2020.

Figure 15. Shows Statewide Outpatient Competency Restoration Referrals

FIGURE 15.

Statewide Outpatient Competency Restoration

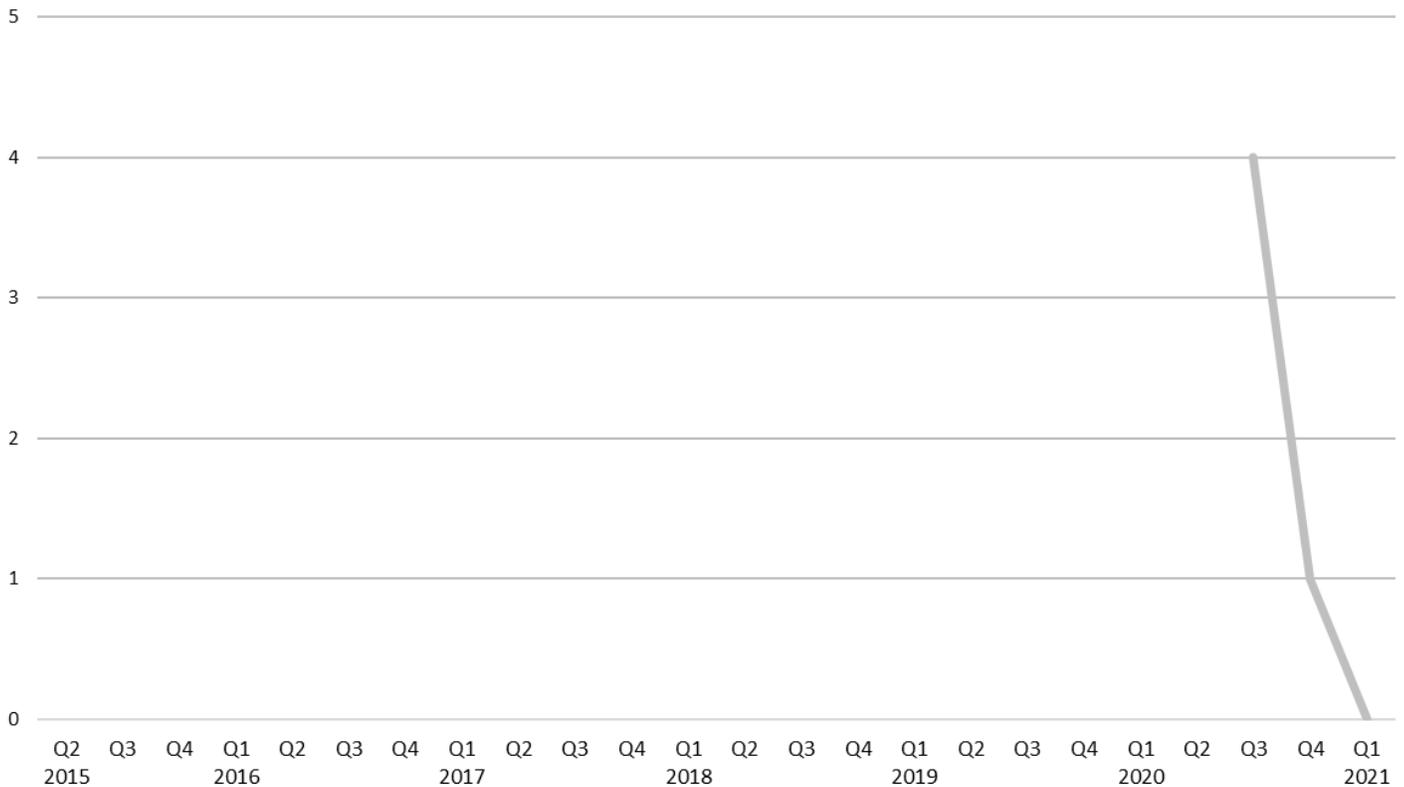


Figure 15 above illustrates the total number of jail-based Outpatient Competency Restoration referrals from all OCR programs statewide. Clients who enter OCRP from PR status or transfer from inpatient restoration to OCRP are not reflected in the figure above.

- Outcomes:** During the Q3 reporting period, Phase 1 OCR programs began serving clients. The first four jail-based referrals were accepted into OCRP during Q3. Q4 2020 saw one additional client referred into OCRP from jail. Overall, OCRP has served more than 30 clients statewide as of March 31, 2021.
- Drivers:** Two OCR programs opened on July 1, 2020, and the third program serving the Southwest region, opened on September 1, 2020. OCR staff and Forensic Navigators continue to promote the programs within the criminal court system and with other stakeholders to bring understanding and awareness regarding OCR.

ACTIONS TAKEN

DSHS submitted a long-term plan to the Court in July 2015, which outlines DSHS' plans for coming into compliance with the timelines established in the Trueblood decision. On February 8, 2016, the Court issued an order modifying the original April 2, 2015 order, providing a new timeline requiring full compliance as of May 27, 2016. Pursuant to the Court's February 8, 2016 order, DSHS revised the long-term plan and submitted the revised plan to the Court on May 6, 2016. The long-term plan can be found at the following link:

<https://www.dshs.wa.gov/sites/default/files/BHSIA/FMHS/Trueblood/2016Trueblood/Combined-Long-Term-Plan-2016-05-06.pdf>

OFMHS is responsible for the leadership and management of Washington's forensic mental health care system and is addressing the increase in demand for mental health services for adults and youth in the criminal court system. OFMHS provides forensic evaluations, competency restoration, Not Guilty by Reason of Insanity (NGRI) treatment services, and liaison services to effectively coordinate efforts with system partners to meet shared goals. OFMHS additionally provides ongoing training and technical assistance to improve quality and timeliness of forensic mental health services, data management and resource allocation, training and certification of evaluators, and quality monitoring and reporting. OFMHS works in collaboration with the Governor's office to lead and implement robust diversion efforts to prevent citizens with mental illness from entering the criminal court system.

Significant public resources have been invested in providing the high quality and empirically supported services of OFMHS. Three major goals for OFMHS during this period were to (1) best-utilize current bed capacity; (2) gain efficiencies in the process of evaluation delivery; and (3) fund prosecutorial diversion programs and implementation of five request for proposals (RFP's) using Trueblood fines. Below are the key actions that occurred during this period to decrease wait times.

Best-Utilize Current Bed Capacity

During this period, a focus on keeping beds as full as possible was a continued key strategy, given the need to respond to probable and actual COVID-19 positive tests among patients and staff at the following facilities: ESH, WSH, Maple Lane, and Yakima. Maple Lane reduced census to 25, and Yakima reduced census to 21. Both facilities made these changes to allow for social distancing within the facility and to accommodate a quarantine room. Additionally, stabilizing the census remained a key focus at Ft. Steilacoom Competency Restoration Program (FSCRCP). FSCRCP will be limited to 25 patients due to COVID-19.

A needs projection and bed capacity study was completed during Q4 2018 with the TriWest Group, a consultancy organization, to determine the feasibility of and timeframe for compliance with court orders. The impact of community-based competency evaluation on the demand for inpatient competency evaluation and restoration beds were measured by TriWest Group. Results of this study were unable to identify any correlation (e.g., homelessness, arrest rates, etc.) to the increases in referrals.

The Community Liaison and Diversion Specialist continues OFMHS' efforts in reducing demand for beds by working with community stakeholders to find and utilize available resources outside the criminal court system that will meet the needs of this population while fulfilling OFMHS' requirements under Trueblood.

Triage services have continued in an effort to identify individuals for whom expedited admissions may be appropriate. To date this program, called TCEA (Triage Consultation and Expedited Admissions), has identified and accepted requests for 291 individuals for expedited admissions, out of a total of 506 individual referrals.

While work to reduce inpatient demand for services continues, important capacity additions recently came online. Twenty-five bed forensic ward 1N3 opened on June 1, 2020 at ESH, and a second 25-bed ward, 3N3, opened on August 3, 2020. At WSH, two 20-bed wards opened to NGRI patients in February 2021 freeing more than 50 additional beds for forensic patients.

A team of nine forensic navigators was hired in winter and spring 2020 and deployed to our 10 Phase 1 counties to begin serving clients on July 1, 2020. Navigators are developing strong relationships with our court and outpatient restoration partners and are already making key differences in client-centered problem solving and connecting clients to needed resources. Navigators partner closely with the newly implemented Outpatient Competency Restoration Program (OCRP), which was also implemented on July 1, 2020 in partnership with the Health Care Authority. Approximately 30 individuals statewide have accessed OCRP as of March 31, 2021.

Work is ongoing to continue increasing capacity and attempting to reduce demand. Actions are anticipated to take place in the next reporting period to address these challenges, which will be included in the next report.

Gain Efficiencies in Process of Evaluation Delivery

During the 2015-2017 biennium, 21 evaluators were added to current staff levels. The legislature funded 13 new evaluator positions to begin after July 1, 2019 to further assist with competency evaluations to work toward substantial compliance and to meet statutory targets. As of June 1, 2020, all 13 forensic evaluators have been hired and started work for Fiscal Year 2020. For Fiscal Year 2021, beginning on July 1, 2020, the legislature funded five new evaluator positions. The department has already hired all evaluators for the Fiscal Year 2021 contempt settlement agreement requirements. Additionally, two open forensic evaluator supervisor positions in King County and Spokane were filled during the fourth quarter of 2020.

Many courts maintain requirements that forensic reports and other related motions be transmitted to the court clerk via fax. Outside of normal business hours or when forensic evaluators work from remote locations, they do not always have access to traditional fax machines. E-faxing utilizes secure servers to transmit documents from anywhere you can connect to the network to a receiving fax machine. For minimal investment, the project increases the number of forensic reports

submitted on time, improving workload efficiency and decreasing fine payments for late cases. This new system was fully implemented in March 2021 (Q1 2021).

Additional efforts have also been made in the area of workforce development. Specifically, staff evaluators were offered training, with national experts in the field of competency evaluations, as a part of ongoing efforts to create and maintain the most highly trained and efficient staffing possible. Subsequent, to the conclusion of the video conferencing evaluation pilot project, use of telehealth services for evaluations has continued at existing sites. For the first two years of telehealth evaluations, it proved challenging to engage jails and other entities in adopting remote evaluations; however, with the COVID-19 pandemic, OFMHS' was prepared to quickly shift to and effectively utilize workforce development staff to assist jails and others in adopting the necessary technology to conduct telehealth evaluations. For the 12 months April 2020 through March 2021, utilization of telehealth evaluations increased nearly five-fold as compared to pre-pandemic levels and have remained at a high utilization rate through the Q1 2021 reporting period (more than 100 evaluations per month on average). Telehealth systems are utilized in more than 25 tribal, county, and local jails statewide, and very few remote evaluation attempts are rejected by clients or their attorneys.

Fund Prosecutorial Diversion Programs & RFP's Using Trueblood Fines

Twelve Trueblood-fine funded programs continue to operate including: King County (BHO); Sunrise Services, Inc.; Comprehensive Health Care; Great Rivers (BHO); Kitsap Mental Health Services; Catholic Charities; Pierce County; Thurston-Mason Behavioral Health Organization; Pacific County (program focused on diversion of misdemeanors); Spokane County (program focused on diversion of misdemeanor and low-level felonies); Greater Columbia (program focused on diversion of misdemeanors); and King County (program focused on diversion of misdemeanors and low-level felonies).

One of the programs in King County is a prosecutorial diversion program, which is jointly funded by both contempt fine dollars and a contract with OFMHS. This program allows a prosecutor to use their discretion to dismiss a non-serious charge without prejudice if the issue of competency is raised. The intent of this program is to divert misdemeanor and low-level felony defendants from incarceration and hospitalization into needed behavioral health treatment. In addition to this prosecutorial diversion program in King County, DSHS also contracts for the same services in two other locations: Spokane County and Benton/Franklin Counties.

All of the programs mentioned above have continued to operate during the pandemic though services have been reduced and modified to incorporate more technology (e.g., Zoom for Healthcare) into meeting with clients.

NEXT STEPS

Future reports will provide continued progress reporting, with a focus on efforts made in four main areas as it relates to compliance: (1) expanding and best-utilizing bed capacity, (2) increasing throughput for inpatient services, (3) managing in-custody evaluations to reduce barriers so compliance can be reached, and (4) decreasing demand for competency services.

ESH opened both of its newly renovated forensic wards bringing an additional 50 forensic beds online. Subject to COVID-19 restrictions, pressure will be reduced on the existing system. WSH opened two newly renovated NGRI wards in Q1 2021 allowing conversion of more than 50 beds to forensic patients. These new beds will enable reductions in the client wait lists and quicker through put in the legal authorities assigned to those beds/wards.

The major focus for OFMHS in the future is to work on reducing demand for all competency services through implementation of the Trueblood contempt settlement agreement. The Forensic Navigator program launched July 1, 2020 and is connecting class members with an enhanced suite of services as they navigate the competency/restoration process. Outpatient Competency Restoration also launched on July 1 and is designed to work in concert with the Forensic Navigator program to educate the criminal courts and guide appropriate clients to needed services especially outpatient restoration – and away from inpatient beds in secure state facilities. As these programs gain additional time in operations, a broader level of information will become available in future quarterly reports.

Efforts to reduce demand for competency services include several innovative programs listed as follows: Forensic Projects for Assistance in Transition from Homelessness (FPATH), mobile crisis response, and Forensic Housing and Recovery through Peer Services teams (FHARPS). FPATH identifies and builds relationships with persons at highest risk for involvement in the criminal court, homelessness, and forensic mental health systems in an effort to provide services and prevent involvement in these systems. Mobile crisis response provides timely interventions in the field in an effort to keep individuals from being arrested and incarcerated and to instead quickly connect them with the services they need. FHARPS identifies persons who are homeless or unstably housed who also have behavioral health needs, and connects them with supports for housing and peers who have similar lived experience. Each of these programs is working to meet client's needs and to enable them to move forward in a positive manner before a behavioral health crisis necessitates criminal court involvement or involuntary hospitalization.

Additionally, OFMHS has taken steps to create specific standards and expectations for staff evaluators, in adherence with our principles of being the most well-trained and efficient staff possible.

OFMHS attempts to accomplish these challenging settlement agreement goals in the context of the global COVID-19 pandemic that recently began ravaging Washington state causing us to temporarily shut down much of state and local government as well as a vast array of societal institutions. At the end of Q1, the effects on our operations were relatively muted, but as the lockdown continued into Q2, and then the highly modified treatment environments persisted into Q3, the effects have only deepened. As Q3 and Q4 advanced, agency staff have proved time and

time again to be highly adaptive and have learned to work relatively efficiently within the challenging confines of the COVID-19 restrictions. Continuing through Q1 2021, many of our partners have re-opened to COVID-19 modified operations and demand is gradually returning toward pre-pandemic levels. OFMHS' staff has strived to continue advancing transformative solutions to the forensic system in a safety and patient-centered care environment, in spite of the challenges induced by the historic pandemic.

SUMMARY

The department continues to work on what impacts can be made on these four levers: (1) increase, and best-utilize, bed capacity; (2) increase throughput for inpatient services (quicker turnover in hospitals); (3) manage in-custody evaluations to reduce barriers so compliance can be reached; and (4) decrease demand for competency services.

Ensuring that every bed is best-utilized to meet requirements under Trueblood, by maintaining efficient referral and admission practices, is a major key to OFMHS' work toward achieving compliance.

Continued triage and diversion efforts will also facilitate and improve these efforts by managing the inpatient portion of Trueblood class members, while also finding acceptable alternatives for those class members deemed suitable for these alternative options.

With the contempt settlement agreement in place, OFMHS continues to work with its partners at the Health Care Authority, the Criminal Justice Training Commission, the criminal court systems around the state, and others to implement and administer new programs.

APPENDIX A – Competency Inpatient and Outpatient (Jail) Evaluations Referrals and Restoration Referrals

Appendix A.

Competency Inpatient and Outpatient (Jail) Evaluations Referrals and Restoration Referrals

		Competency Outpatient (Jail) Evaluations			Competency Inpatient Evaluation Referrals			Competency Inpatient Restoration Referrals			Competency Outpatient Restoration Referrals
		NUMBER OF COURT ORDERS SIGNED			NUMBER OF COURT ORDERS SIGNED			NUMBER OF COURT ORDERS SIGNED			Statewide
		ESH	WSH	Both	ESH	WSH	Both	ESH	WSH	Both	
2015	Q2	89	569	658	12	28	40	12	181	193	0
	Q3	101	591	692	16	42	58	39	233	272	0
	Q4	108	543	651	24	41	65	22	193	215	0
2016	Q1	148	606	754	19	59	78	47	208	255	0
	Q2	153	632	785	15	54	69	49	207	256	0
	Q3	183	714	897	26	77	103	39	266	305	0
	Q4	154	633	787	29	67	96	49	255	304	0
2017	Q1	170	633	803	27	61	88	60	291	351	0
	Q2	186	746	932	26	77	103	52	281	333	0
	Q3	177	728	905	24	66	90	54	307	361	0
	Q4	178	698	876	26	47	73	43	283	326	0
2018	Q1	213	732	945	26	34	60	55	269	324	0
	Q2	182	853	1035	28	30	58	59	307	366	0
	Q3	208	856	1064	22	30	52	61	273	334	0
	Q4	205	781	986	36	38	74	67	308	375	0
2019	Q1	201	831	1032	27	38	65	78	336	414	0
	Q2	248	955	1203	35	37	72	76	362	438	0
	Q3	248	1050	1298	32	30	62	71	309	380	0
	Q4	239	1054	1293	29	11	40	81	380	461	0
2020	Q1	209	998	1207	22	20	42	62	268	330	0
	Q2	107	625	732	21	18	39	31	180	211	0
	Q3	198	895	1093	26	19	45	59	286	345	4
	Q4	192	816	1008	49	47	96	52	341	393	1
2021	Q1	242	835	1077	54	35	89	56	294	350	0

PRODUCED BY: DSHS Research and Data Analysis, April 2021.

SOURCE: April 2021 Trueblood Monthly Report.

NOTES: Number reflect court orders signed in the specified month and any additional in-jail stays (i.e., periods of waiting for competency services in jail) starting in the specified month because a class member entered jail from the community while awaiting a court-ordered competency service. Data was pulled on the third business day of the month for the Trueblood Monthly Report, and therefore may differ slightly from the data reported in the State Hospital and Legislative 6492 reports.

APPENDIX B – Average Number of Days from Completion of Inpatient Referrals (All Discovery Received) to Bed Offer per Quarter

FIGURE B1.

FIGURE B2.

FIGURE B3.

Inpatient Restorations and Evaluations

Inpatient Evaluations

Inpatient Restorations

Both ESH and WSH						Both ESH and WSH						Both ESH and WSH					
Western State Hospital						Western State Hospital						Western State Hospital					
Eastern State Hospital						Eastern State Hospital						Eastern State Hospital					
CY	Admits ESH+WSH	Target DAYS	AVERAGE DAYS			Admits ESH+WSH	Target DAYS	AVERAGE DAYS			Admits ESH+WSH	Target DAYS	AVERAGE DAYS				
2013	Q4	240	7	48.7	22.0	25.5	42	7	120.3	28.5	46.0	198	7	24.8	20.7	21.2	
2014	Q1	248	7	43.1	19.8	23.0	51	7	85.1	25.6	36.1	197	7	28.0	18.4	19.6	
	Q2	255	7	21.3	29.9	28.6	56	7	41.2	30.6	33.1	199	7	21.2	29.8	27.4	
	Q3	252	7	29.8	34.4	33.6	51	7	41.8	33.8	36.7	201	7	20.0	34.5	32.8	
	Q4	266	7	26.8	43.4	40.5	45	7	59.3	30.7	37.0	221	7	18.1	45.9	41.2	
2015	Q1	243	7	27.5	43.8	40.4	47	7	67.6	22.1	34.7	196	7	13.4	48.4	41.8	
	Q2	257	7	54.9	25.9	29.5	45	7	75.0	13.7	36.9	212	7	32.1	27.7	28.0	
	Q3	263	7	88.0	19.3	30.5	57	7	81.2	15.3	36.1	206	7	92.9	20.1	29.0	
	Q4	282	7	70.8	31.2	38.1	55	7	67.5	21.8	35.1	227	7	72.5	33.1	38.8	
2016	Q1	326	7	50.9	26.5	31.6	74	7	44.1	15.7	24.1	252	7	54.2	29.2	33.8	
	Q2	352	7	20.9	27.4	26.0	67	7	19.2	19.7	19.6	285	7	21.4	29.1	27.5	
	Q3	371	7	7.5	16.3	15.2	87	7	7.5	13.3	11.8	284	7	7.5	17.0	16.3	
	Q4	376	7	4.8	24.2	20.4	98	7	4.9	23.4	18.5	278	7	4.8	24.4	21.1	
2017	Q1	388	7	7.0	24.8	21.2	75	7	5.7	17.5	14.0	313	7	7.5	26.3	22.9	
	Q2	371	7	6.3	29.3	25.1	64	7	5.6	27.6	21.8	307	7	6.6	29.7	25.8	
	Q3	393	7	9.5	32.6	28.6	80	7	7.0	39.9	30.5	313	7	10.8	31.0	28.1	
	Q4	366	7	10.2	36.2	31.0	71	7	10.6	44.0	34.1	295	7	10.0	34.6	30.2	
2018	Q1	345	7	9.1	47.5	39.8	53	7	8.7	50.1	35.3	292	7	9.2	47.1	40.6	
	Q2	372	7	18.5	41.9	37.5	38	7	18.0	47.5	35.1	334	7	18.7	41.4	37.7	
	Q3	358	7	21.0	42.6	38.6	38	7	20.4	46.5	34.1	320	7	21.2	42.3	39.1	
	Q4	377	7	22.1	45.7	40.0	57	7	16.6	36.7	27.9	320	7	24.2	46.8	42.1	

Figures B1. through B3. continue on the following page.

FIGURE B1.

Inpatient Restorations and Evaluations

FIGURE B2.

Inpatient Evaluations

FIGURE B3.

Inpatient Restorations

		Both ESH and WSH					Both ESH and WSH					Both ESH and WSH				
		Western State Hospital					Western State Hospital					Western State Hospital				
		Eastern State Hospital					Eastern State Hospital					Eastern State Hospital				
CY		Admits ESH+WSH	Target DAYS	AVERAGE DAYS			Admits ESH+WSH	Target DAYS	AVERAGE DAYS			Admits ESH+WSH	Target DAYS	AVERAGE DAYS		
2019	Q1	408	7	21.2	48.0	42.4	59	7	22.8	35.5	31.2	349	7	20.7	49.7	44.3
	Q2	378	7	40.5	39.7	39.9	43	7	48.5	29.0	38.5	335	7	37.8	40.6	40.1
	Q3	384	7	35.6	42.2	40.6	45	7	39.7	45.2	42.9	339	7	34.5	41.9	40.3
	Q4	414	7	31.8	32.8	32.6	43	7	36.2	42.6	39.6	371	7	30.4	32.1	31.8
2020	Q1	310	7	43.7	39.1	40.1	27	7	36.8	30.8	33.7	283	7	45.3	39.6	40.7
	Q2	140	7	69.0	53.2	55.7	9	7	86.7	48.3	61.1	131	7	66.3	53.5	55.3
	Q3	238	7	65.3	54.8	56.3	20	7	74.2	106.7	92.1	218	7	61.8	51.9	53.0
	Q4	293	7	60.3	41.7	45.3	48	7	57.6	46.4	51.7	245	7	62.1	41.1	44.1
2021	Q1	369	7	47.5	58.6	56.2	63	7	50.7	68.6	58.6	306	7	45.0	57.5	55.6

PRODUCED BY: DSHS Research and Data Analysis, April 2021.

SOURCE: Prior to Aug 1, 2018: FES at Western State Hospital and MILO at Eastern State Hospital and Since Aug 1, 2018: BHA Forensic Data System.

* Number of received and number admitted are the totals for the quarter (i.e., some that were completed in quarter were received in previous quarter). The population for average days and performance measures, are referrals COMPLETED in the quarter (IP = bed offer/admitted, OP = Evaluated/faxed report). The number of days waiting is calculated from the date all documents are received (Order, Discovery, Charging Docs), to the date of completion (IP=bed offer, OP = faxed report), minus any days of delay that were beyond the control of the forensic program. Cases that were cancelled or withdrawn are excluded from averages.

APPENDIX C – Average Number of Days for Civil Conversions, In-Jail Evaluations, and Out-of-Jail Evaluations (All Discovery Received) to Bed Offer per Quarter

FIGURE C1. Inpatient 72-hour Dismissal Evaluations (flips)						FIGURE C2. In-Jail Evaluations						FIGURE C3. Out-of-Jail Evaluations					
Both ESH and WSH						Both ESH and WSH						Both ESH and WSH					
Western State Hospital						Western State Hospital						Western State Hospital					
Eastern State Hospital						Eastern State Hospital						Eastern State Hospital					
CY	Admits ESH+WSH	Target DAYS	AVERAGE DAYS			Complete ESH+WSH	Target DAYS	AVERAGE DAYS			Complete ESH+WSH	Target DAYS	AVERAGE DAYS				
2013	Q4	35	7		2.1	2.1	459	7	60.2	17.8	25.3	143.0	21	70.2	94.6	87.1	
2014	Q1	34	7		4.1	4.1	530	7	63.6	17.8	26.1	222	21	79.7	87.5	85.6	
	Q2	40	7		2.9	2.9	563	7	56.3	14.7	21.3	200	21	66.3	65.2	65.4	
	Q3	31	7		3.4	3.4	505	7	50.0	14.1	20.9	145	21	70.5	74.3	72.7	
	Q4	27	7		3.7	3.7	506	7	55.3	13.4	21.6	169	21	66.5	80.2	75.6	
2015	Q1	30	7		4.0	4.0	547	7	55.1	12.6	20.9	122	21	76.7	75.5	76.0	
	Q2	21	7		2.6	2.6	553	7	73.5	12.2	20.5	135	21	88.9	66.0	74.7	
	Q3	28	7		2.1	2.1	628	7	53.6	17.2	23.2	124	21	103.9	83.8	90.6	
	Q4	22	7		4.4	4.4	616	7	37.1	13.8	18.3	189	21	118.6	91.5	102.3	
2016	Q1	32	7		2.8	2.8	745	7	19.1	8.7	11.0	207	21	80.0	95.7	89.5	
	Q2	27	7		2.6	2.6	689	7	12.0	8.2	9.0	222	21	64.3	76.6	72.9	
	Q3	35	7		3.3	3.3	753	7	13.4	10.7	11.2	164	21	32.5	67.1	54.0	
	Q4	50	7		3.1	3.1	758	7	11.6	12.3	12.2	186	21	44.1	93.4	80.4	
2017	Q1	41	7		2.1	2.1	710	7	5.6	9.5	8.6	188	21	37.0	90.5	76.3	
	Q2	44	7		3.1	3.1	760	7	11.3	9.7	10.0	228	21	44.7	70.6	63.6	
	Q3	46	7		3.5	3.5	843	7	11.5	10.7	10.9	134	21	54.2	82.1	72.5	
	Q4	51	7		2.4	2.4	845	7	10.3	9.4	9.5	176	21	49.7	95.9	81.5	
2018	Q1	75	7		3.5	3.5	840	7	10.4	7.7	8.2	218	21	53.6	105.6	89.4	
	Q2	50	7		2.9	2.9	973	7	12.1	7.7	8.5	151	21	38.6	102.3	88.8	
	Q3	26	7	4.0	4.1	4.1	942	7	10.9	8.7	9.0	88	21	57.6	127.1	104.2	
	Q4	41	7	2.2	3.6	3.2	817	7	9.5	9.7	9.7	157	21	71.8	132.6	130.3	

Figures C1. through C3. continue on the following page.

FIGURE C1.

Inpatient 72-hour Dismissal Evaluations (flips)

Both ESH and WSH							Both ESH and WSH					Both ESH and WSH				
Western State Hospital							Western State Hospital					Western State Hospital				
Eastern State Hospital							Eastern State Hospital					Eastern State Hospital				
CY	Admits ESH+WSH	Target DAYS	AVERAGE DAYS				Complete ESH+WSH	Target DAYS	AVERAGE DAYS			Complete ESH+WSH	Target DAYS	AVERAGE DAYS		
2019	Q1	59	7	4.0	5.0	4.8	895	7	14.6	12.2	12.6	214	21	117.8	153.5	144.2
	Q2	93	7	5.7	6.3	6.2	1103	7	13.4	12.6	12.8	199	21	154.1	146.8	149.4
	Q3	95	7	5.2	5.2	5.2	1228	7	13.5	12.5	12.7	148	21	144.4	158.7	152.1
	Q4	71	7	6.6	6.5	6.5	1220	7	13.9	12.5	12.8	185	21	156.7	136.8	142.9
2020	Q1	68	7	7.0	7.1	7.1	1173	7	13.3	12.8	12.9	209	21	167.6	174.3	172.2
	Q2	51	7	8.4	7.7	7.8	619	7	11.6	13.7	13.4	75	21	145.6	197.4	187.7
	Q3	82	7	9.1	9.8	9.6	980	7	14.1	12.0	12.4	195	21	129.5	218.6	203.5
	Q4	87	7	12.6	11.4	11.5	980	7	13.8	12.9	13.1	221	21	131.4	191.4	181.1
2021	Q1	62	7	11.3	9.9	10.2	937	7	13.1	12.2	12.4	219	21	184.3	128.0	135.9

PRODUCED BY: DSHS Research and Data Analysis, April 2021.

SOURCE: Prior to Aug 1, 2018: FES at Western State Hospital and MILO at Eastern State Hospital and Since Aug 1, 2018: BHA Forensic Data System.

* Number of received and number admitted are the totals for the quarter (IE. some that were completed in quarter were received in previous quarter). The population for average days and performance measures, are referrals COMPLETED in the quarter (IP=bed offer/admitted, OP = Evaluated/faxed report). The number of days waiting is calculated from the date all documents are received (Order, Discovery, Charging Docs), to the date of completion (IP=bed offer, OP = faxed report), minus any days of delay that were beyond the control of the forensic program. Cases that were cancelled or withdrawn are excluded from averages.