Washington State Department of Social and Health Services

Transforming Lives

REPORT TO THE LEGISLATURE

Forensic Admissions and Evaluations – Performance Targets 2020
First Quarter (January 1, 2020-March 31, 2020)

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)

December 2020

Behavioral Health Administration
Office of Forensic Mental Health Services
PO Box 45050
Olympia, WA 98504-5050
(360) 725-3820
https://www.dshs.wa.gov/bha/office-forensic-mental-health-services

Washington State Department of Social & Health Services
Transforming lives

TABLE OF CONTENTS

BACKGROUND 4
COMPETENCY EVALUATION AND RESTORATION DATA 5
DATA ANALYSIS AND DISCUSSION 5
Global Referral Data 13
ACTIONS TAKEN 25
Best-Utilize Current Bed Capacity 25
Gain Efficiencies in Process of Evaluation Delivery 26
Fund Prosecutorial Diversion Programs & RFP's Using *Trueblood* Fines 26
NEXT STEPS 27
SUMMARY 27

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 11
Figure 6. Shows Total WSH Referrals for Jail-Based Evaluations 13
Figure 7. Shows Total ESH Referrals for Jail-Based Evaluations 15
Figure 8. Shows Total WSH and ESH Combined Referrals for Jail-Based Evaluations 16
Figure 9. Shows Total WSH Referrals for Inpatient Evaluations 17
Figure 10. Shows Total ESH Referrals for Inpatient Evaluations 18
Figure 11. Shows Total WSH and ESH Combined Referrals for Inpatient Evaluations 19
Figure 12. Shows Total WSH Referrals for Inpatient Restoration 20
Figure 13. Shows Total ESH Referrals for Inpatient Restoration 22
Figure 14. Shows Total WSH and ESH Combined Referrals for Inpatient Restorations 23

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 2020 (January 1, 2020-March 31, 2020), 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

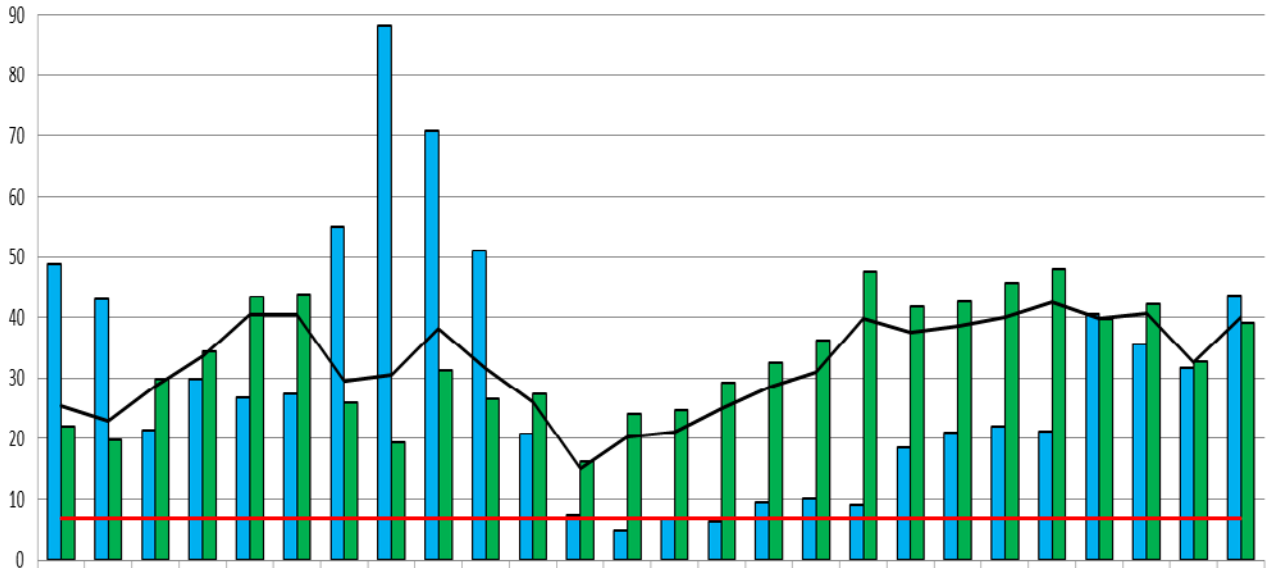
This section of the report provides visual representation of data from the Forensic Data System as well as outcomes and drivers analysis. Additional detailed data and information about timely competency services is available in monthly reports published by DSHS in compliance with requirements established 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	2020-1 310 ADMT
Avg Days ESH	18.7	13.1	21.3	29.8	26.8	27.5	51.9	88.0	70.8	50.9	20.9	7.5	11.8	7.0	6.3	9.5	10.2	9.1	18.5	21.0	22.1	21.2	40.5	35.6	31.8	43.7
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	39.1
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	40.1
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	7

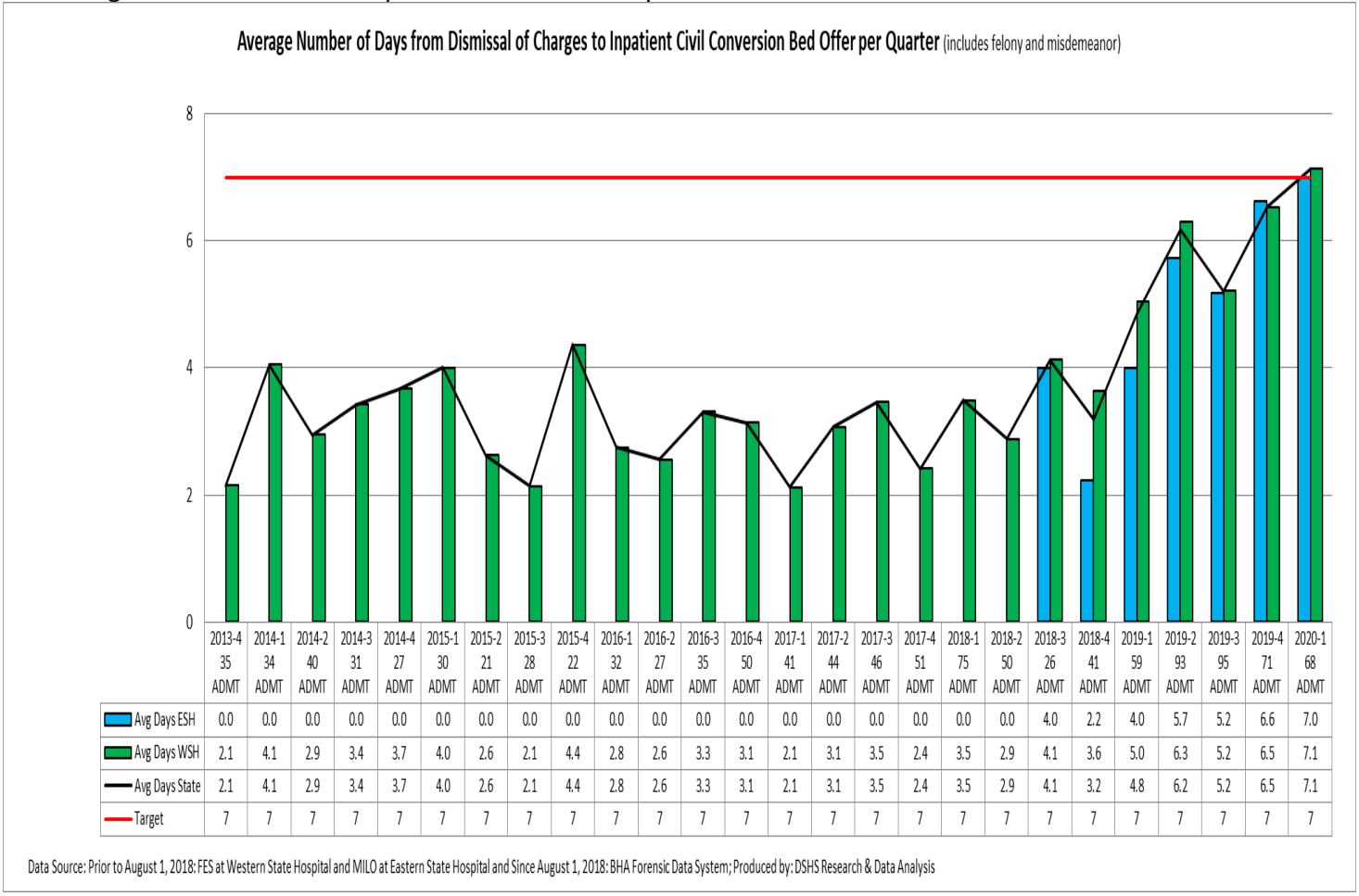
Data Source: Prior to August 1, 2018: FES at Western State Hospital and MILO at Eastern State Hospital and Since August 1, 2018: BHA Forensic Data System; Produced by: DSHS Research & Data Analysis

- **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 first quarter of 2020, the number of admissions fell significantly by 25.1 percent. Wait times at WSH, between referral for evaluation and bed offer, increased substantially [16.1%] in Q1 2020. ESH wait times [27.2%] experienced a greater increase than WSH's.

- ***Drivers*:** Although Q1 2020 admissions fell precipitously, due to measures enacted by the Behavioral Health Administration related to COVID-19 (restrictions on admissions for the month of March), admission numbers have been at or near record numbers quarter after quarter for several years now, which causes added pressure and bottlenecks in areas of the system that have less capacity and/or less ability to respond to changing dynamics in an agile and adaptive near real time manner. Often, rising wait times during a time period when fewer orders are processed is indicative the team working to catch up on a large number of unfinished orders from the previous time period. The wait time in this process is a lagging indicator, in this case, of really robust demand for forensic services.

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



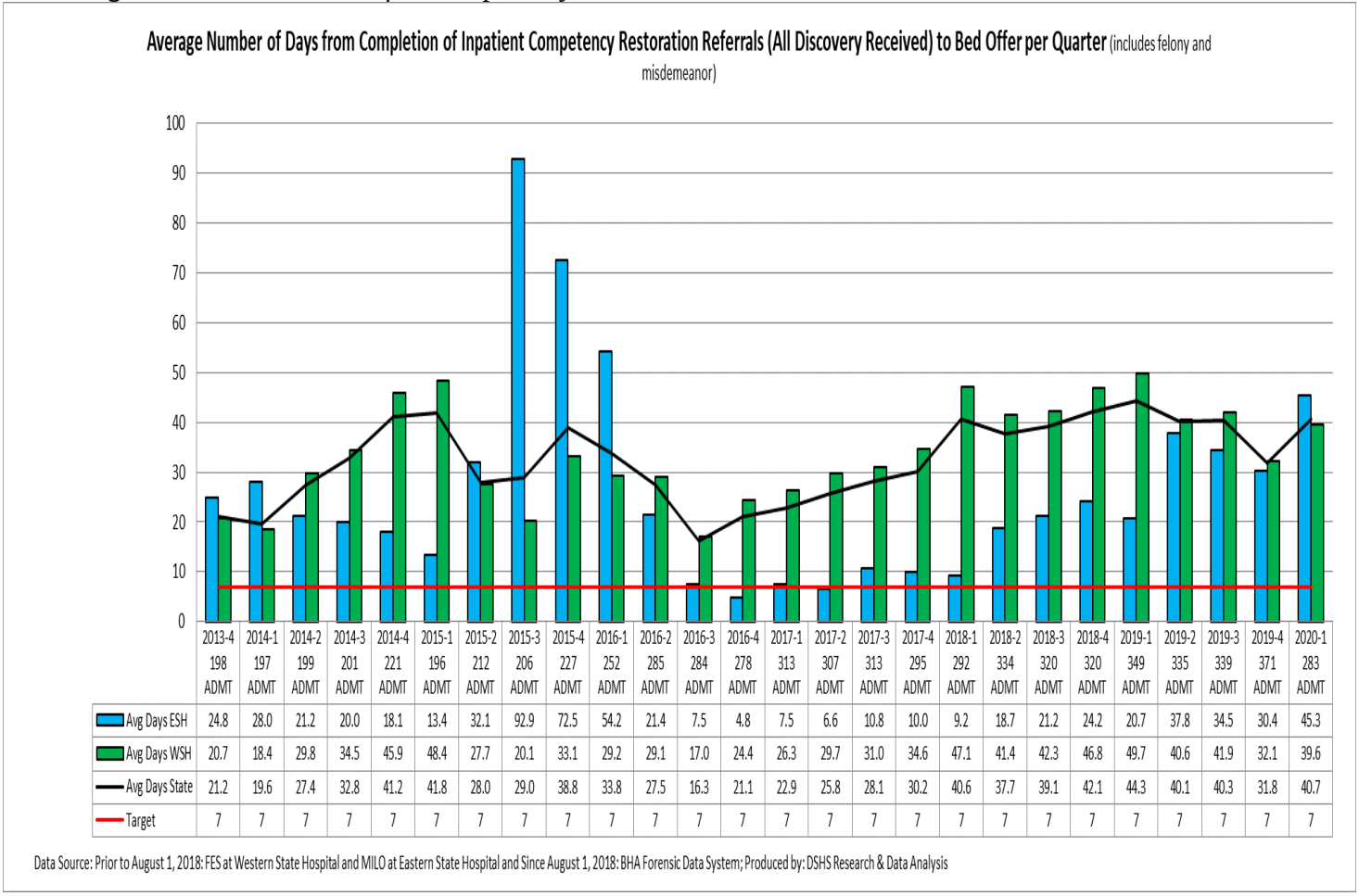
	2013-4 35 ADMT	2014-1 34 ADMT	2014-2 40 ADMT	2014-3 31 ADMT	2014-4 27 ADMT	2015-1 30 ADMT	2015-2 21 ADMT	2015-3 28 ADMT	2015-4 22 ADMT	2016-1 32 ADMT	2016-2 27 ADMT	2016-3 35 ADMT	2016-4 50 ADMT	2017-1 41 ADMT	2017-2 44 ADMT	2017-3 46 ADMT	2017-4 51 ADMT	2018-1 75 ADMT	2018-2 50 ADMT	2018-3 26 ADMT	2018-4 41 ADMT	2019-1 59 ADMT	2019-2 93 ADMT	2019-3 95 ADMT	2019-4 71 ADMT	2020-1 68 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	7.0
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	7.1
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	7.1
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	7

- **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, ESH is at 7.0 days and WSH is at 7.1, which has resulted in the state's overall average being pushed to 7.1 days as well.

- ***Drivers*:** Although both hospitals remain near the seven-day target, and this remains an area of general positive performance, persistent near record demand for bed placements pressures this target as seen above, and additionally, beginning in March 2020, the COVID-19 pandemic begins to exert its influence on performance. Continued success will be 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	2020-1 283 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	45.3
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	39.6
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	40.7
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	7

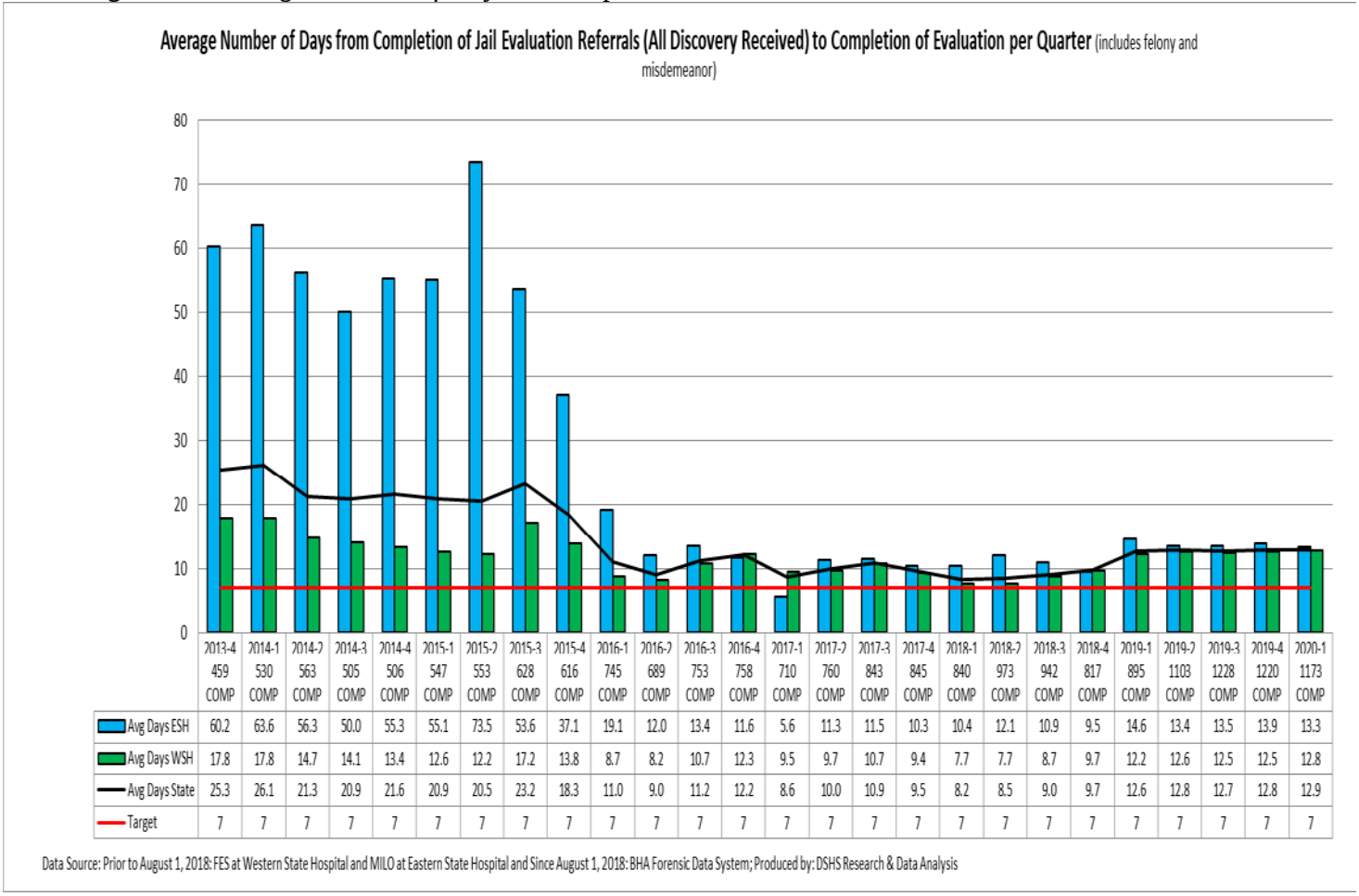
Data Source: Prior to August 1, 2018: FES at Western State Hospital and MILO at Eastern State Hospital and Since August 1, 2018: BHA Forensic Data System; Produced by: DSHS Research & Data Analysis

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

- ***Outcomes*:** During the reporting period, wait times increased across all facilities. As a result, the overall statewide average increased by a substantial 21.9 percent.

- ***Drivers*:** The 283 admissions completed during this reporting period [-23.8%] marks the lowest admissions completed since Q4 2017 and Q1 2018, which is a direct result of the COVID-19 pandemic that began in February 2020. 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*

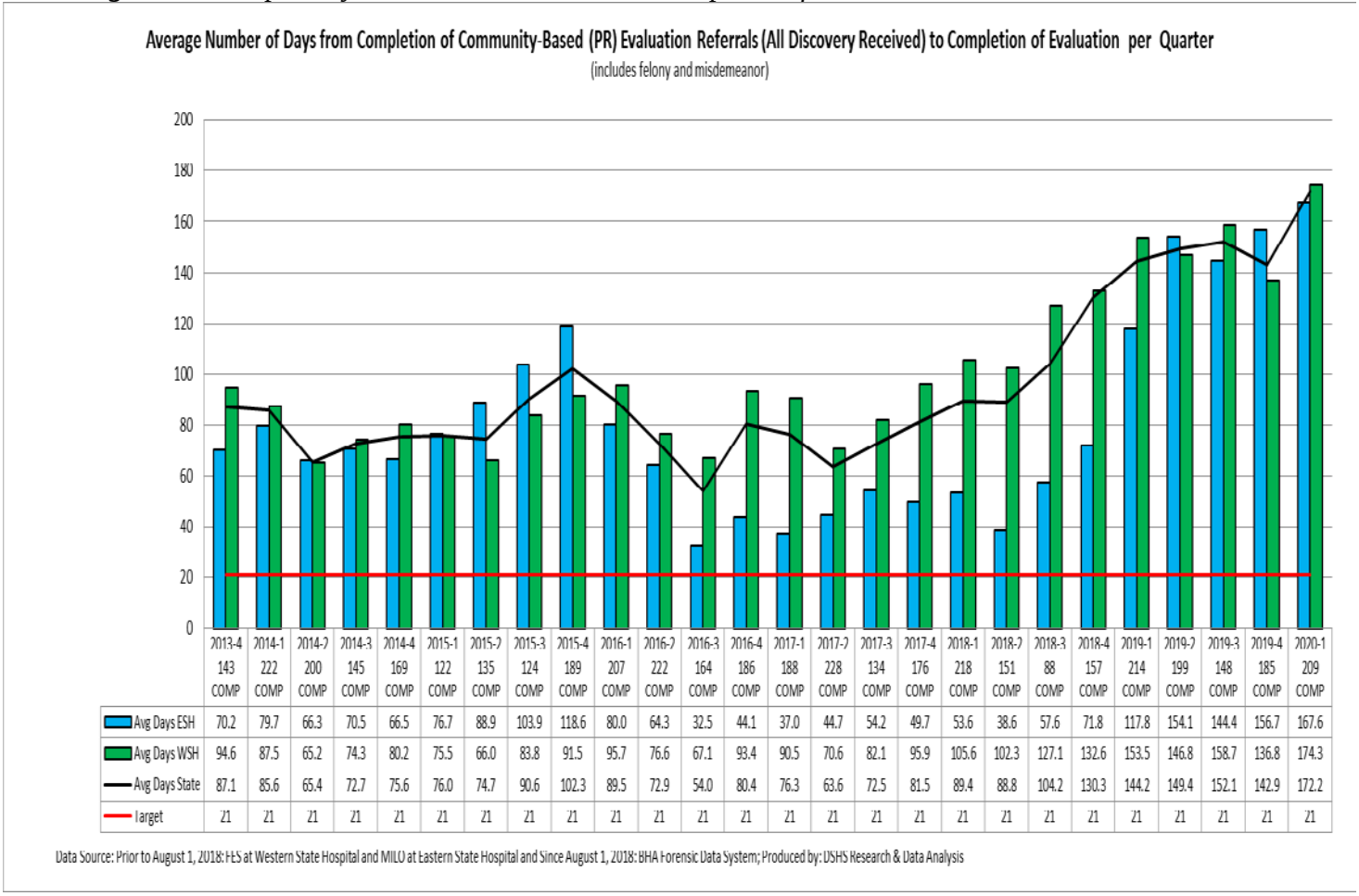


- **Figure 4.** This chart provides information on the average number of days to complete a jail-based evaluation from the receipt of all discovery.

- ***Outcomes*:** During the reporting period, WSH completion times increased slightly and ESH completion times decreased modestly resulting in an overall marginal increase statewide to 12.9 days on average.

- ***Drivers*:** Q1 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 were conducted each of the last four quarters 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 Q12020, referrals continue from already elevated levels. The department was approved to hire 13 additional forensic evaluators beginning July 1, 2019. Ten of those 13 evaluators have been hired. These evaluators have been important to maintaining performance on the average number of days to complete a jail-based evaluation measure, within a narrow range of movement, despite the historic demand for jail-based evaluations over the last few quarters.

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



	2013-4	2014-1	2014-2	2014-3	2014-4	2015-1	2015-2	2015-3	2015-4	2016-1	2016-2	2016-3	2016-4	2017-1	2017-2	2017-3	2017-4	2018-1	2018-2	2018-3	2018-4	2019-1	2019-2	2019-3	2019-4	2020-1
	143 COMP	222 COMP	200 COMP	145 COMP	169 COMP	122 COMP	135 COMP	124 COMP	189 COMP	207 COMP	222 COMP	164 COMP	186 COMP	188 COMP	228 COMP	134 COMP	176 COMP	218 COMP	151 COMP	88 COMP	157 COMP	214 COMP	199 COMP	148 COMP	185 COMP	209 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	167.6
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	174.3
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	172.2
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	21

- **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 Q1 reporting period, WSH saw a 21.5 percent increase in average completion time, and ESH saw a modest increase in average completion time of 6.5 percent from the previous quarter. Completed orders increased 11.5 percent in Q1 2020.

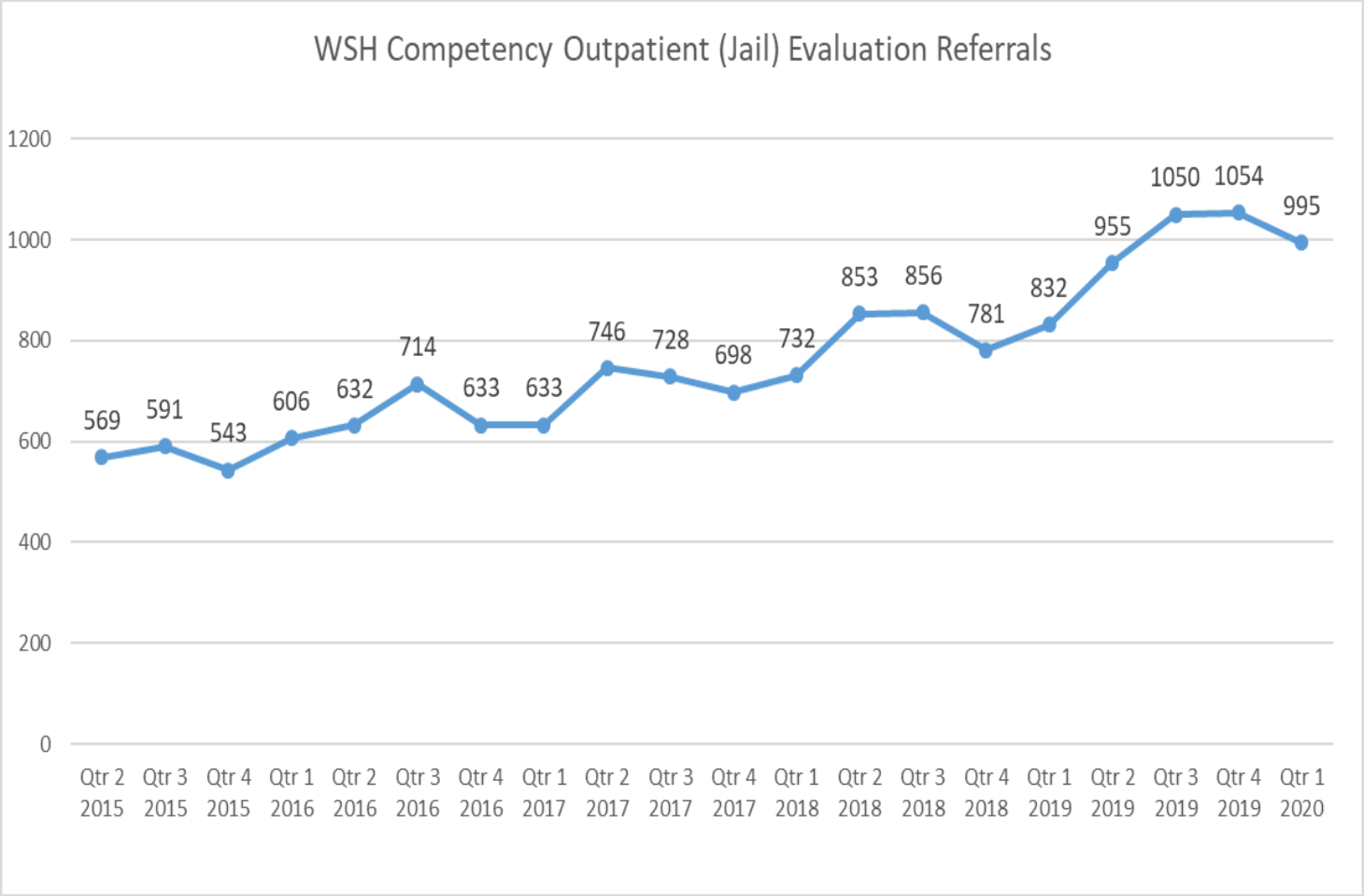
- ***Drivers*:** The variability in and longtime upward trending completion time, from quarter-to-quarter, is attributed to resources having been directed to cases involving *Trueblood* class members, as the number one completion priority, based on established constitutional rights, from the *Trueblood* Court Order representing the negotiated contempt settlement agreement. Furthermore, as these were the only category of admissions being allowed at WSH in the month of March (combined with restrictions for other legal authorities), the number of referrals increased significantly. 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*



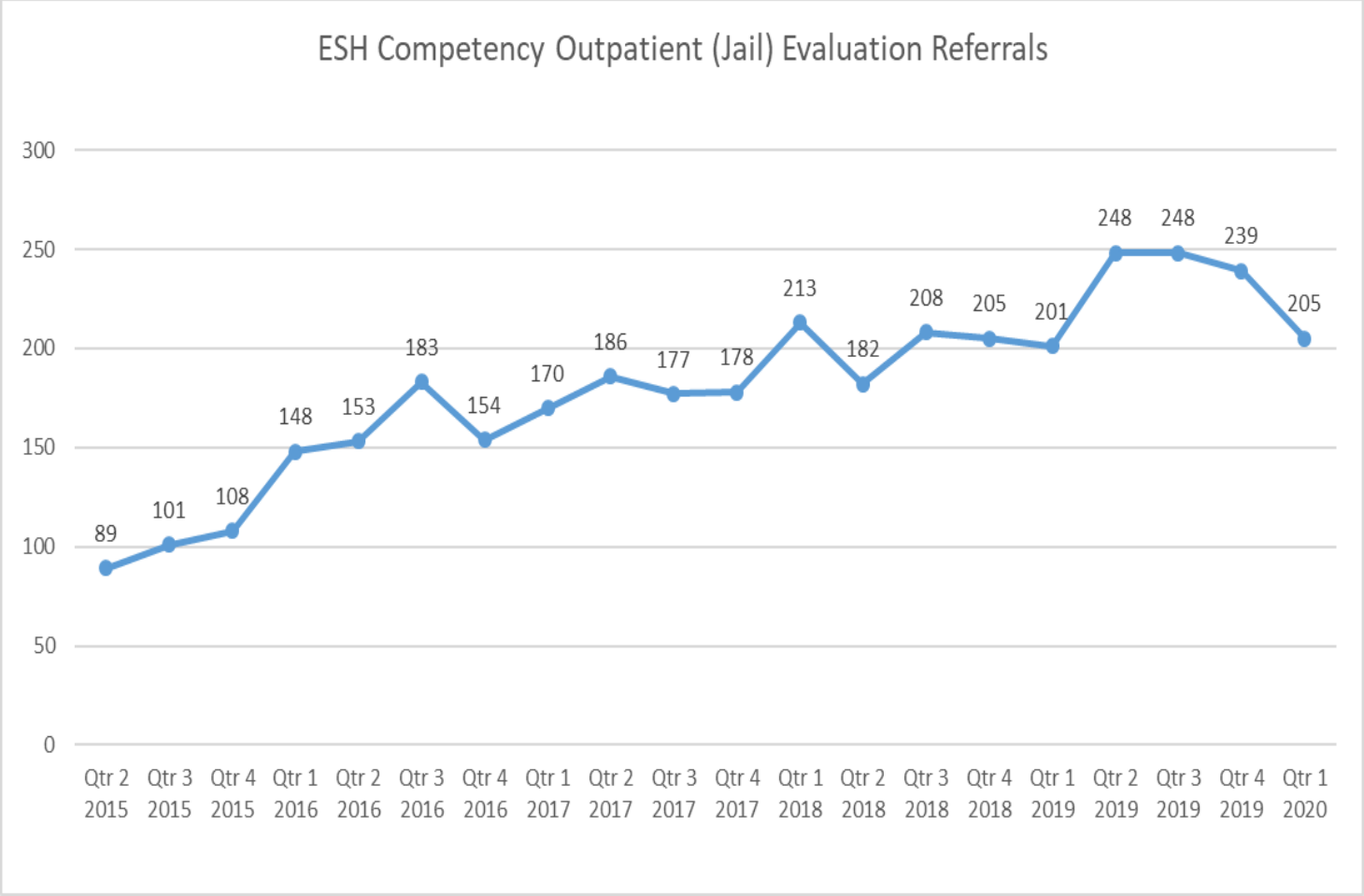
- **Figure 6.** This chart illustrates WSH total quarterly referrals for jail-based evaluations.

- ***Outcomes*:** During the reporting period, WSH saw a modest 5.6 percent decrease in referrals from Q4 2019. While the change from Q4 2019 to Q1 2020 was modest, 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 = 972.75).

- ***Drivers*:** Referrals for competency evaluation have increased significantly over most of the period illustrated above. With the exception of the drop in demand in March 2020, due to the emerging 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.

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

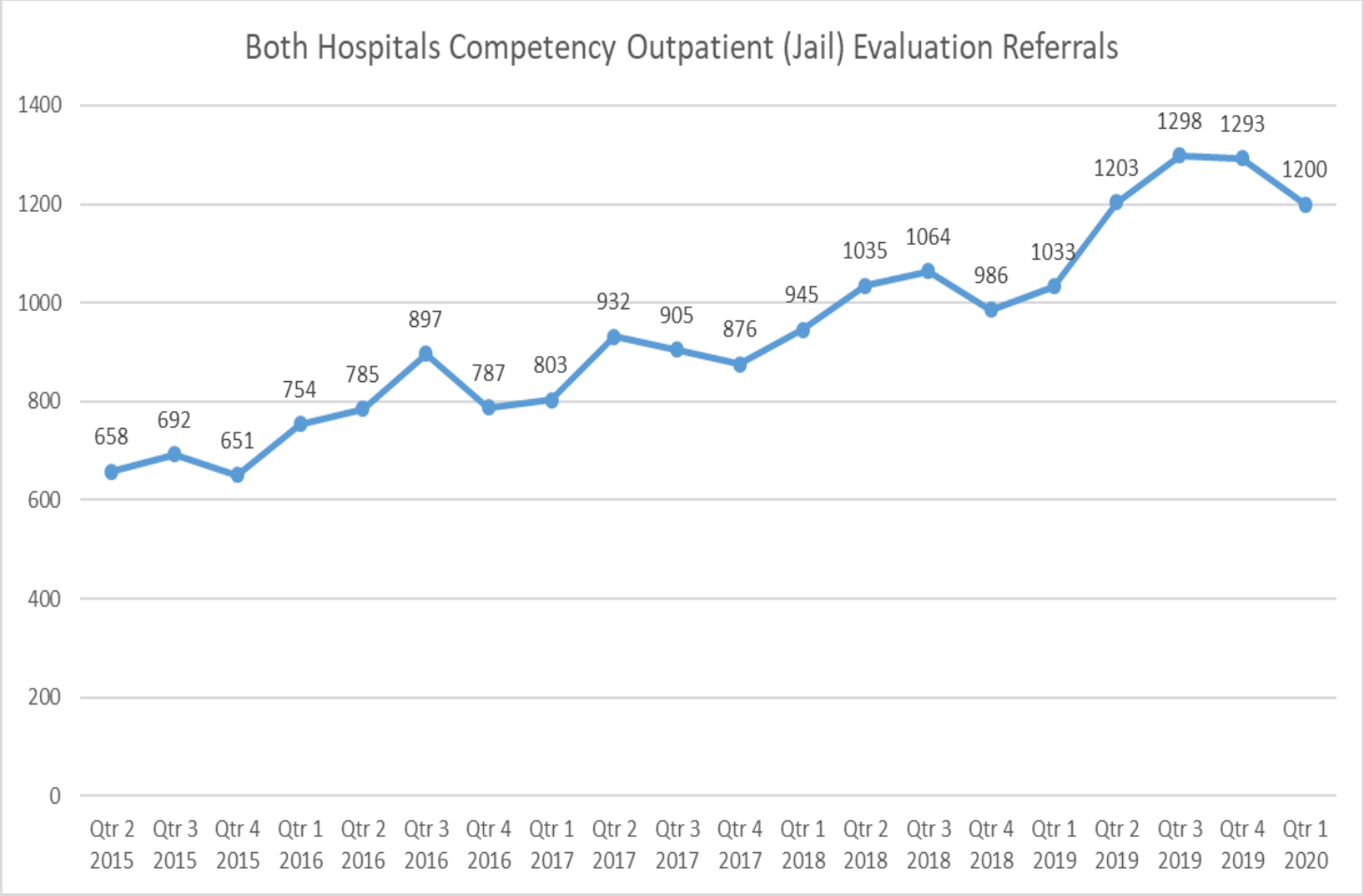


- **Figure 7.** This chart illustrates ESH total quarterly referrals for jail-based evaluations.

- ***Outcomes*:** During the reporting period, ESH's Q1 jail-based referrals were down by 14.2 percent. Typically, a quick, sharp drop in demand at ESH is followed by a return to the consistent long-term trend of relatively flat referrals punctuated by periodic spikes in demand. Q2 and Q3 results, in particular, will be interesting to determine if this pattern re-establishes itself.

- ***Drivers*:** While the overall trend of increasing referral totals is driven by systemic demand, the immediate decrease in demand seen in Q1 2020 is a result of the arrival of the COVID-19 pandemic in March and its impacts to the behavioral health system. 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 4.5-years, the eastside [+230%] has outgrown the westside [+75%] in jail-based evaluation referrals.

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

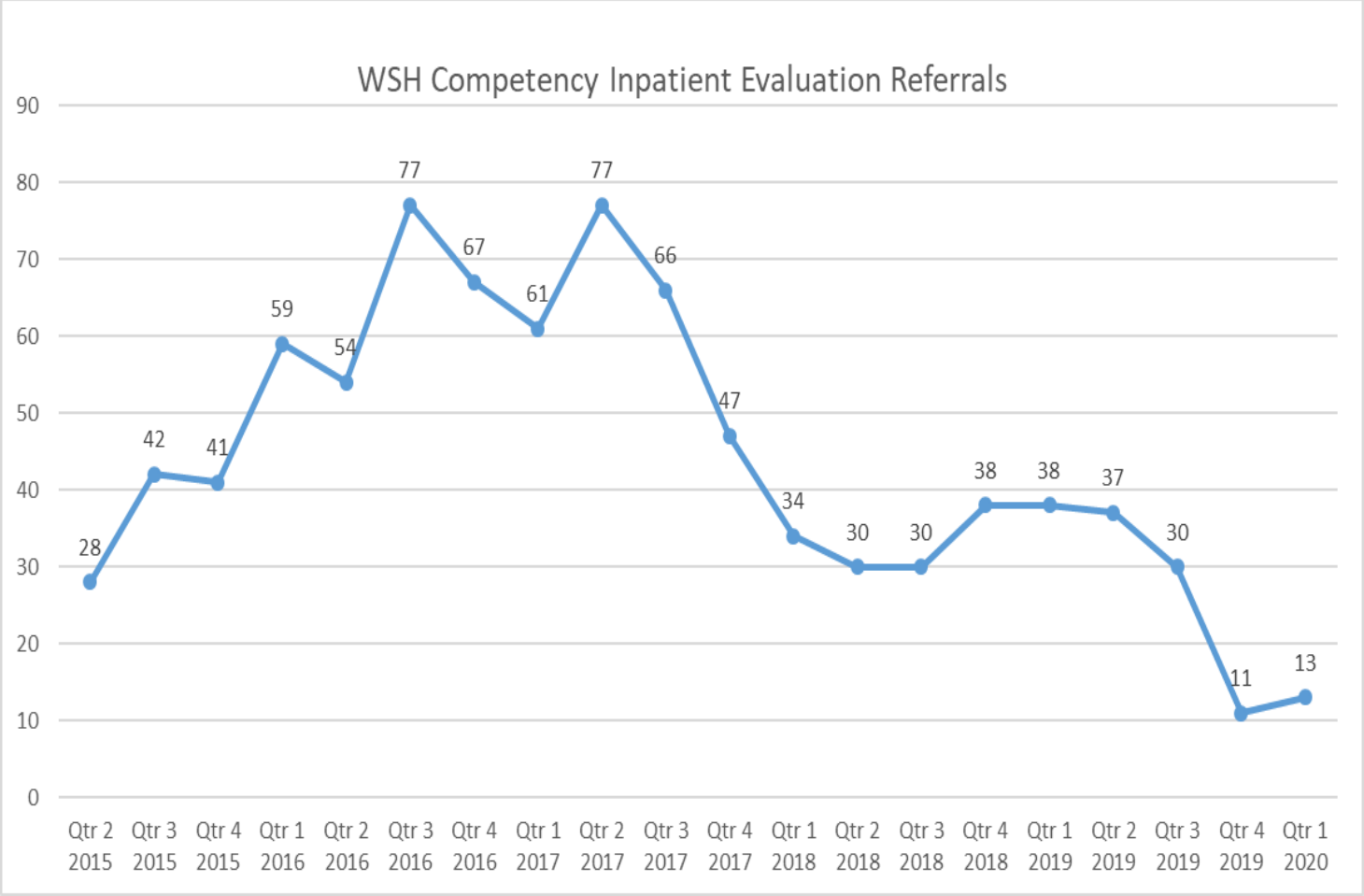


- **Figure 8.** This chart illustrates the combined total quarterly referrals for jail-based evaluations.

- ***Outcomes*:** During the Q1 reporting period, there was a moderate [7.2%] decrease in total referrals for both hospitals combined as compared with the previous quarter. This number remains significantly higher than when reporting began (an 82.4 percent 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. During March 2020, the emergence of the COVID-19 pandemic led to the decrease in demand shown in Figure 8.

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

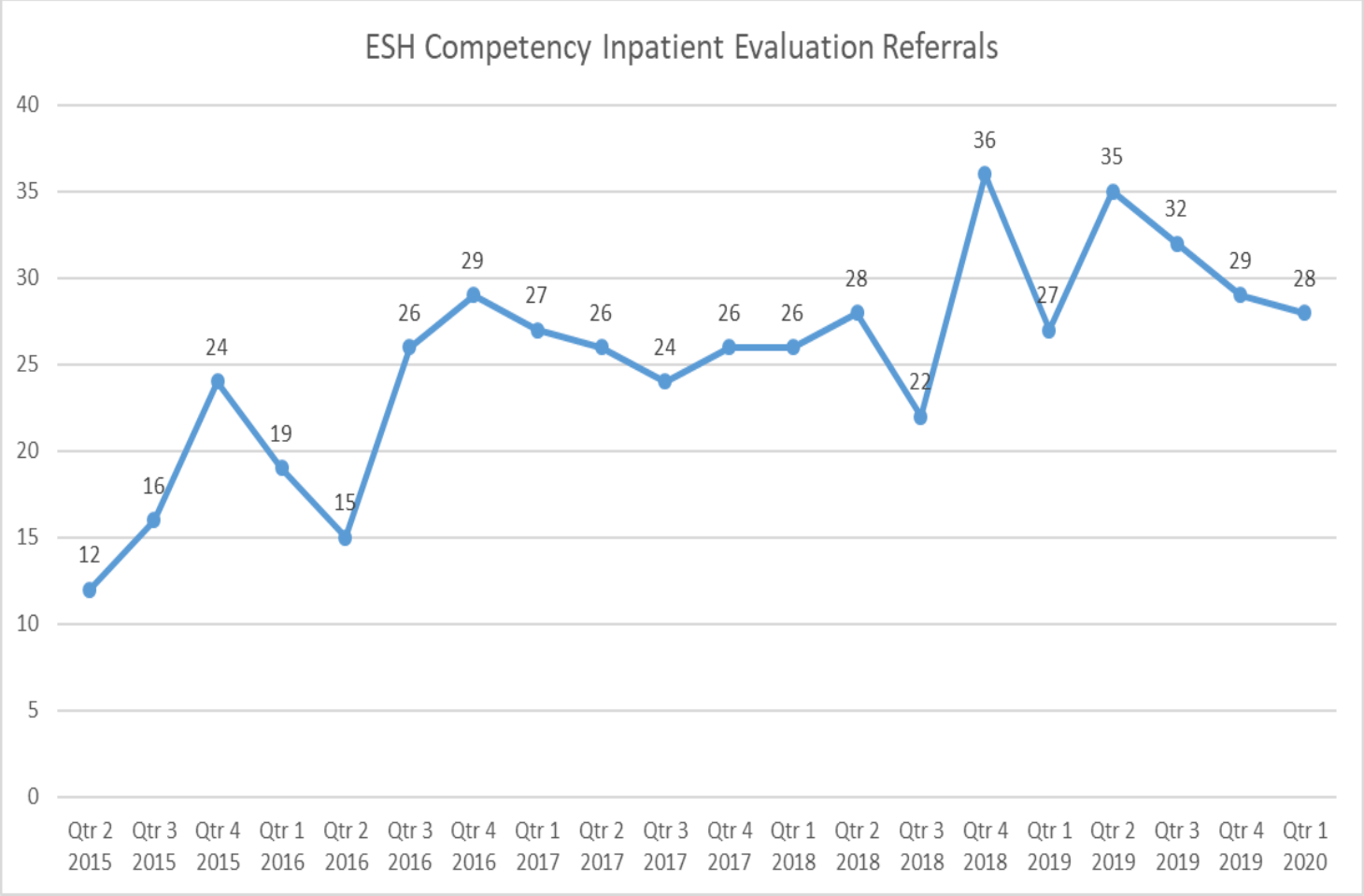


- **Figure 9.** This chart illustrates WSH total quarterly referrals for inpatient evaluations.

- ***Outcomes*:** During the Q1 2020 reporting period, referrals to WSH increased [n = 2] 15.4 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, 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. 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. Q1 rebounds from floor in referrals created during Q4 2019, but due to the extremely small population size involved, the increase may be just noise in the data.

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

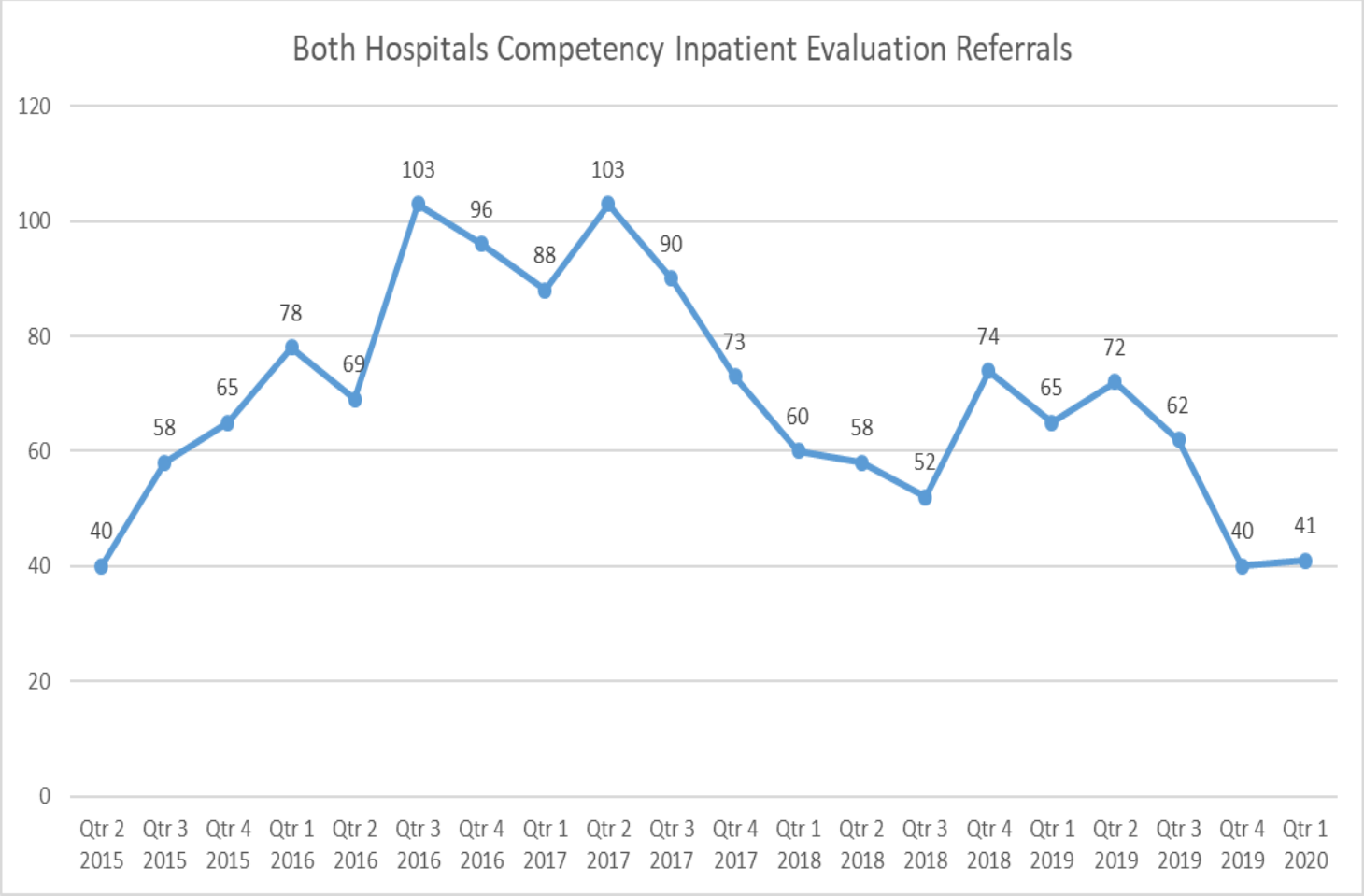


- **Figure 10.** This chart illustrates ESH total quarterly referrals for inpatient evaluations.

- ***Outcomes*:** During the reporting period, Q1 2020, ESH inpatient evaluation referrals were essentially flat compared against the previous quarter, Q4 2019. 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 four quarters are establishing a new trend starting at the upper end of the longer-term static trend that persisted from Q3 2016 through Q3 2018. The trend began with a brief 23 percent spike in demand during Q2 2019. 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*

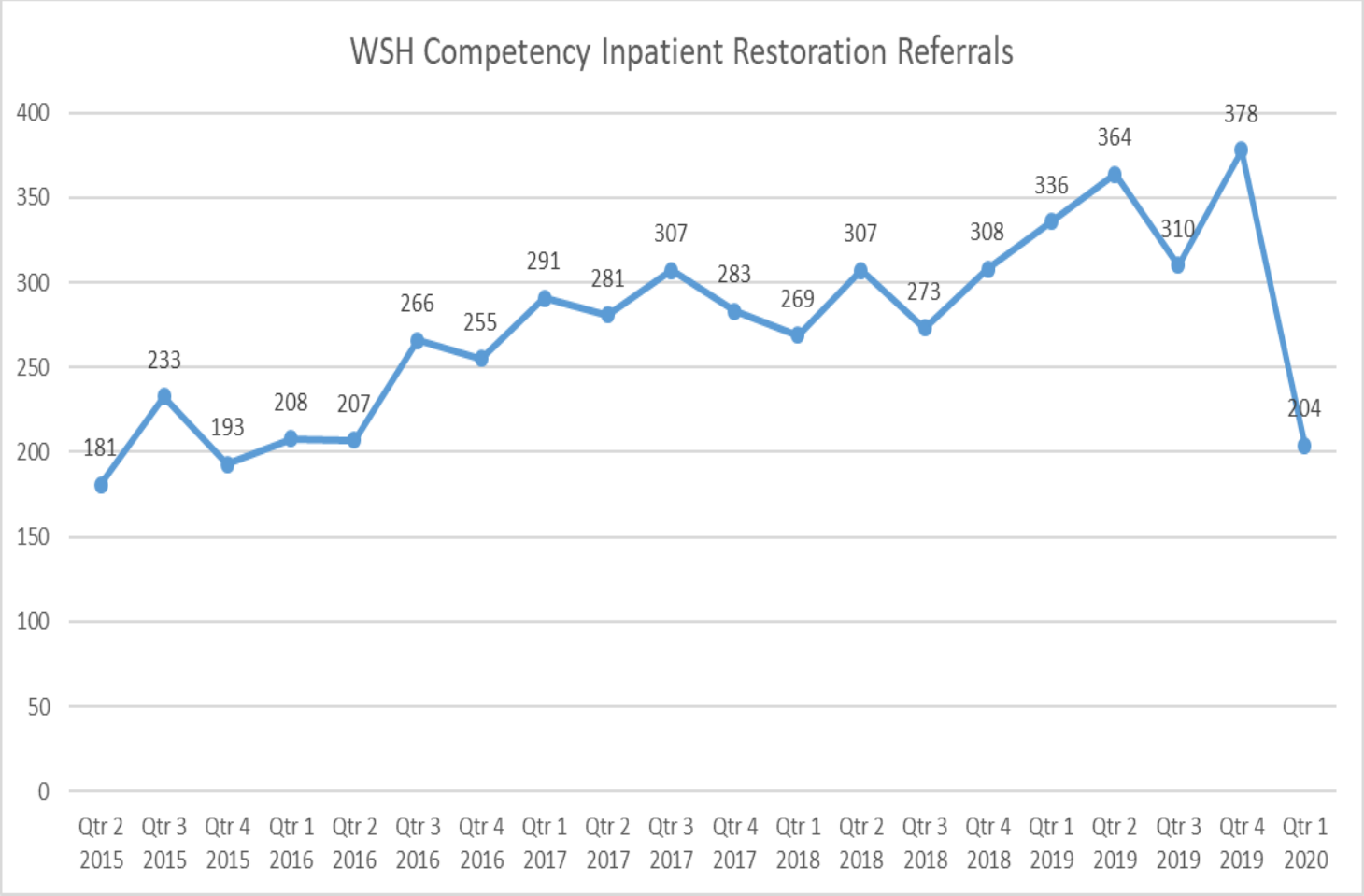


- **Figure 11.** This chart illustrates the combined total quarterly referrals for inpatient evaluations.

- ***Outcomes*:** During the Q1 2020 reporting period, referrals for both hospitals combined were essentially flat 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 Q1 2020. 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 233 percent above Q2 2015 referral numbers. WSH's referrals grew rapidly, peaked twice, and then dropped by Q4 2019 to, on average, 54 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.

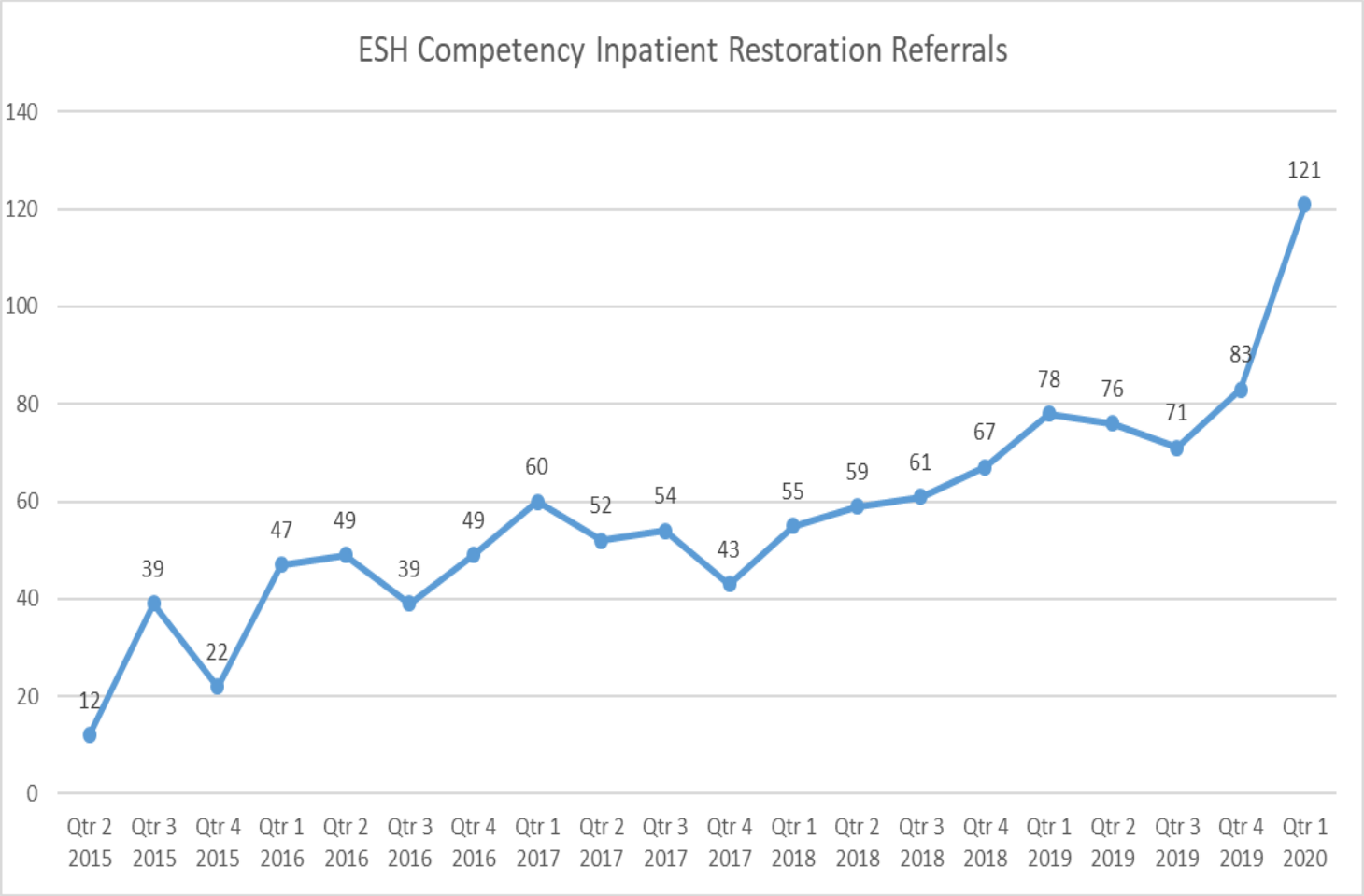
- **Figure 12.** This chart illustrates WSH total quarterly referrals for inpatient restorations.

- ***Outcomes*:** During the Q1 2020 reporting period, referrals collapsed by 46 percent, falling to demand levels not seen since the Q4 2015-Q2 2016 reporting periods. This collapse occurred after reaching another new record in inpatient restoration referrals during the Q4 2019 reporting period when WSH reached 378 referrals, an 18 percent jump compared to the previous quarter.

- ***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, and then during the second half of Q1 2020, demand collapsed for inpatient restorations. This appears 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 leading wave of pandemic restrictions resulting in collapsed demand for inpatient restorations.

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

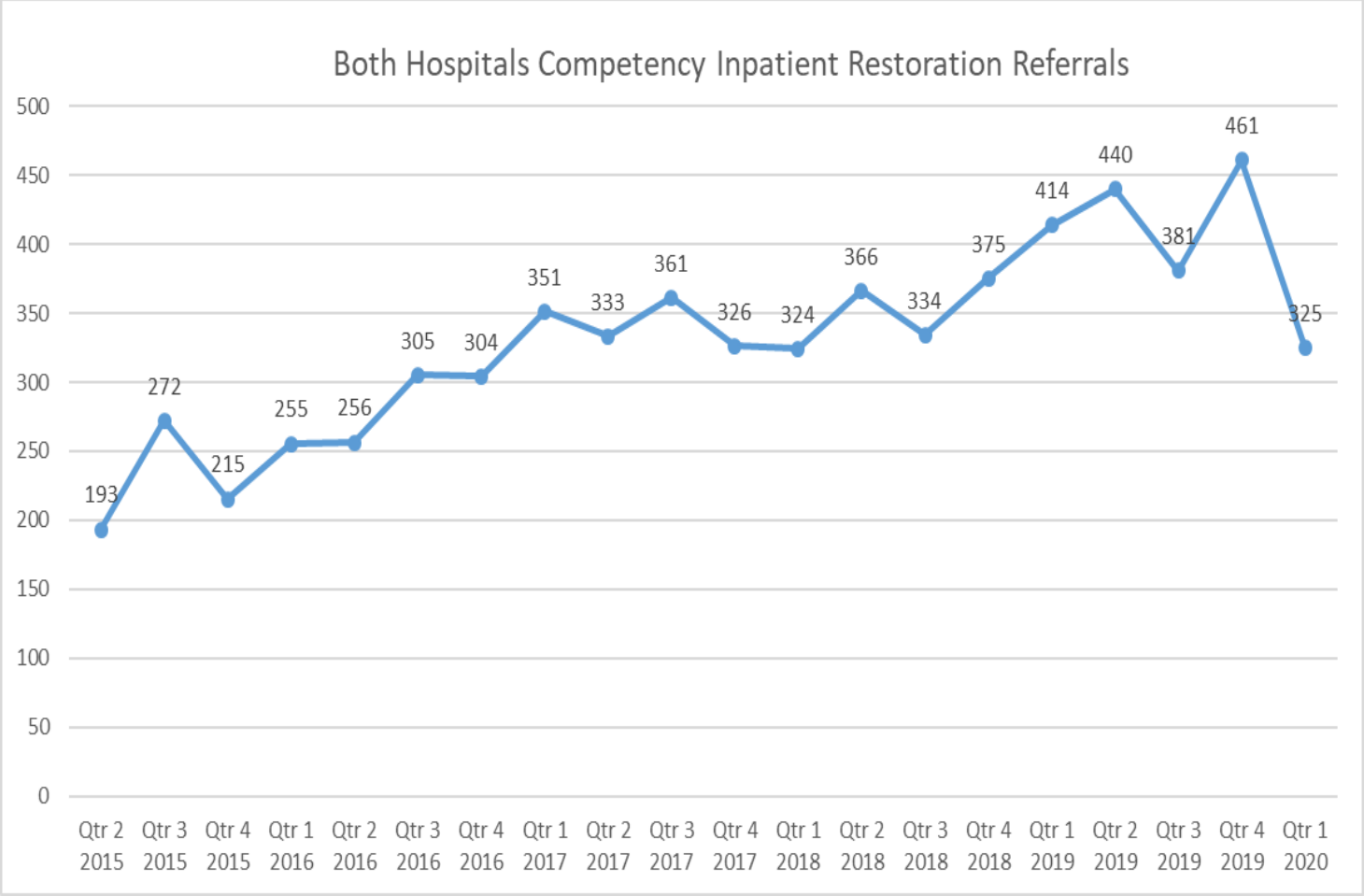


- **Figure 13.** This chart illustrates ESH total quarterly referrals for inpatient restorations.

- ***Outcomes*:** Q1 2020 referrals skyrocketed by 31.4 percent after a moderate 14.5 percent rise in referrals during Q4 2019. From Q2 2015 through Q1 2020, inpatient restoration referrals have skyrocketed more than 1000 percent.

- ***Drivers*:** Restoration referrals represented in this figure increased substantially during Q4 2019 and the current period, Q1 2020. 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 portion of Q1, restrictions on admissions at WSH, due to COVID-19, led to the spike in restoration referrals at ESH. At that time, community spread of novel Coronavirus was newly endemic in eastern Washington but not yet near levels seen in western Washington. As a result, admissions were slowed at WSH and temporarily halted for some legal authorities, while ESH began accepting referrals from western Washington to alleviate the expected increases in wait times statewide.

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 Q1 2020 reporting period, the two hospitals saw a 30 percent decrease in restoration referrals. 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 clearly illustrates 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 surged higher in Q4 – often to record levels, before collapsing at WSH during Q1 2020 due to the onset of the global pandemic's effects in Washington state. 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 while adding the emergence of the novel Coronavirus as a new externality, the total effects of which remain to be seen.

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 experienced challenges with staffing during this reporting period, and as a result of the vacant chief medical officer position and limited psychiatric coverage, patient census was held below 20. DSHS' medical director filled in to provide medical coverage at FSCRP.

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 255 individuals for expedited admissions, out of a total of 415 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 March 31, 2020, 10 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. Ten or fewer evaluations are typically completed each month, and approximately 10-15 percent of attempts are refused by the client's attorney.

Fund Prosecutorial Diversion Programs & 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.

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. As of the end of Q1, the effects on our operations have been relatively muted, but it is quickly becoming clear that a prolonged shut down will profoundly alter our operational environment.

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.