Washington State Department of Social and Health Services

Transforming Lives

REPORT TO THE LEGISLATURE

Forensic Admissions and Evaluations – Performance Targets 2019 Fourth Quarter (October 1, 2019-December 31, 2019)

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)

February 29, 2020

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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 four (Q4) of 2019 (September 1, 2019-December 31, 2019), 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

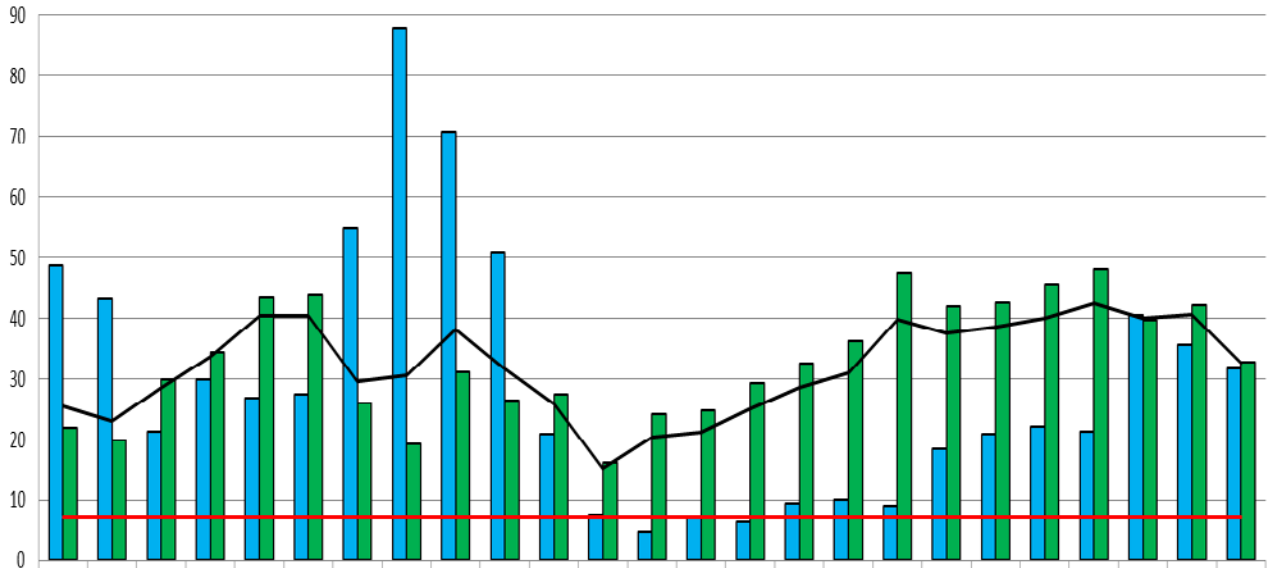
This section of the report provides visual representation of data from the Forensic Data System as well as outcomes and drivers analysis. Additional detailed data and information about timely competency services is available in monthly reports published by DSHS in compliance with requirements established 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.

Figure 1. *Shows Results for Inpatient Competency Evaluation Cases*

Average Number of Days from Completion of Inpatient Competency Referrals (All Discovery Received) to Bed Offer per Quarter (includes evaluation, restoration, felony, and misdemeanor)



	2013-4 240 ADMT	2014-1 248 ADMT	2014-2 255 ADMT	2014-3 252 ADMT	2014-4 266 ADMT	2015-1 243 ADMT	2015-2 257 ADMT	2015-3 263 ADMT	2015-4 282 ADMT	2016-1 326 ADMT	2016-2 352 ADMT	2016-3 371 ADMT	2016-4 376 ADMT	2017-1 388 ADMT	2017-2 371 ADMT	2017-3 393 ADMT	2017-4 366 ADMT	2018-1 345 ADMT	2018-2 372 ADMT	2018-3 358 ADMT	2018-4 377 ADMT	2019-1 408 ADMT	2019-2 378 ADMT	2019-3 384 ADMT	2019-4 414 ADMT
Avg Days ESH	48.7	43.1	21.3	29.8	26.8	27.5	54.9	88.0	70.8	50.9	20.9	7.5	4.8	7.0	6.3	9.5	10.2	9.1	18.5	21.0	22.1	21.2	40.5	35.6	31.8
Avg Days WSH	22.0	19.8	29.9	34.4	43.4	43.8	25.9	19.3	31.2	26.5	27.4	16.3	24.2	24.8	29.3	32.6	36.2	47.5	41.9	42.6	45.7	48.0	39.7	42.2	32.8
Avg Days State	25.5	23.0	28.6	33.6	40.5	40.4	29.5	30.5	38.1	31.6	26.0	15.2	20.4	21.2	25.1	28.6	31.0	39.8	37.5	38.6	40.0	42.4	39.9	40.6	32.6
Target	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7

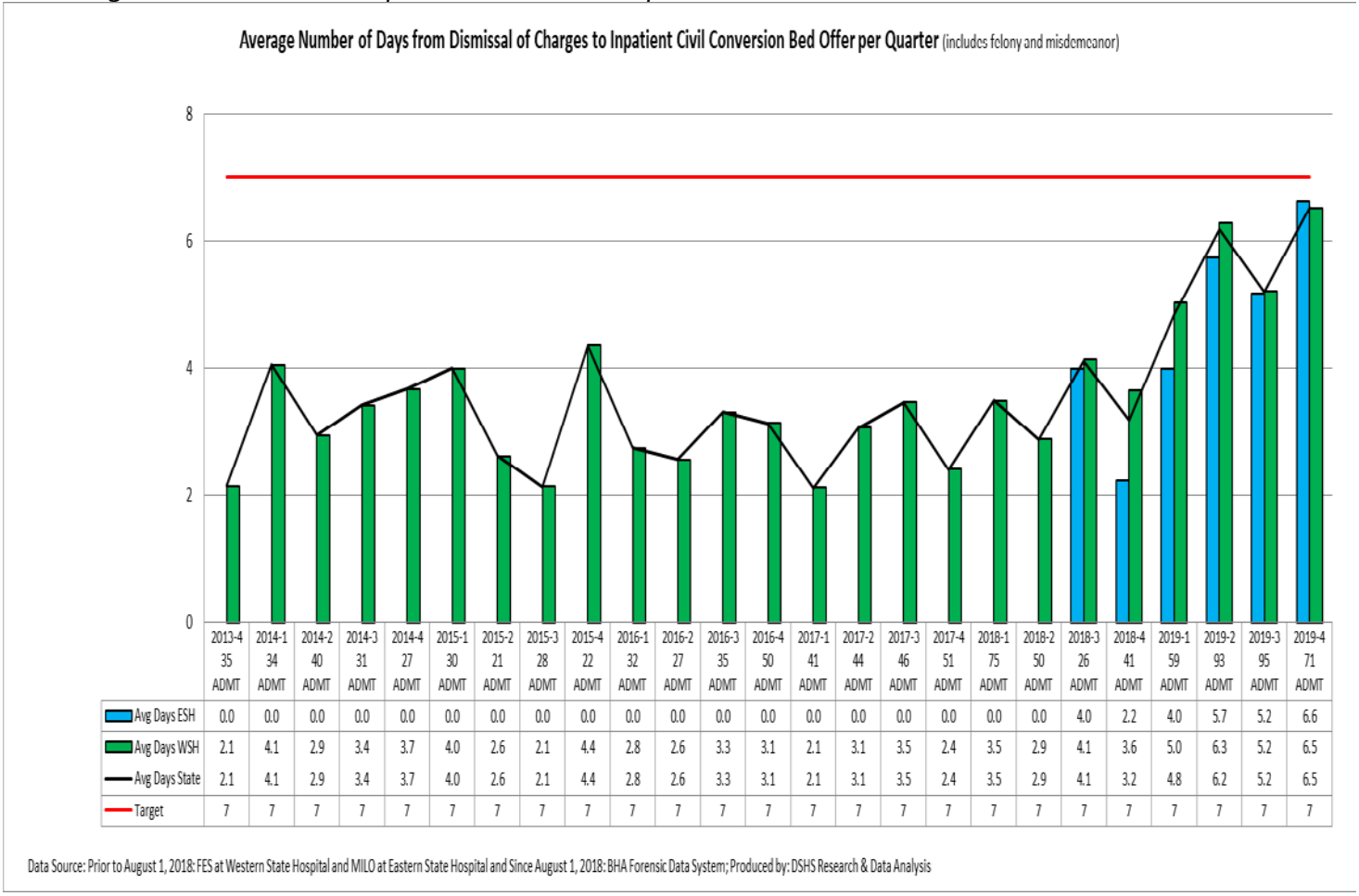
Data Source: Prior to August 1, 2018: FES at Western State Hospital and MILO at Eastern State Hospital and Since August 1, 2018: BHA Forensic Data System; Produced by: DSHS Research & Data Analysis

- **Figure 1.** These are the average wait times related to hospital admission for inpatient competency evaluations only (including defendants released on personal recognizance (PR)).

- ***Outcomes*:** During the fourth quarter of 2019, the number of admissions climbed moderately. Wait times at WSH, between referral for evaluation and bed offer, decreased substantially [-23.4%] in Q4 2019. ESH wait times saw a moderate decrease in Q3 2019 after more than doubling from Q1 to Q2 2019.

- ***Drivers*:** During this quarter, WSH has seen its wait list consistently averaging approximately 276 individuals on any given day. Persisting near record levels of orders in inpatient evaluation and restoration court orders, December set a new record during Q4 in the hospital's receipt of evaluation orders and discovery. This surpassed the new record set just months earlier during August in Q3 and coincided to drive WSH's average wait times far higher. After several challenging quarters, ESH did not encounter the aforementioned issues to the same extent as WSH, and as a result, their average days to hospital admission recovered moderately after dramatic increases in previous quarters.

Figure 2. *Shows Results for Post-Dismissal Referrals*



	2013-4 35 ADMT	2014-1 34 ADMT	2014-2 40 ADMT	2014-3 31 ADMT	2014-4 27 ADMT	2015-1 30 ADMT	2015-2 21 ADMT	2015-3 28 ADMT	2015-4 22 ADMT	2016-1 32 ADMT	2016-2 27 ADMT	2016-3 35 ADMT	2016-4 50 ADMT	2017-1 41 ADMT	2017-2 44 ADMT	2017-3 46 ADMT	2017-4 51 ADMT	2018-1 75 ADMT	2018-2 50 ADMT	2018-3 26 ADMT	2018-4 41 ADMT	2019-1 59 ADMT	2019-2 93 ADMT	2019-3 95 ADMT	2019-4 71 ADMT
Avg Days ESH	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	4.0	2.2	4.0	5.7	5.2	6.6
Avg Days WSH	2.1	4.1	2.9	3.4	3.7	4.0	2.6	2.1	4.4	2.8	2.6	3.3	3.1	2.1	3.1	3.5	2.4	3.5	2.9	4.1	3.6	5.0	6.3	5.2	6.5
Avg Days State	2.1	4.1	2.9	3.4	3.7	4.0	2.6	2.1	4.4	2.8	2.6	3.3	3.1	2.1	3.1	3.5	2.4	3.5	2.9	4.1	3.2	4.8	6.2	5.2	6.5
Target	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7

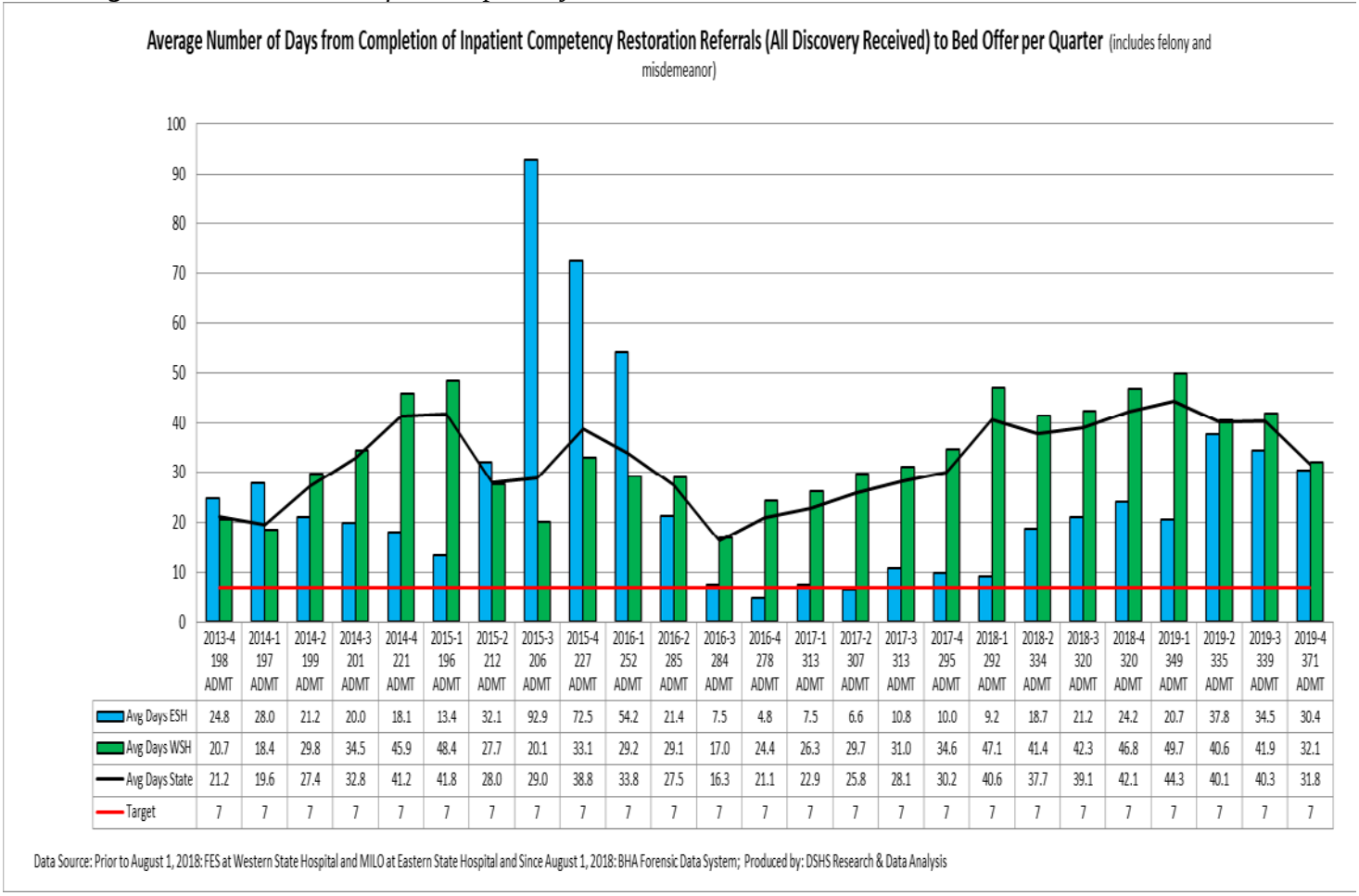
Data Source: Prior to August 1, 2018: FES at Western State Hospital and MILO at Eastern State Hospital and Since August 1, 2018: BHA Forensic Data System; Produced by: DSHS Research & Data Analysis

- **Figure 2.** This chart reflects average days from dismissal of charges to an offer of admission at each state hospital and a combined state average.

- ***Outcomes*:** During the reporting period, both ESH and WSH remain below the seven day target admission target.

- ***Drivers*:** Although both hospitals remain below the seven-day target, and this remains an area of positive performance, persistent near record demand for bed placements pressures this target as seen above. Continued success is attributed to staff 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*



	2013-4 198 ADMT	2014-1 197 ADMT	2014-2 199 ADMT	2014-3 201 ADMT	2014-4 221 ADMT	2015-1 196 ADMT	2015-2 212 ADMT	2015-3 206 ADMT	2015-4 227 ADMT	2016-1 252 ADMT	2016-2 285 ADMT	2016-3 284 ADMT	2016-4 278 ADMT	2017-1 313 ADMT	2017-2 307 ADMT	2017-3 313 ADMT	2017-4 295 ADMT	2018-1 292 ADMT	2018-2 334 ADMT	2018-3 320 ADMT	2018-4 320 ADMT	2019-1 349 ADMT	2019-2 335 ADMT	2019-3 339 ADMT	2019-4 371 ADMT
Avg Days ESH	24.8	28.0	21.2	20.0	18.1	13.4	32.1	92.9	72.5	54.2	21.4	7.5	4.8	7.5	6.6	10.8	10.0	9.2	18.7	21.2	24.2	20.7	37.8	34.5	30.4
Avg Days WSH	20.7	18.4	29.8	34.5	45.9	48.4	27.7	20.1	33.1	29.2	29.1	17.0	24.4	26.3	29.7	31.0	34.6	47.1	41.4	42.3	46.8	49.7	40.6	41.9	32.1
Avg Days State	21.2	19.6	27.4	32.8	41.2	41.8	28.0	29.0	38.8	33.8	27.5	16.3	21.1	22.9	25.8	28.1	30.2	40.6	37.7	39.1	42.1	44.3	40.1	40.3	31.8
Target	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7

Data Source: Prior to August 1, 2018: FES at Western State Hospital and MILO at Eastern State Hospital and Since August 1, 2018: BHA Forensic Data System; Produced by: DSHS Research & Data Analysis

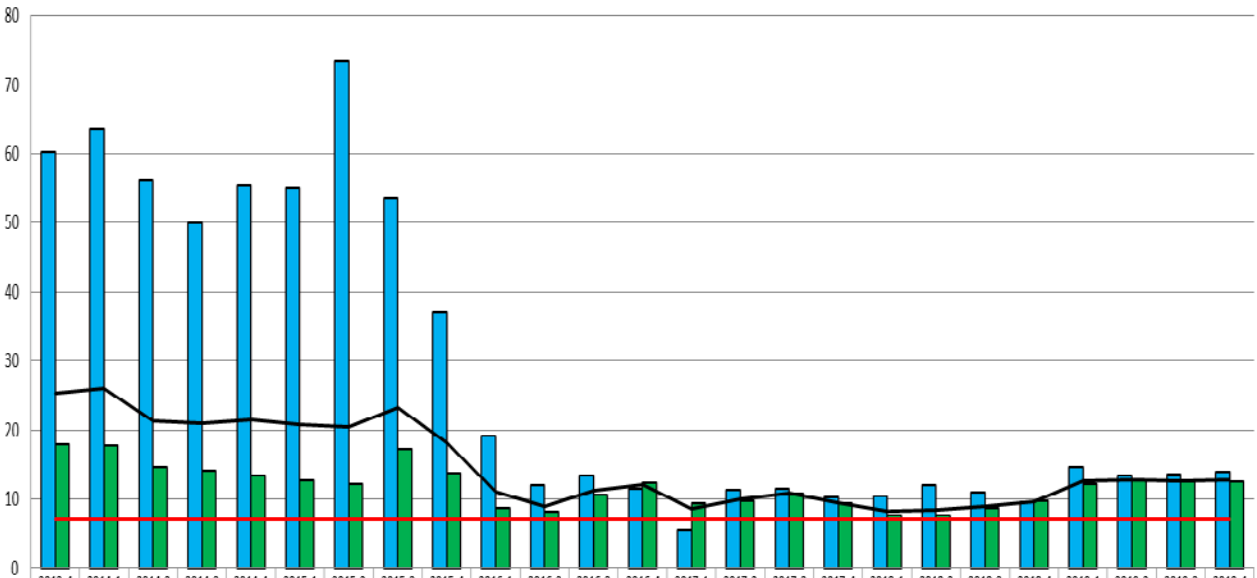
- **Figure 3.** This chart reflects the average wait time for admission for competency restoration referrals only (including PRs).

- ***Outcomes*:** During the reporting period, WSH's wait times declined sharply by 23.4 percent, while ESH had an almost 11.9 percent decline. Overall, the statewide average dropped by 21.1 percent.

- ***Drivers*:** The 371 admissions completed during this reporting period marks the highest number of admissions since reporting began, and the second record high quarter this year. The record Q4 admissions increased by 5.9 percent compared to Q1's previous record number of admissions. While successfully processing continued high volumes of admissions, and simultaneously reducing admissions wait times represents progress in serving our clients, it is also clear that average admission wait times for restoration have increased dramatically, over time, as demand continues growing faster than new capacity is being brought online.

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

Average Number of Days from Completion of Jail Evaluation Referrals (All Discovery Received) to Completion of Evaluation per Quarter (includes felony and misdemeanor)



	2013-4 459 COMP	2014-1 530 COMP	2014-2 563 COMP	2014-3 505 COMP	2014-4 506 COMP	2015-1 547 COMP	2015-2 553 COMP	2015-3 628 COMP	2015-4 616 COMP	2016-1 745 COMP	2016-2 689 COMP	2016-3 753 COMP	2016-4 758 COMP	2017-1 710 COMP	2017-2 760 COMP	2017-3 843 COMP	2017-4 845 COMP	2018-1 840 COMP	2018-2 973 COMP	2018-3 942 COMP	2018-4 817 COMP	2019-1 895 COMP	2019-2 1103 COMP	2019-3 1228 COMP	2019-4 1220 COMP
Avg Days ESH	60.2	63.6	56.3	50.0	55.3	55.1	73.5	53.6	37.1	19.1	12.0	13.4	11.6	5.6	11.3	11.5	10.3	10.4	12.1	10.9	9.5	14.6	13.4	13.5	13.9
Avg Days WSH	17.8	17.8	14.7	14.1	13.4	12.6	12.2	17.2	13.8	8.7	8.2	10.7	12.3	9.5	9.7	10.7	9.4	7.7	7.7	8.7	9.7	12.2	12.6	12.5	12.5
Avg Days State	25.3	26.1	21.3	20.9	21.6	20.9	20.5	23.2	18.3	11.0	9.0	11.2	12.2	8.6	10.0	10.9	9.5	8.2	8.5	9.0	9.7	12.6	12.8	12.7	12.8
Target	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7	7

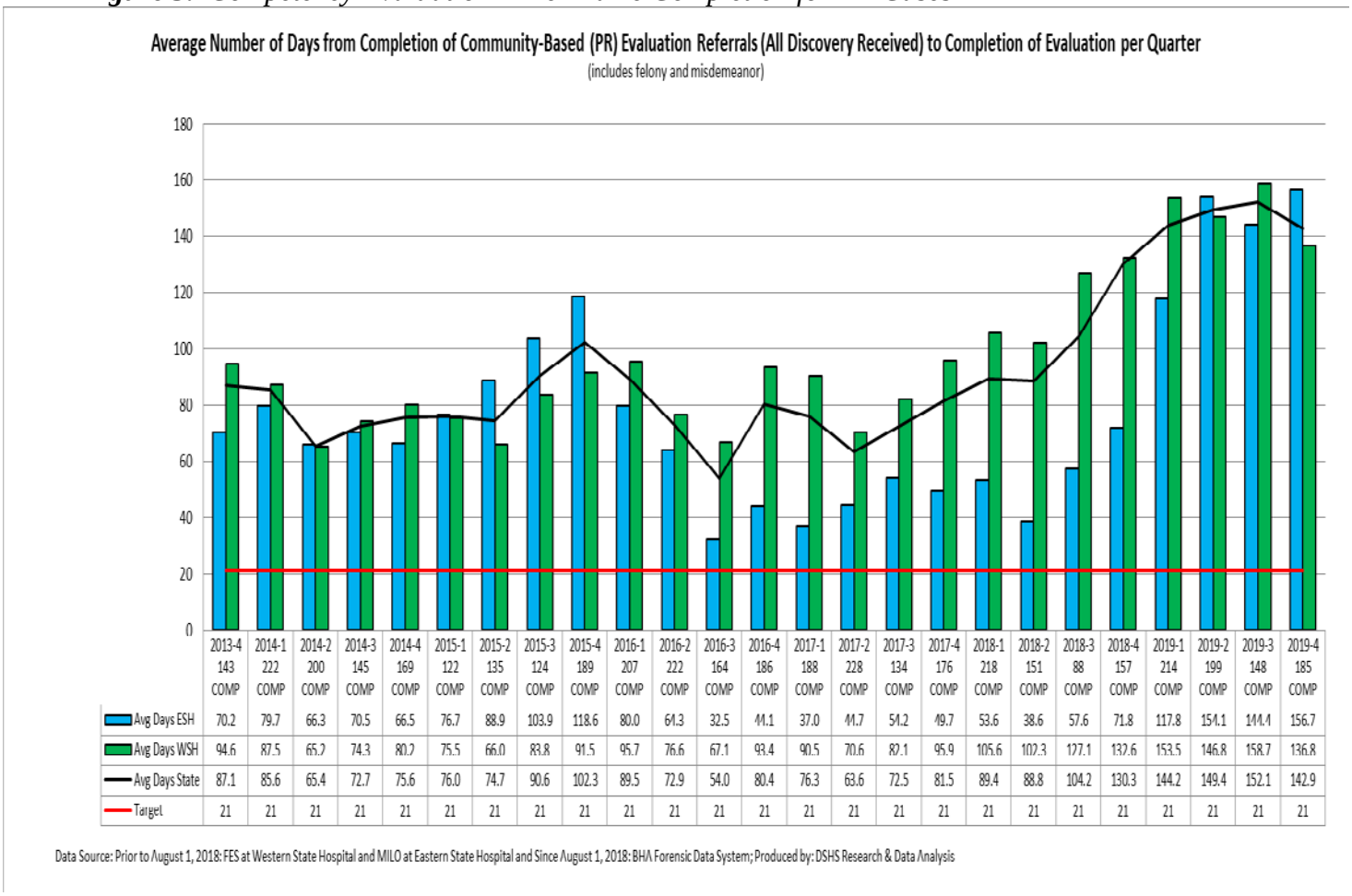
Data Source: Prior to August 1, 2018: FES at Western State Hospital and MILO at Eastern State Hospital and Since August 1, 2018: BHA Forensic Data System; Produced by: DSHS Research & Data Analysis

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

- ***Outcomes*:** During the reporting period, WSH completion times remained flat and ESH completion times increased modestly resulting in an overall marginal increase statewide.

- ***Drivers*:** Q4 jail-based evaluation referrals were essentially flat [-8] compared to Q3; however, it should be noted that jail-based evaluation requests increased 11.3% just during Q3 2019 and 23.2% during Q2, so while demand growth did not occur in Q4, referrals began from an already elevated level. The department was approved to hire 13 additional forensic evaluators beginning July 1, 2019. Nearly half of those 13 evaluators have been hired and 11 are working in forensic evaluations now (with some completing more than others based on current on-boarding status), which has been extremely important in containing average days to jail-based competency evaluation to a relatively narrow range of movement over the last two-to-three quarters. The plan is to have the remaining positions filled prior to July 1, 2020.

Figure 5. *Competency Evaluation Time Frame Completion for PR Cases*



	2013-4 143 COMP	2014-1 222 COMP	2014-2 200 COMP	2014-3 145 COMP	2014-4 169 COMP	2015-1 122 COMP	2015-2 135 COMP	2015-3 124 COMP	2015-4 189 COMP	2016-1 207 COMP	2016-2 222 COMP	2016-3 164 COMP	2016-4 186 COMP	2017-1 188 COMP	2017-2 228 COMP	2017-3 134 COMP	2017-4 176 COMP	2018-1 218 COMP	2018-2 151 COMP	2018-3 88 COMP	2018-4 157 COMP	2019-1 214 COMP	2019-2 199 COMP	2019-3 148 COMP	2019-4 185 COMP
Avg Days ESH	70.2	79.7	66.3	70.5	66.5	76.7	88.9	103.9	118.6	80.0	64.3	32.5	44.1	37.0	44.7	54.2	49.7	53.6	38.6	57.6	71.8	117.8	154.1	144.4	156.7
Avg Days WSH	94.6	87.5	65.2	74.3	80.2	75.5	66.0	83.8	91.5	95.7	76.6	67.1	93.4	90.5	70.6	82.1	95.9	105.6	102.3	127.1	132.6	153.5	146.8	158.7	136.8
Avg Days State	87.1	85.6	65.4	72.7	75.6	76.0	74.7	90.6	102.3	89.5	72.9	54.0	80.4	76.3	63.6	72.5	81.5	89.4	88.8	104.2	130.3	144.2	149.4	152.1	142.9
Target	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21

Data Source: Prior to August 1, 2018: FES at Western State Hospital and MILO at Eastern State Hospital and Since August 1, 2018: BHA Forensic Data System; Produced by: DSHS Research & Data Analysis

- **Figure 5.** This chart provides information on the average number of days to complete PR evaluations from the receipt of all discovery.

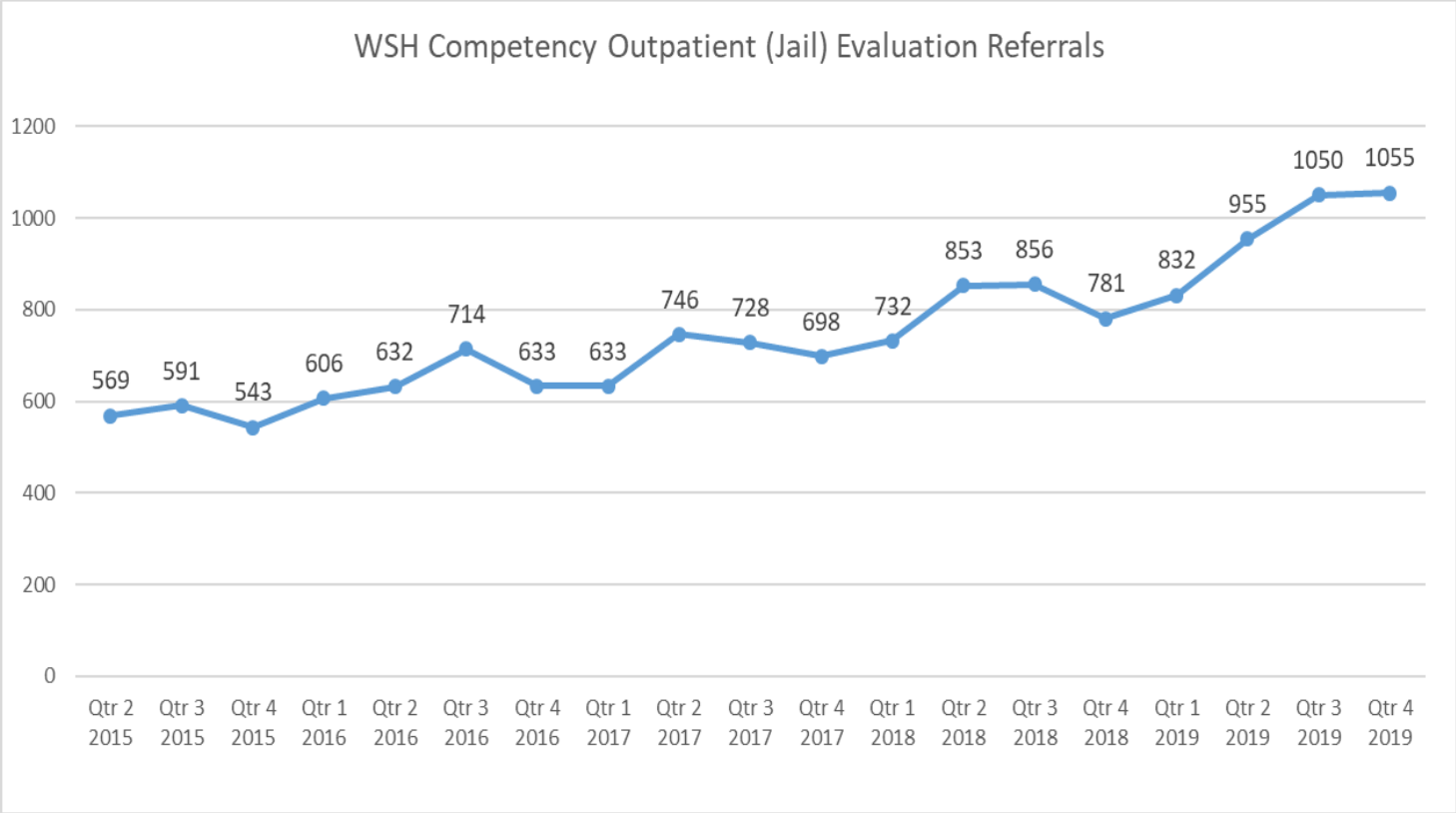
- ***Outcomes*:** During the Q4 reporting period, WSH saw a 13.8 percent decrease in average completion time, and ESH saw a moderate increase in average completion time of 13.2 percent from the previous quarter.

- ***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. 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. Additionally, Figures 6-8 show continuously increasing pressure on system throughput as jail-based evaluation referrals continue to grow at record levels.

Global Referral Data

Figures 6-14 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 6. *Shows Total WSH Referrals for Jail-Based Evaluations*

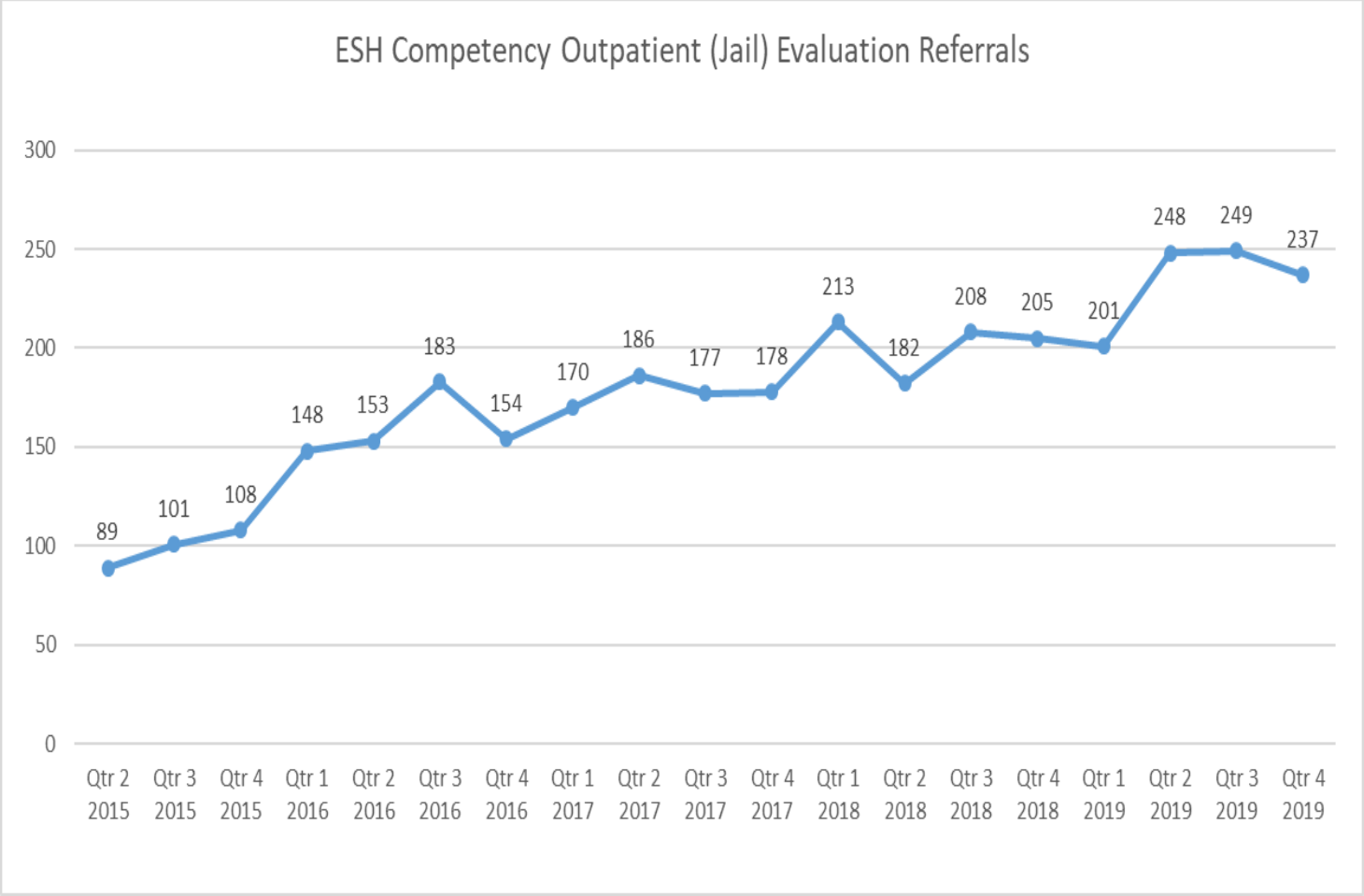


- **Figure 6.** This chart illustrates WSH total quarterly referrals for jail-based evaluations.

- ***Outcomes*:** During the reporting period, WSH saw essentially no change in referrals from [+5] the previous quarter. However, while the change from Q3 to Q4 2019 was flat, the referral numbers for the entire year represent, not only continued, but accelerated year-over-year growth in referrals (annual averages: 2016 = 646.25; 2017 = 701.25; 2018 = 805.5; 2019 = 973).

- ***Drivers*:** Referrals for competency evaluation have increased significantly over the period illustrated above. 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.

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

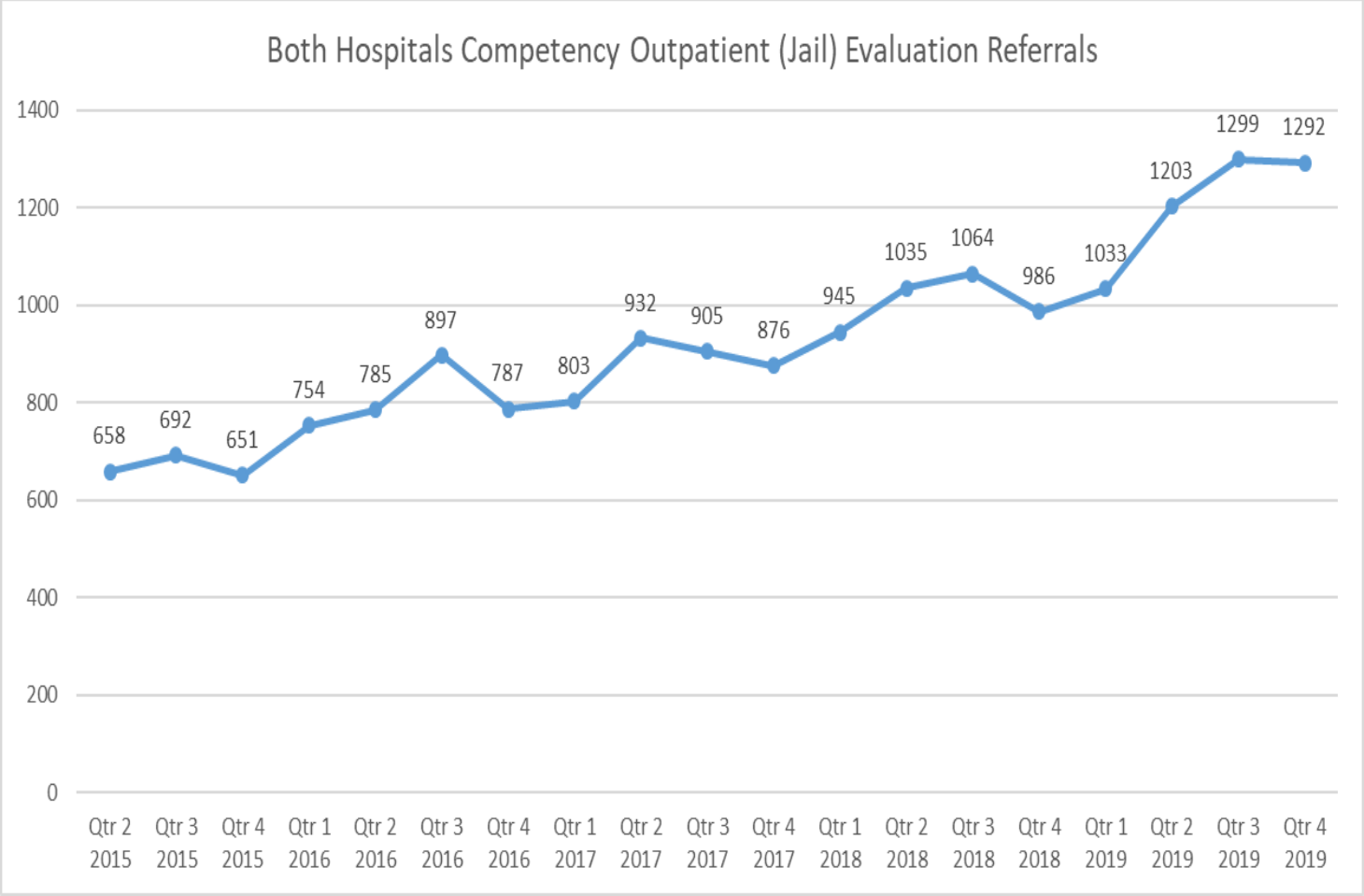


- **Figure 7.** This chart illustrates ESH total quarterly referrals for jail-based evaluations.

- ***Outcomes*:** During the reporting period, ESH's Q4 jail-based referrals were down modestly by 5.2 percent. After Q2's 24 percent increase and Q3's slight decline, this may represent a return to the consistent long term trend of relatively flat referrals punctuated by periodic spikes in demand.

- ***Drivers*:** The overall trend of increasing referral totals is driven by demand. 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. On the eastside of the state, the overall client numbers are smaller; however, in percentage terms over the last four years, the eastside [+266%] has outgrown the westside [+85%] in jail-based evaluation referrals.

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

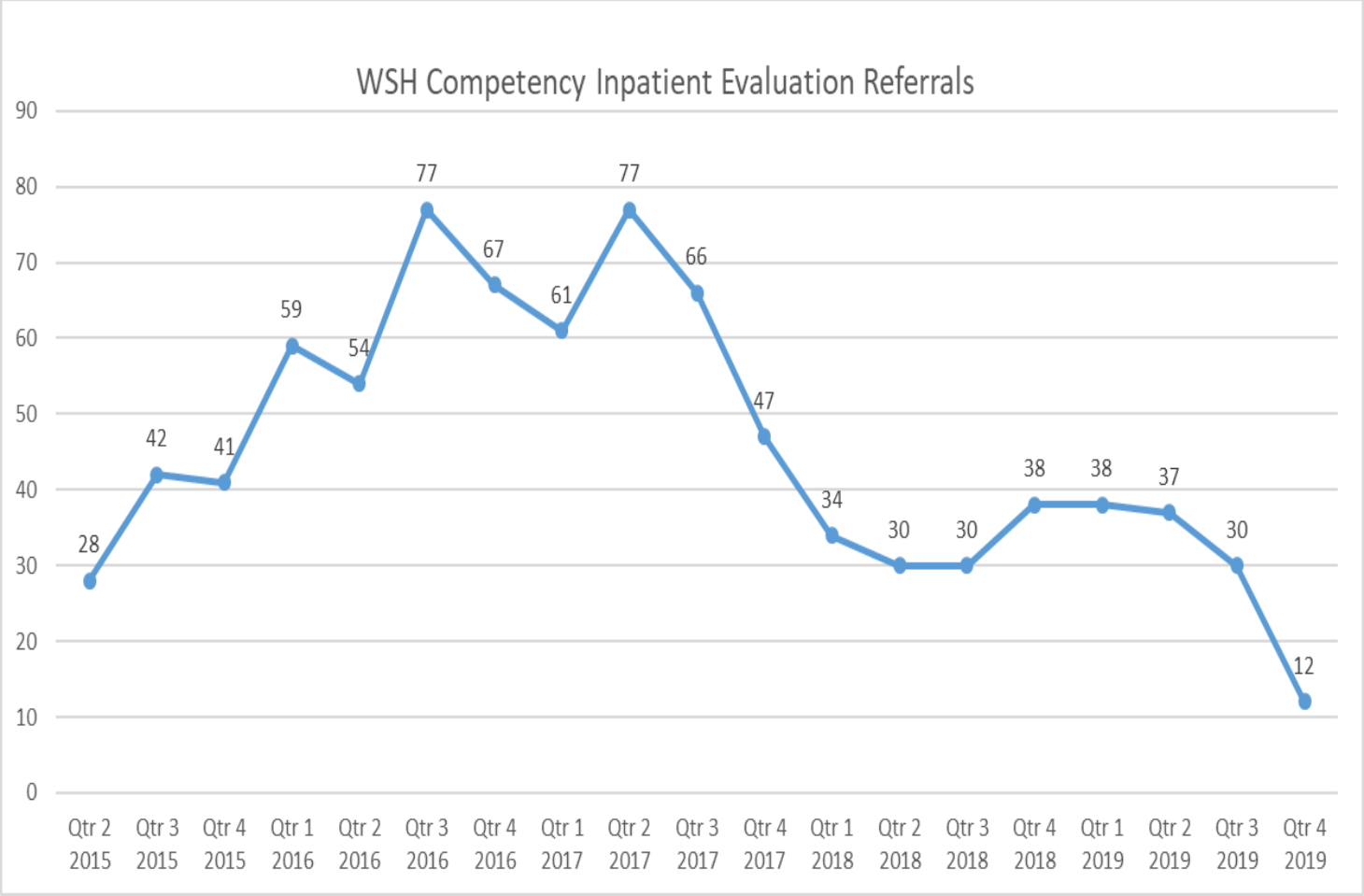


- **Figure 8.** This chart illustrates the combined total quarterly referrals for jail-based evaluations.

- ***Outcomes*:** During the reporting period, there was a slight decrease in total referrals for both hospitals combined as compared with the previous quarter. This number remains significantly higher than when reporting began (a 96% increase from Q2 2015).

- ***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.

Figure 9. *Shows Total WSH Referrals for Inpatient Evaluations*

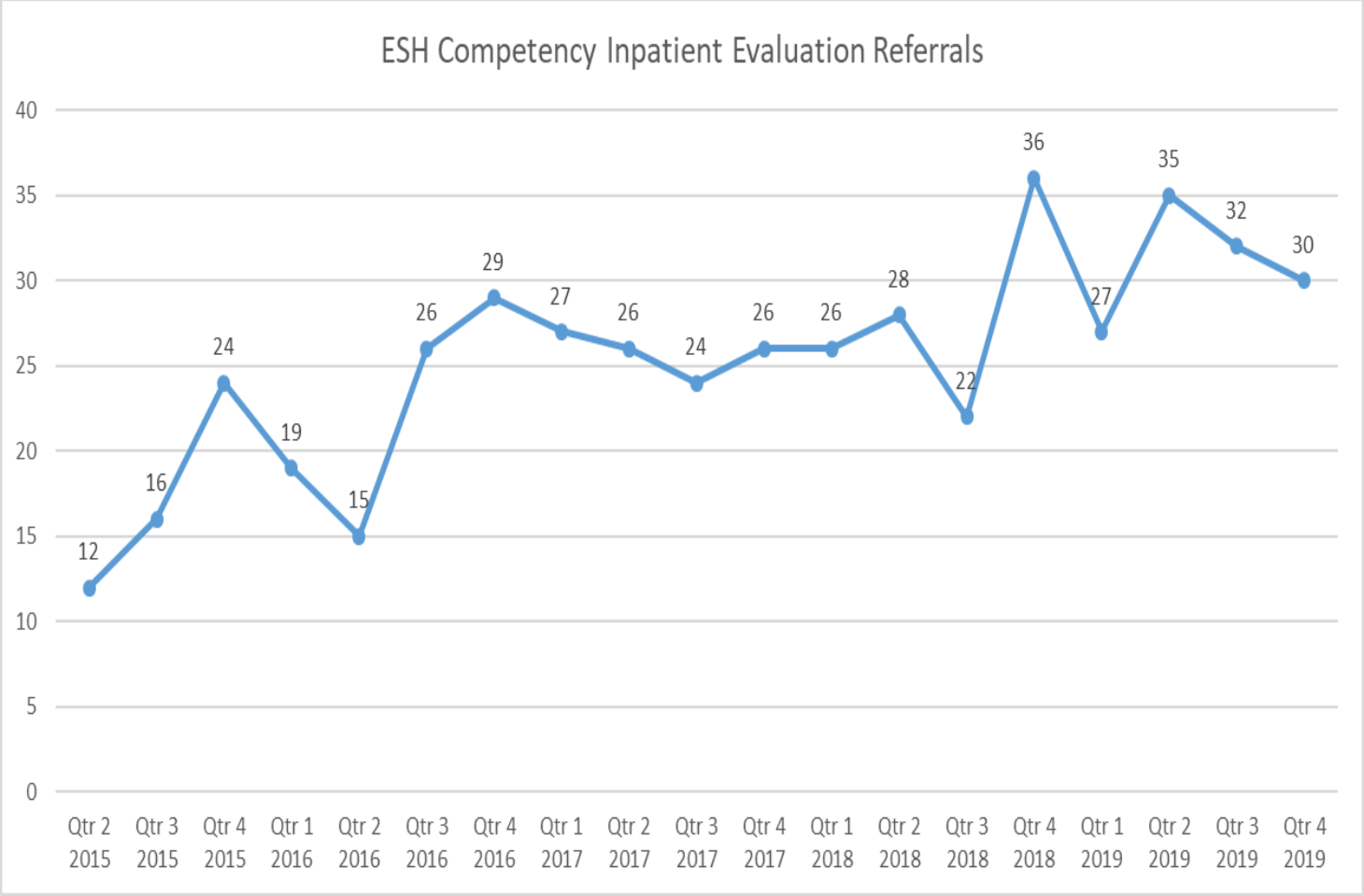


- **Figure 9.** This chart illustrates WSH total quarterly referrals for inpatient evaluations.

- ***Outcomes*:** During the reporting period, referrals to WSH decreased approximately 60% 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, which resulted in long wait times and completion times. Anecdotal information suggests that courts and defense attorneys are beginning to view the wait times for admission to the hospital for an inpatient evaluation to be so prohibitively long that it is not worth pursuing as an order for an inpatient evaluation, and therefore additional evaluations are conducted in the jail. Some courts issued new orders that take the defendant off the inpatient wait list, directing DSHS to conduct the evaluation in the jail. In other cases, the defendant has waited for such an extended period for admission that defense counsel motions the court for dismissal of charges. Q4's dramatic decline in referrals lends additional support to the above interpretations.

Figure 10. *Shows Total ESH Referrals for Inpatient Evaluations*

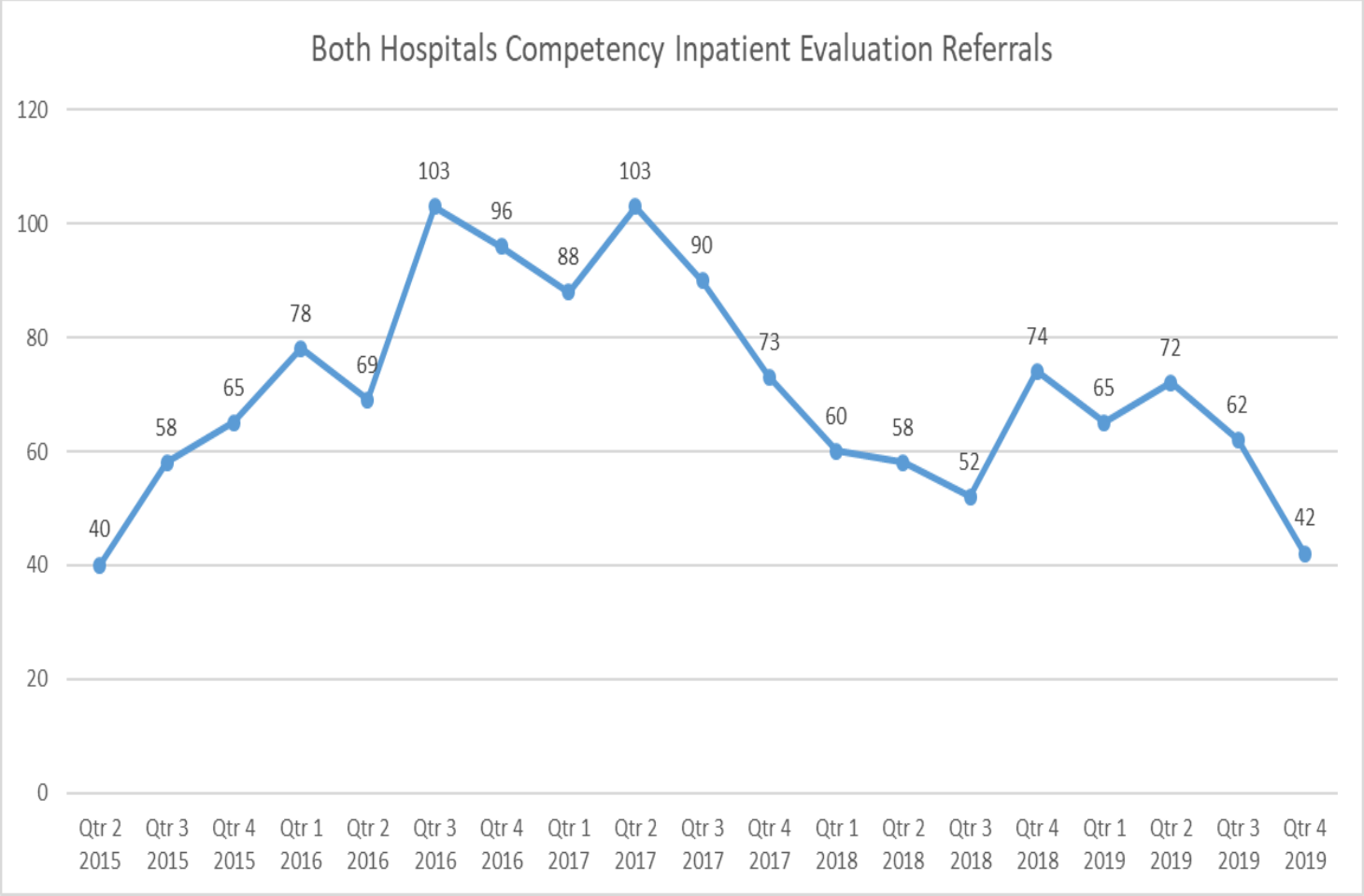


- **Figure 10.** This chart illustrates ESH total quarterly referrals for inpatient evaluations.

- ***Outcomes*:** During the reporting period, ESH inpatient evaluation referrals were down modestly compared against the previous quarter. While it is not yet certain, this could be the beginning of a new long term plateau similar to the narrow-ranged plateau trend that persisted from Q3 2016 through Q2 2018.

- ***Drivers*:** The last three quarters, established a new trend starting at the upper end of the longer-term static trend that persisted from Q3 2016 through Q3 2018. It now appears less likely that the increase in referrals during Q4 2018 was anomalous. The increase appears consistent with the longer term pattern of significant demand spikes followed by longer periods of flat to slightly decreased demand on a quarter-per-quarter basis. The demand spikes track closely with jail evaluation referrals and inpatient evaluation referrals suggesting that increased referrals may be indicative of larger societal changes relating to mental health as well as a lack of referral capacity elsewhere in the system.

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

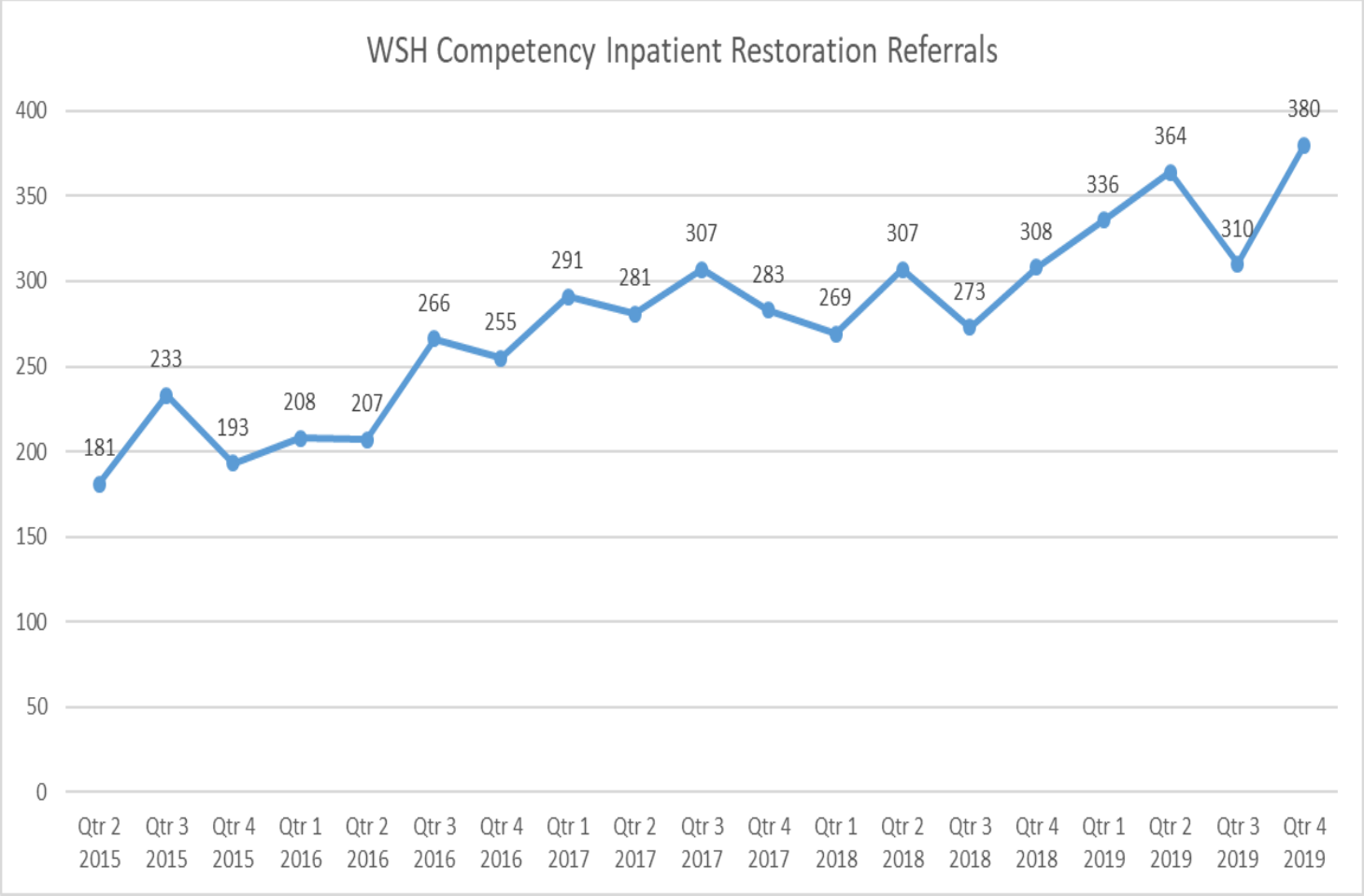


- **Figure 11.** This chart illustrates the combined total quarterly referrals for inpatient evaluations.

- ***Outcomes*:** During the Q4 2019 reporting period, referrals for both hospitals combined decreased 32.3 percent as compared with the previous quarter.

- ***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 as opposed to inpatient, may have continued in Q4 2019. 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 nearly tripling. WSH's referrals grew rapidly, peaked twice, and then dropped by Q4 2019 to, on average, 57 percent below Q2 2015's referral numbers.

Figure 12. *Shows Total WSH Referrals for Inpatient Restoration*



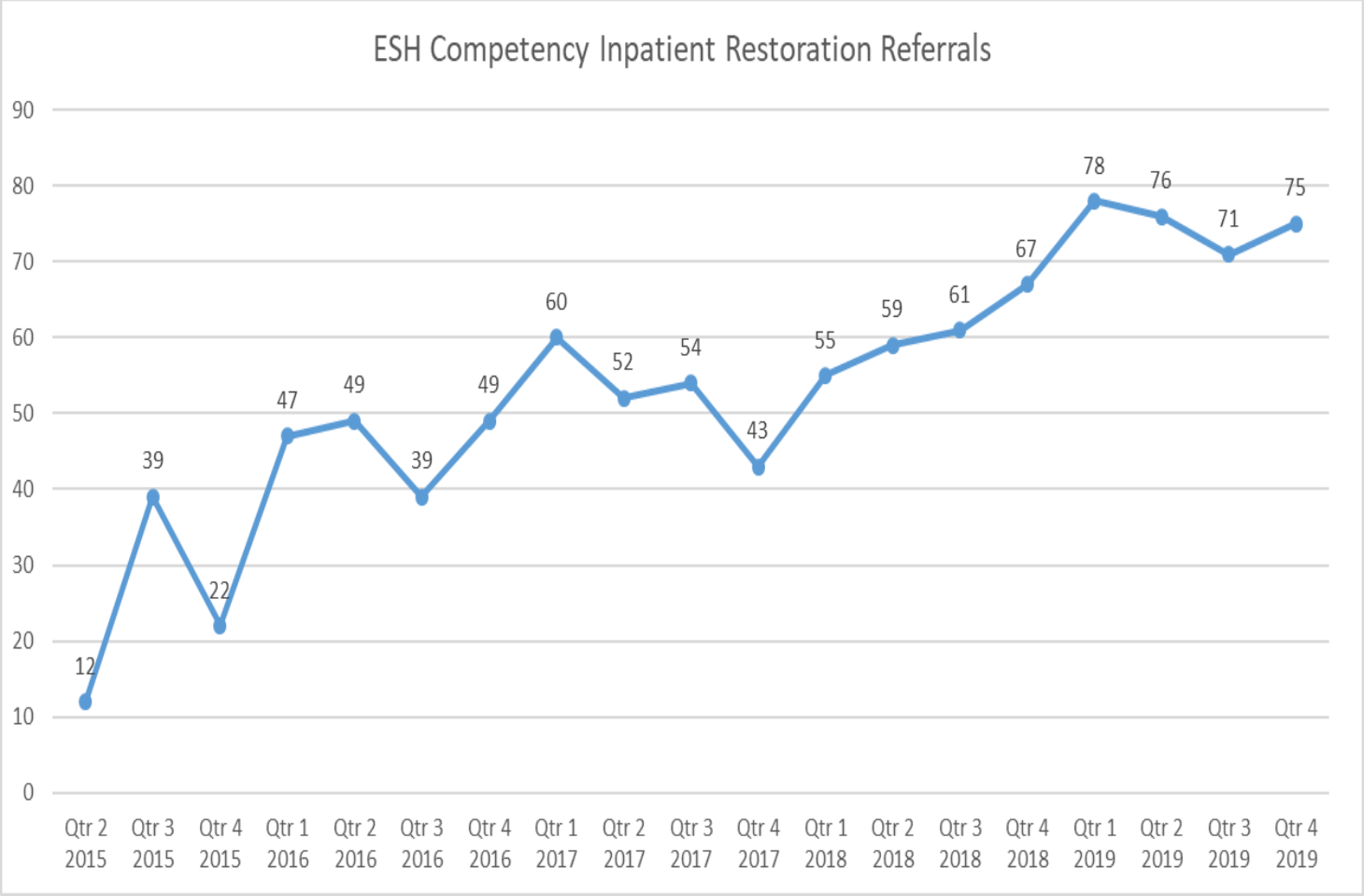
[1]WSH Competency Inpatient Restoration includes referrals that end up admitting to the RTFs.

- **Figure 12.** This chart illustrates WSH total quarterly referrals for inpatient restorations.

- ***Outcomes*:** During the Q4 2019 reporting period, WSH again reached a new record [380] when it saw referrals jump 18.4% compared to the previous quarter. Following three quarters of strong referral increases from Q4 2018 to Q2 2019, referrals declined strongly by 16.6 percent in the previous quarter, Q3 2019.

- ***Drivers*:** Having seen a sharp increase in referrals since the *Trueblood* decision, the relatively flat number of referrals over the previous ten quarters, ending in Q1 2019, suggested that supply (bed capacity) had a leveling effect on demand (referrals). After a significant rise in referrals in Q1 and Q2 only to see a reversion back to the longer-term demand trend in Q3, it gives pause to consider whether the recent record level demand was settling or if further significant increases in referrals can be expected. Q4 provides an answer, at least in the short-term that persistent record-level referrals are ongoing.

Figure 13. *Shows Total ESH Referrals for Inpatient Restoration*

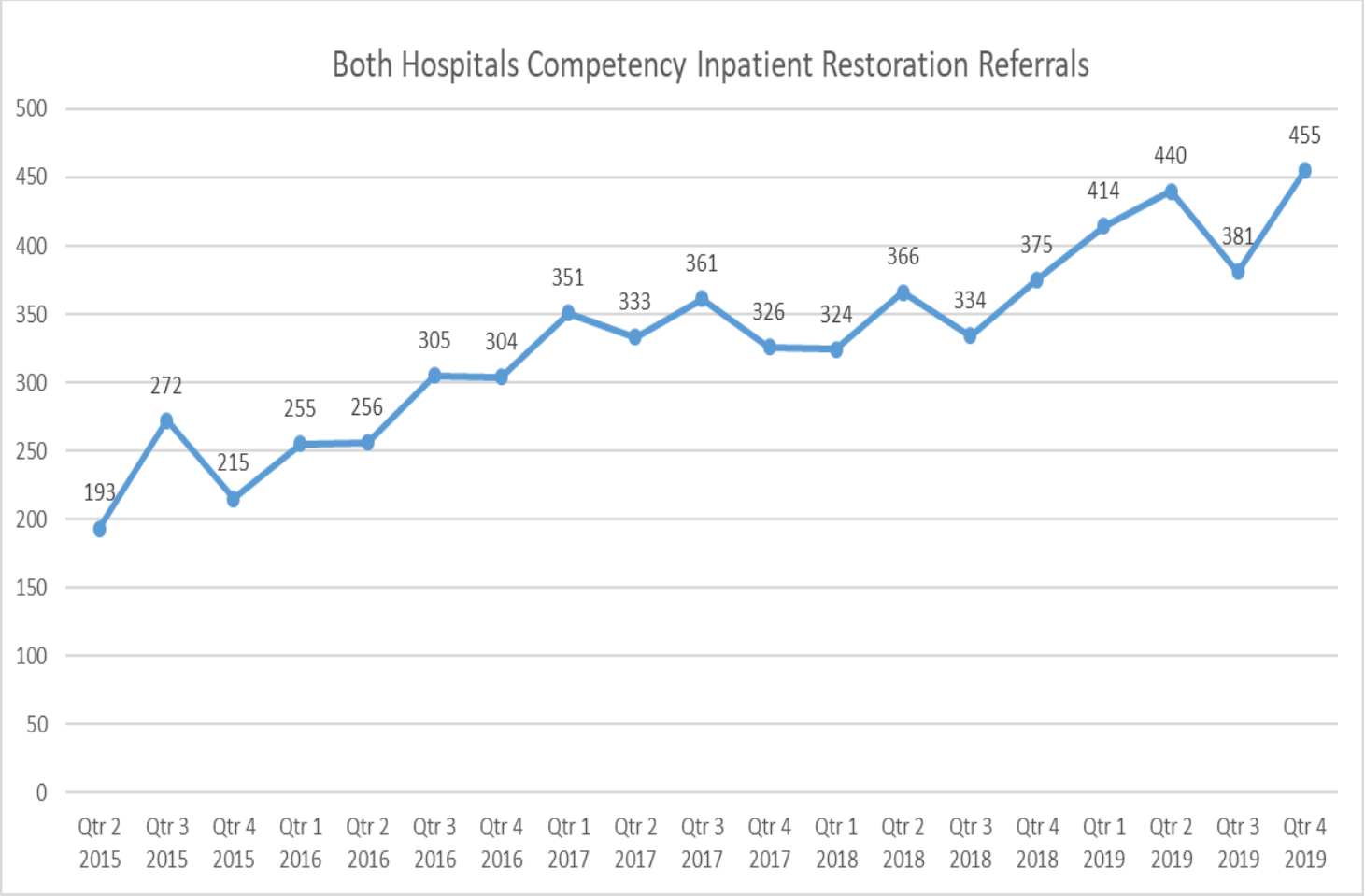


- **Figure 13.** This chart illustrates ESH total quarterly referrals for inpatient restorations.

- ***Outcomes*:** Q4 2019 enjoyed a modest 5.3 percent rise in referrals after two consecutive quarters of decreasing demand. Prior to the two quarters of shrinking demand, ESH experienced five consecutive quarters of increases in referrals, Q2 saw a marginal decrease in referrals followed by a 9.1% reduction in Q3.

- ***Drivers*:** Evaluations were mostly flat in Q2 and Q3 (see Figures 7 & 10), while restoration referrals represented in this figure decreased moderately. The pause in growth of evaluation referrals could be a contributing factor to the moderate decline in restoration referrals prior to Q4's modest return to restoration referral growth. 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.

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



[1]Includes referrals that end up admitting to the RTFs.

- **Figure 14.** This chart illustrates the combined total quarterly referrals for inpatient restorations.

- ***Outcomes*:** During the Q4 2019 reporting period, the two hospitals saw a 16.3 percent increase in restoration referrals resulting in the fifth record for referrals in the last seven quarters stretching back to Q2 2018 The 2019 quarterly average for referrals is 422.5. The 2018 quarterly average was 350. The 2017 quarterly average was 342.75, and the 2016 quarterly average was 280. The growth in the year-over-year quarterly averages clearly illustrate that year-over-year numbers continue to climb dramatically and are significantly higher than was seen in 2016.

- ***Drivers*:** The significant movement of breakout growth that began in Q4 2018, after relatively flat-trending up-and-down restoration referral numbers over the previous two years, seems to echo what has been seen throughout this report; that after appearing to reach a plateau, restoration referral numbers increased significantly, mirroring record numbers of jail-based competency evaluation referrals, and now, have dipped moderately in the previous reporting period before surging higher in Q4 – often to record levels. 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.

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 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 full at the following facilities: ESH, WSH, Maple Lane, and Yakima was a continued key strategy, and stabilizing the census was a key focus at Ft. Steilacoom Competency Restoration Program (FSCRP). FSCRP expects to be at its full 30-bed capacity during Q1 2020.

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 242 individuals for expedited admissions, out of a total of 388 individual referrals.

Work will need to be undertaken to continue increasing capacity and reducing 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 December 31, 2019, half of the 13 forensic evaluators have been hired.

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 tele-video services for evaluations continues at existing sites. Five-to-ten evaluations are completed each month, and approximately 10-20 percent of attempts are refused by the client's attorney.

Fund Prosecutorial Diversion Programs and RFP's Using *Trueblood* Fines

Twelve state and *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).

These programs allow a prosecutor to use their discretion to dismiss a non-serious charge without prejudice if the issue of competency is raised. The intent of these programs is to divert misdemeanor and low-level felony defendants from incarceration and hospitalization into needed behavioral health treatment.

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.

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.

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.

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.