

Annual Statistical Report: Civil Commitment of Minors in Virginia (FY 2010 – FY 2015)

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September, 2015

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Funded by the Virginia Department of Behavioral Health and Developmental Services in cooperation with the Office of the Executive Secretary of the Supreme Court of Virginia

Introduction

Informed oversight of the civil commitment process requires accurate data regarding the number, distribution and characteristics of Emergency Custody Orders (ECOs), Temporary Detention Orders (TDOs), commitment hearings and judicial dispositions. Under the auspices of the Commission on Mental Health Law Reform (2006-2011), the courts and mental health agencies collaborated to collect data needed for monitoring and informed policy-making. Annual statistical reports were published by the Commission through fiscal year 2011 (FY 2011). Upon expiration of the Commission, this responsibility was assumed by the Institute of Law, Psychiatry and Public Policy at the University of Virginia (Institute), under contract with the Department of Behavioral Health and Developmental Services of the Commonwealth of Virginia, based on data provided by the Department of Behavioral Health and Developmental Services through an agreement with the Office of the Executive Secretary of the Supreme Court of Virginia.

In this report, the Institute presents data for FY 2010 through FY 2015 regarding the numbers of ECOs, TDOs, commitment hearings and commitment orders pertaining to minors and, to the extent possible, assesses whether commitment practices have changed over time. It also includes data pertaining to judicial orders authorizing transportation of minors involved in commitment proceedings.

Sources of Data

Court clerks at Juvenile and Domestic Relations District Courts maintain records of civil commitment cases concerning minors using the Juvenile Case Management System (JCMS). The JCMS system is maintained by the Office of the Executive Secretary of the Supreme Court and used by each District Court to enter and

track its cases. Data related to civil commitment hearings, ECOs, and TDOs in each district are entered into that district court's JCMS by individual court clerks throughout the Commonwealth.

The eMagistrate System is used by magistrates in all thirty-two judicial districts to issue arrest processes, bail processes, and other orders including ECOs and TDOs. Each time an ECO or TDO is issued, it is entered into the eMagistrate System. ECOs and TDOs are counted in the eMagistrate System regardless of whether the order is executed.

Emergency Custody Orders

The best available source of data regarding issued ECOs is the eMagistrate System. Data on ECOs issued for minors are available for FY 2010 through FY 2015. According to data extracted from the eMagistrate System, 549 ECOs were issued for minors in FY 2015. This is a 20.7% increase over the 455 ECOs that were issued for minors in FY 2014, and a 54.2% increase over the 356 ECOs that were issued for minors in FY 2013. The number of issued ECOs for minors decreased each year from FY 2010, when 531 were issued, to FY 2013, reaching a low point in FY 2013 and then increasing markedly in FY 2014 and FY 2015. The numbers of ECOs issued for adults followed a similar pattern during this period.

According to data from the eMagistrate System, there were about 30-60 ECOs issued for minors per month during FY15 (See Table 2 and Figure 4). The number of ECOs issued per month follows a roughly seasonal pattern, with numbers peaking in September-October and March-April. In general, fewer ECOs are issued during school holiday periods, such as the summer months of June-August and November-December.

Table 1: Annual Frequency of ECOs Issued for Minors, FY2010-FY2015

Fiscal Year	# ECOs
2010	531
2011	465
2012	378
2013	356
2014	455
2015	549

Figure 1

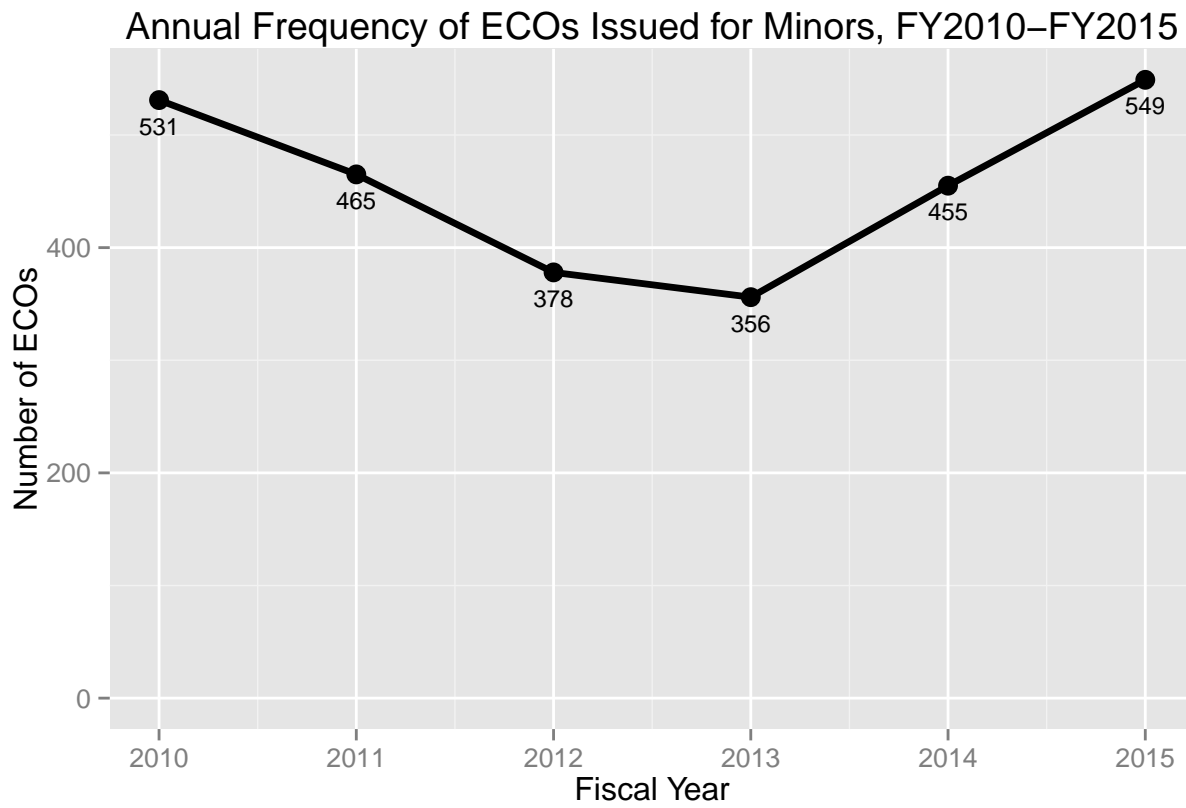


Figure 2

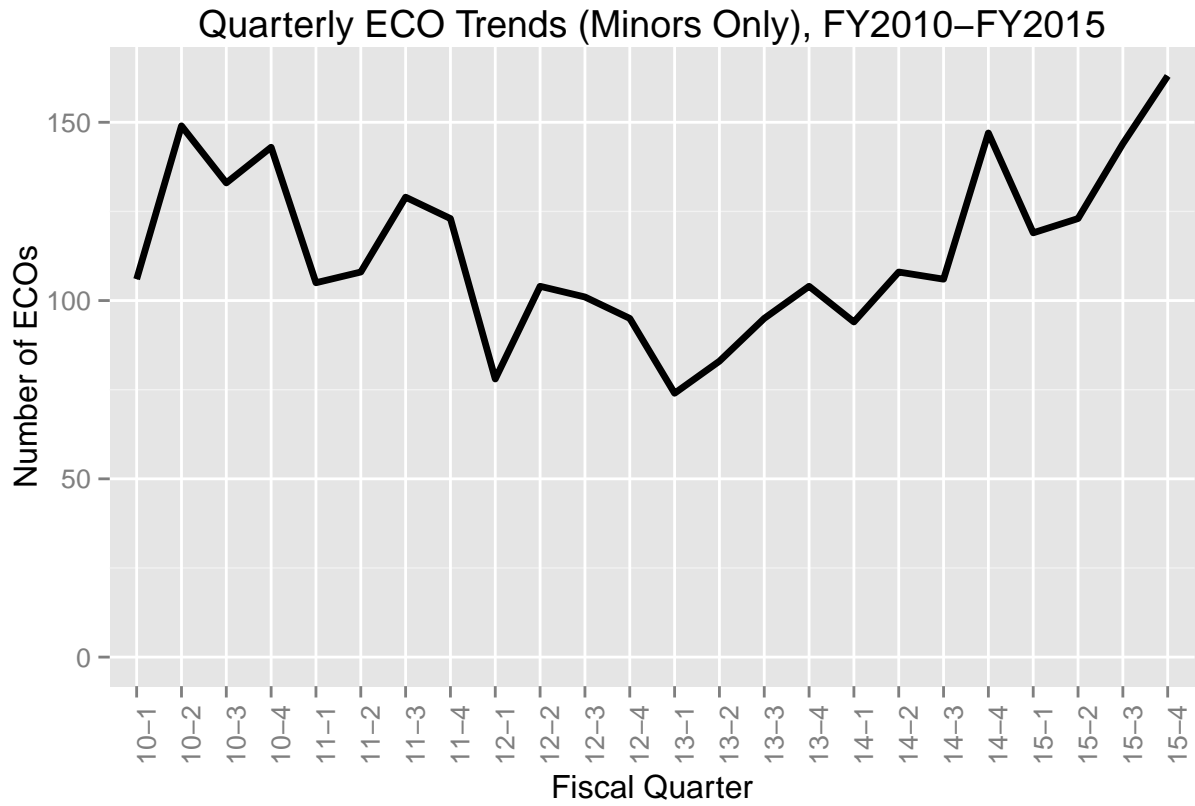


Figure 3

Quarterly Frequency of ECOs Issued for Minors, FY2010–FY2015

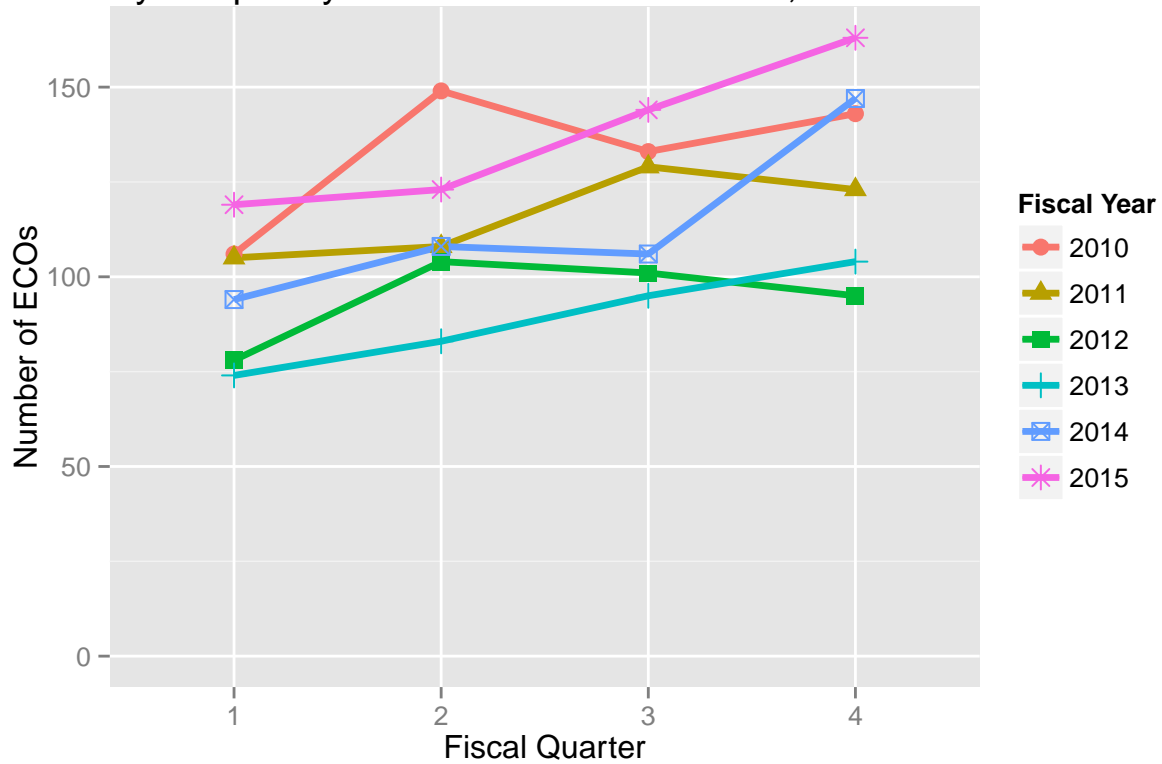
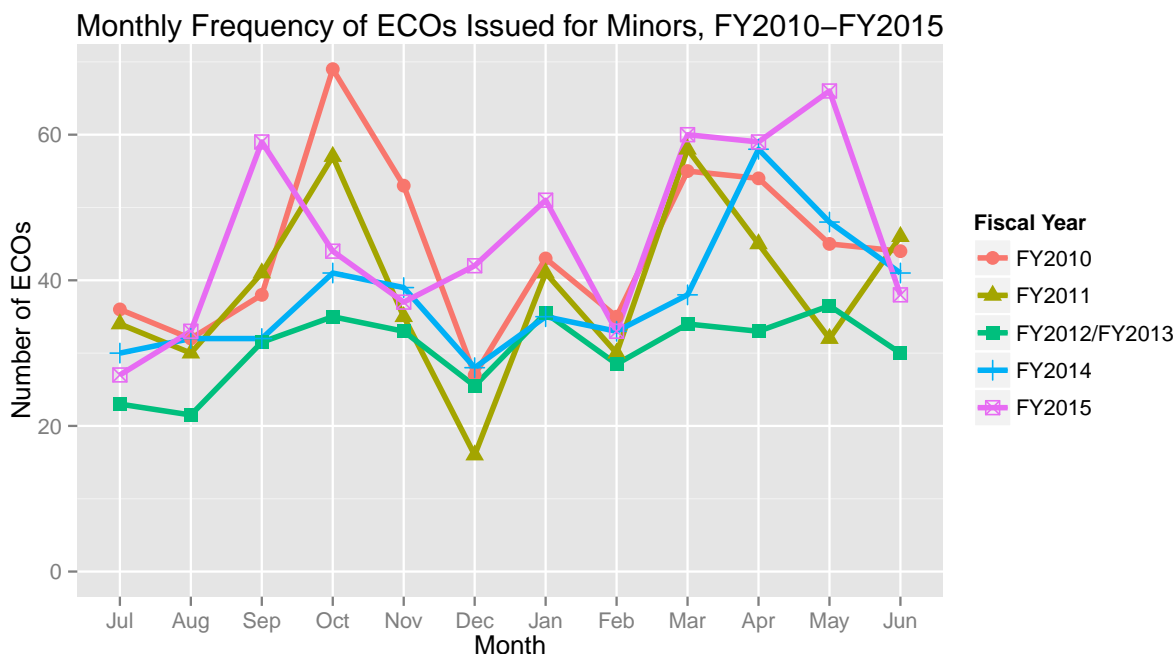


Table 2: Monthly Frequency of ECOs Issued for Minors, FY2010–FY2015

Month	FY10	FY11	FY12	FY13	FY14	FY15
Jul	36	34	24	22	30	27
Aug	32	30	23	20	32	33
Sep	38	41	31	32	32	59
Oct	69	57	41	29	41	44
Nov	53	35	35	31	39	37
Dec	27	16	28	23	28	42
Jan	43	41	37	34	35	51
Feb	35	30	29	28	33	33
Mar	55	58	35	33	38	60
Apr	54	45	35	31	58	59
May	45	32	31	42	48	66
Jun	44	46	29	31	41	38

Figure 4¹



When minors are taken directly into custody by law enforcement officers acting without a judicial order (ECO) and brought to a mental health facility based on the officer’s own observations, no formal judicial process is issued, executed or filed. The number of instances of emergency custody assumed by law enforcement officers without an order (“orderless emergency custody”) is not formally tracked and must be estimated. In the Institute’s April 2013 study² of emergency evaluations conducted by Community Services Boards (CSBs), 23.6% of the minors evaluated that month were in police custody at the time of the evaluation, and only 16.5% of these minors were being held under a magistrate-issued ECO. CSB evaluators indicated that 61.2% of minors in police custody were under orderless emergency custody at the time, and that another 22.3% were transported by the police, presumably voluntarily, without an ECO. This confirms that the total number of minors taken into “emergency custody” for CSB evaluation is significantly greater than (and perhaps twice as high as) the number of ECOs issued by magistrates as documented by eMagistrate.

Temporary Detention Orders

Every TDO issued by a magistrate pursuant to Va. Code § 37.2-809 is entered into the eMagistrate system. The JCMS database records only those TDOs that law enforcement officers have attempted to serve and for which they have submitted “return of service” copies to the JDR court clerks. Upon receipt of a “return of service” copy from the law enforcement officer tasked with service of process, the clerk enters the TDO into the JCMS database. As a result, the eMagistrate system provides the more comprehensive picture of the number of TDOs issued, and is the source for the following statistics.

According to the eMagistrate System, 2,208 TDOs were issued for minors in FY 2015. This is an 18.9% increase over the 1,857 TDOs that were issued to minors in FY 2014, and a 34.4% increase over the 1,643

¹Note that counts for FY2012 and FY2013 were averaged for this figure, as they were nearly identical.

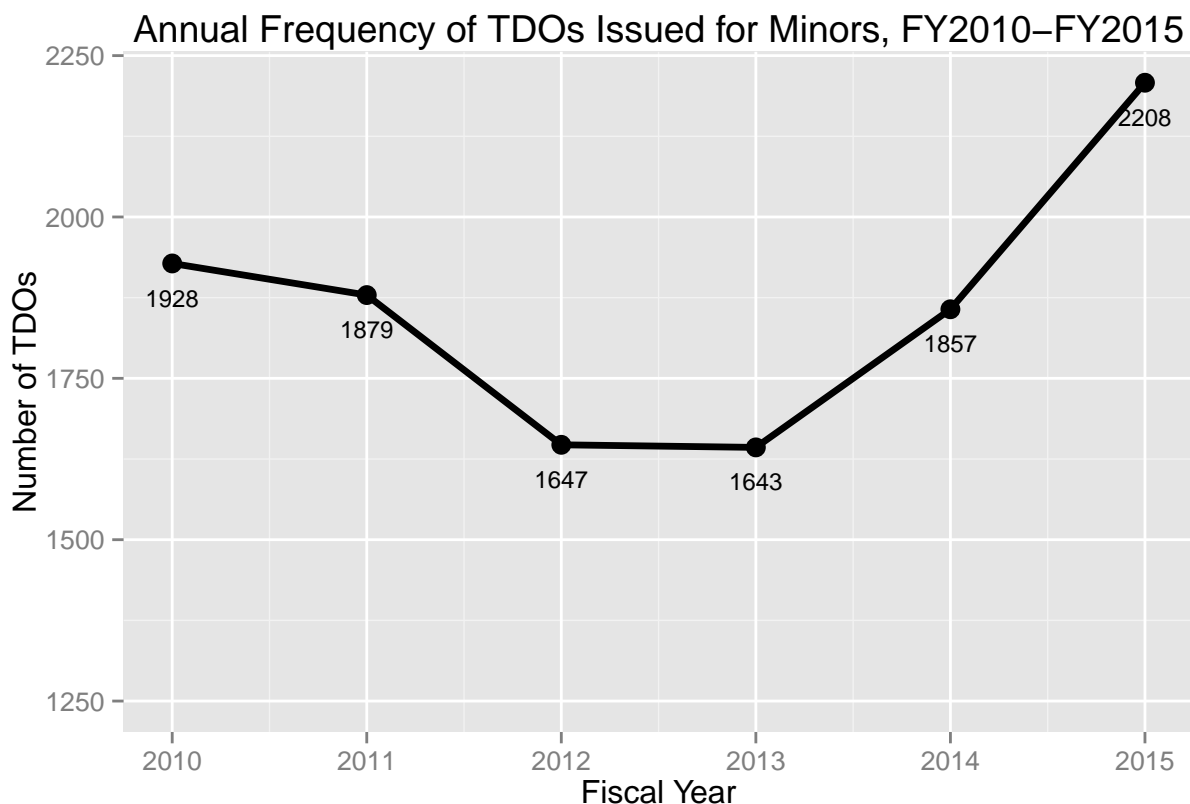
²This report, titled “A Study of Face-to-Face Emergency Evaluations Conducted by Community Services Boards in April 2013”, can be found at <http://www.ilppp.virginia.edu/PublicationsAndPolicy/DownloadPDF/66>.

that were issued for minors in FY 2013. TDO counts were higher than those in FY 2014 in every month except June of FY 2015 (Figure 8). The greatest elevation in counts occurred in the 4th quarter of FY14 and the 2nd quarter of FY15—the growth in these periods was 30.3% and 34.8%, respectively (Figure 7). Thus, as seen in Figure 5, while numbers of TDOs issued for minors decreased steadily from FY10 to FY13, numbers of TDOs began to rise again in FY14, specifically beginning in April of FY 2014 (see Figure 5). This is the same pattern reflected in the ECO data. Taken together, these findings suggest that the numbers of ECOs and TDOs increased in the wake of the November 2013 tragedy involving State Senator Creigh Deeds and his son, Gus Deeds, and the subsequent reforms that went into effect July 1, 2014.³

Table 3: Annual Frequency of TDOs Issued for Minors, FY2010-FY2015

Fiscal Year	# TDOs
2010	1928
2011	1879
2012	1647
2013	1643
2014	1857
2015	2208

Figure 5



³The Inspector General's Report on this incident can be found at <http://osig.virginia.gov/media/2562/2014-bhds-006bathcountyci.pdf>

Figure 6

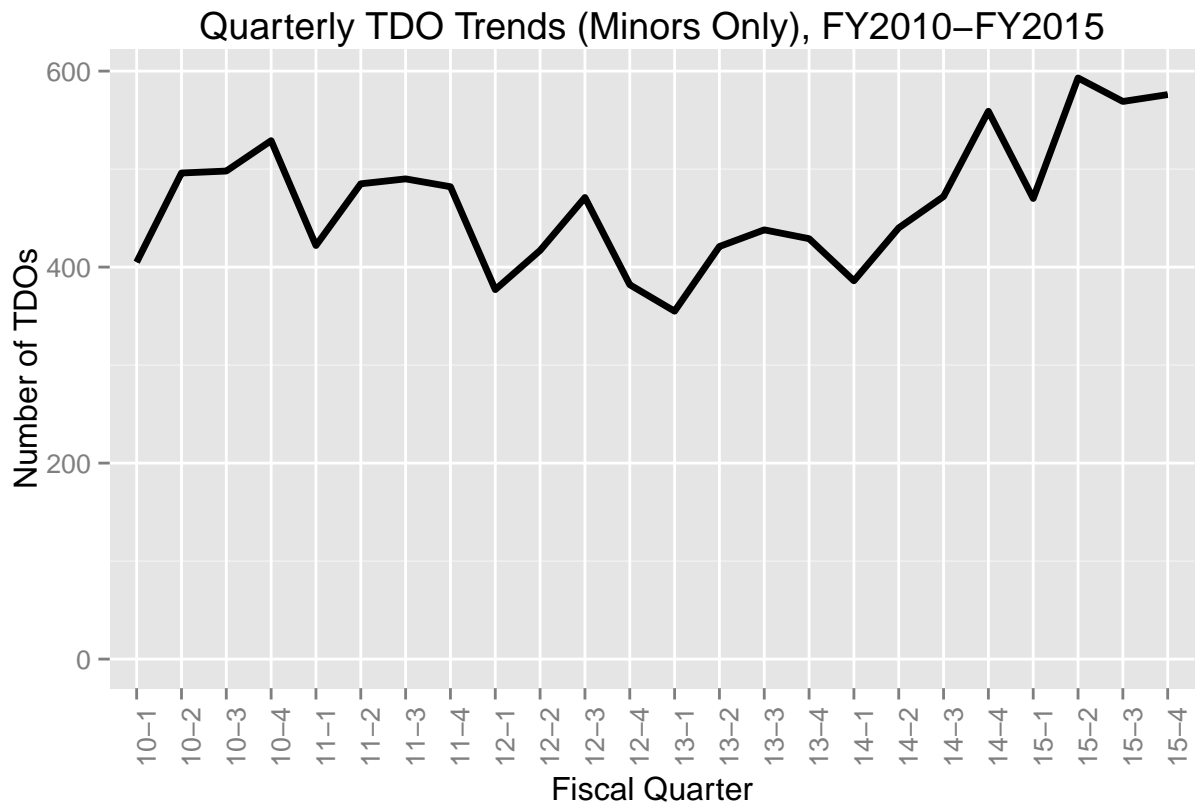


Figure 7

Quarterly Frequency of TDOs Issued for Minors, FY2010–FY2015

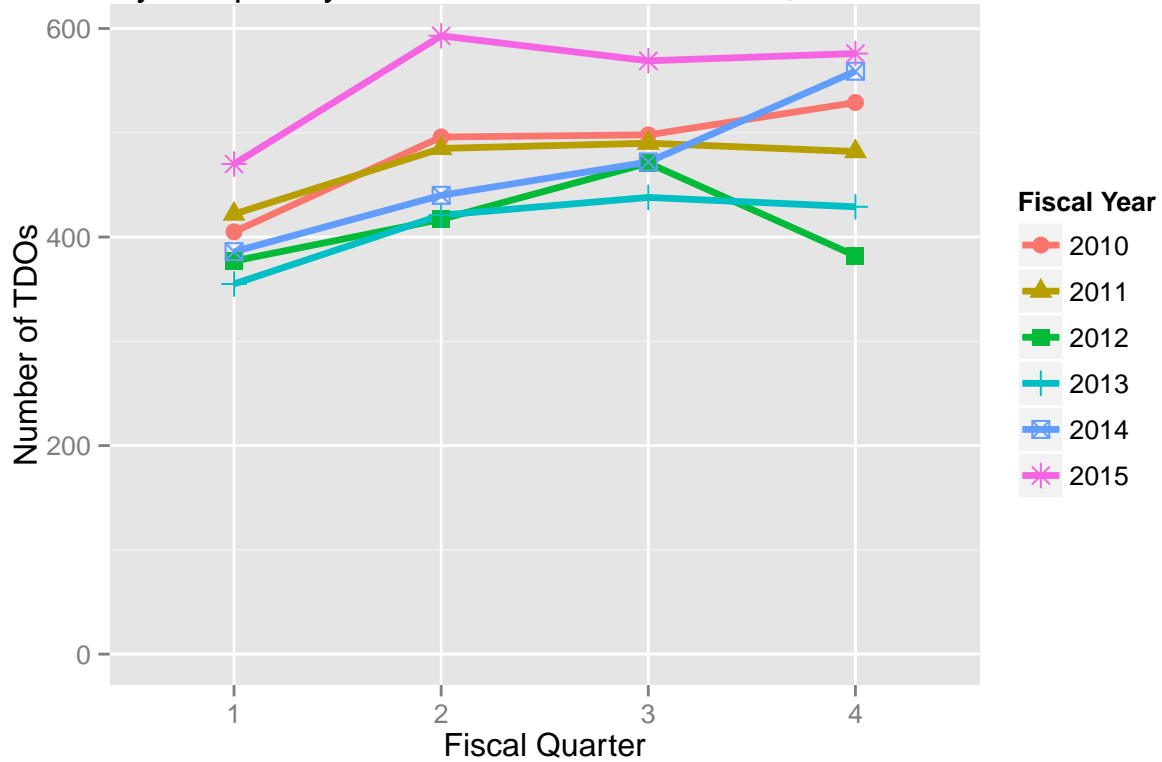
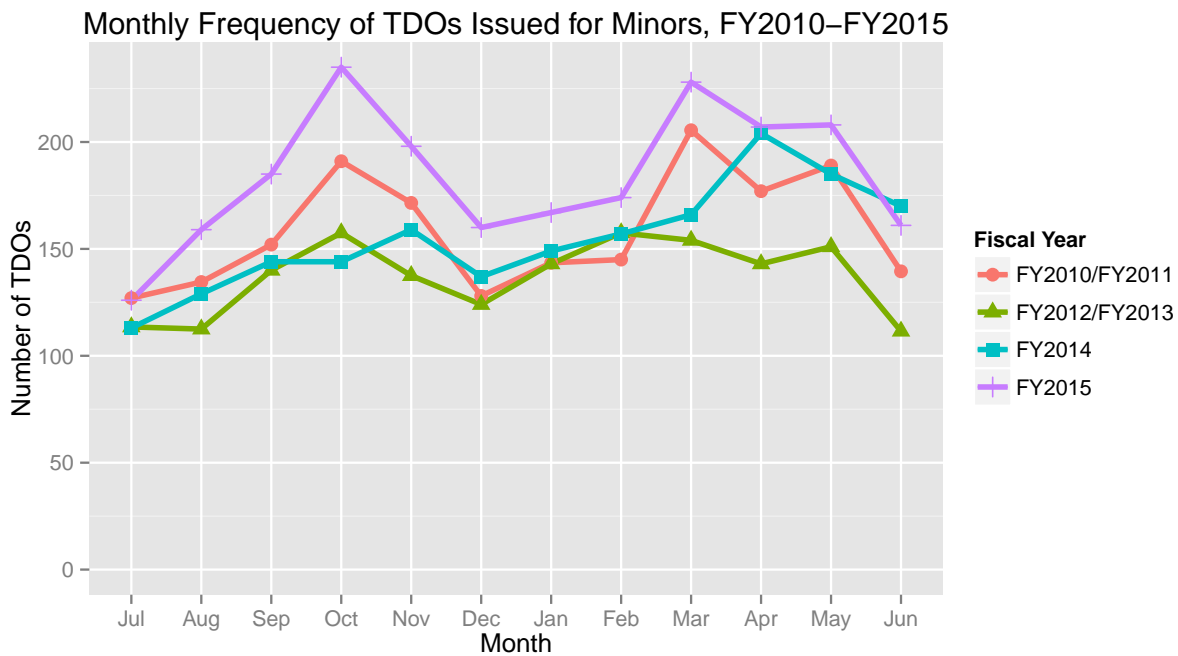


Table 4: Monthly Frequency of TDOs Issued for Minors, FY2010–FY2015

Month	FY10	FY11	FY12	FY13	FY14	FY15
Jul	124	130	111	116	113	126
Aug	128	141	121	104	129	159
Sep	153	151	145	135	144	185
Oct	198	184	158	157	144	235
Nov	164	179	144	131	159	198
Dec	134	122	115	133	137	160
Jan	140	147	129	157	149	167
Feb	143	147	174	141	157	174
Mar	215	196	168	140	166	228
Apr	193	161	126	160	204	207
May	193	185	141	161	185	208
Jun	143	136	115	108	170	161

Figure 8⁴



Commitment Hearings Involving Minors

JCMS was used to explore the numbers of commitment hearings for minors across the Commonwealth. The most complete and accurate data available from the JCMS can be drawn from the period of January-June of 2015, corresponding to the last two quarters of FY 2015. Data from FY 2010 through 1st Quarter FY 2015 are undergoing review to accurately distinguish between types of hearings and cannot be reported at this time.

According to JCMS data, there were between approximately 70 to 100 minor commitment hearings per month in January –June 2015. In total, there were 538 minor commitment hearings in January-June 2015. If these six months are representative of typical commitment hearing trends, then approximately 1,100 involuntary commitment hearings of minors occurred in FY 2015.

Table 5: Monthly Frequency of Commitment Hearings for Minors, 2015

Month	# of Commitment Hearings
Jan	94
Feb	84
Mar	101
Apr	65
May	104
Jun	90

⁴Note that counts for FY2010 and FY2011 were averaged for this figure, as they were nearly identical, as were counts for FY2012 and FY2013.

Figure 9

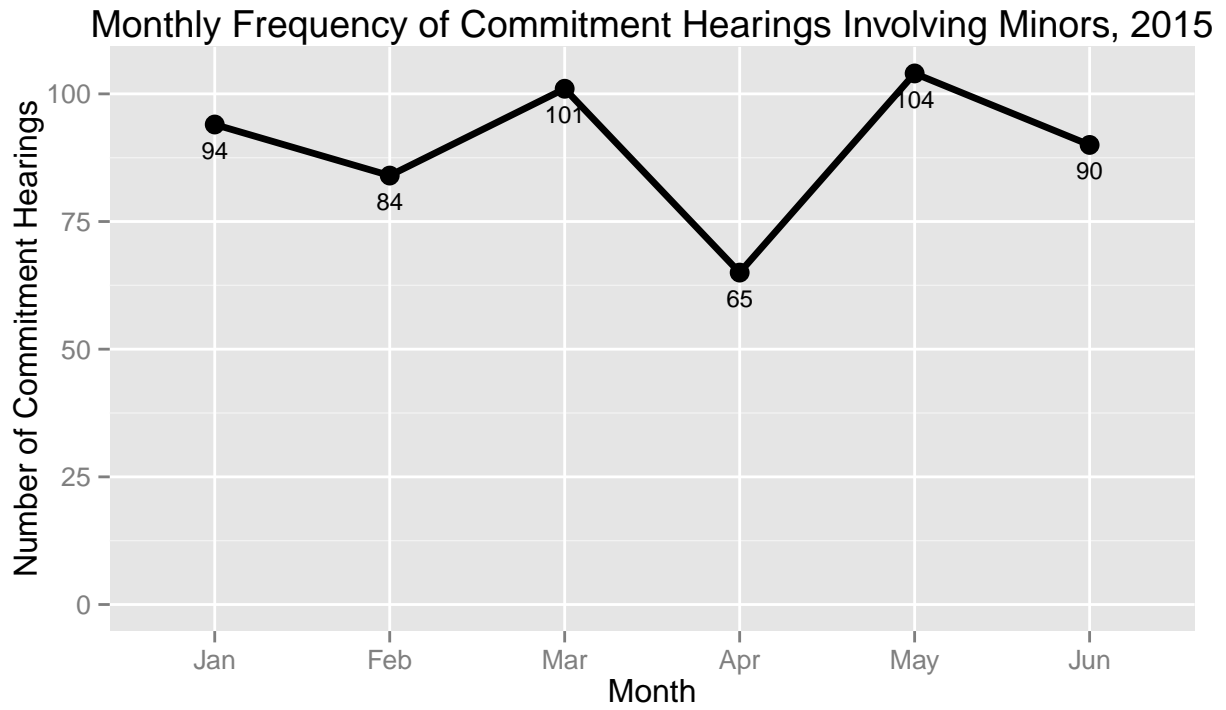
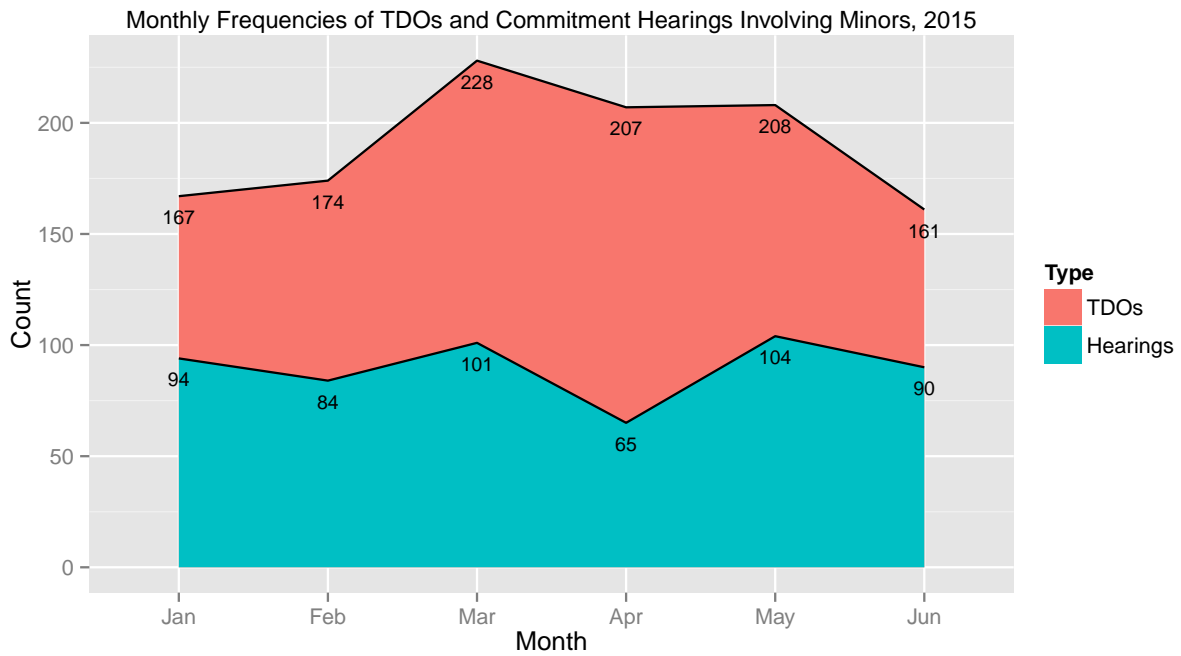


Figure 10



Involuntary Commitment Orders

Disposition codes recorded in JCMS allow for the number of involuntary commitment orders issued for minors to be counted. Between 40 and 80 involuntary commitment orders were issued for minors per month in January-June 2015, representing about 67% of the cases in which hearings were held during this period. A total of 362 involuntary commitment orders were issued in this time period. If these six months are representative of normal trends in the use of commitment orders, then approximately 700-750 involuntary commitment orders would be issued for minors each year. However, since this period spans the summer months, when the volume of ECOs and TDOs issued for minors decreases, this is likely an underestimate. Note that this figure covers only minors for whom an involuntary commitment order is issued and not the total number of minors hospitalized. Minors can also be hospitalized via parental admission or voluntarily via a joint decision with a parent or guardian as a result of the hearing.

Table 6: Monthly Frequency of Commitment Orders for Minors, 2015

Month	# of Involuntary Commitment Orders
Jan	58
Feb	56
Mar	66
Apr	42
May	80
Jun	60

Figure 11

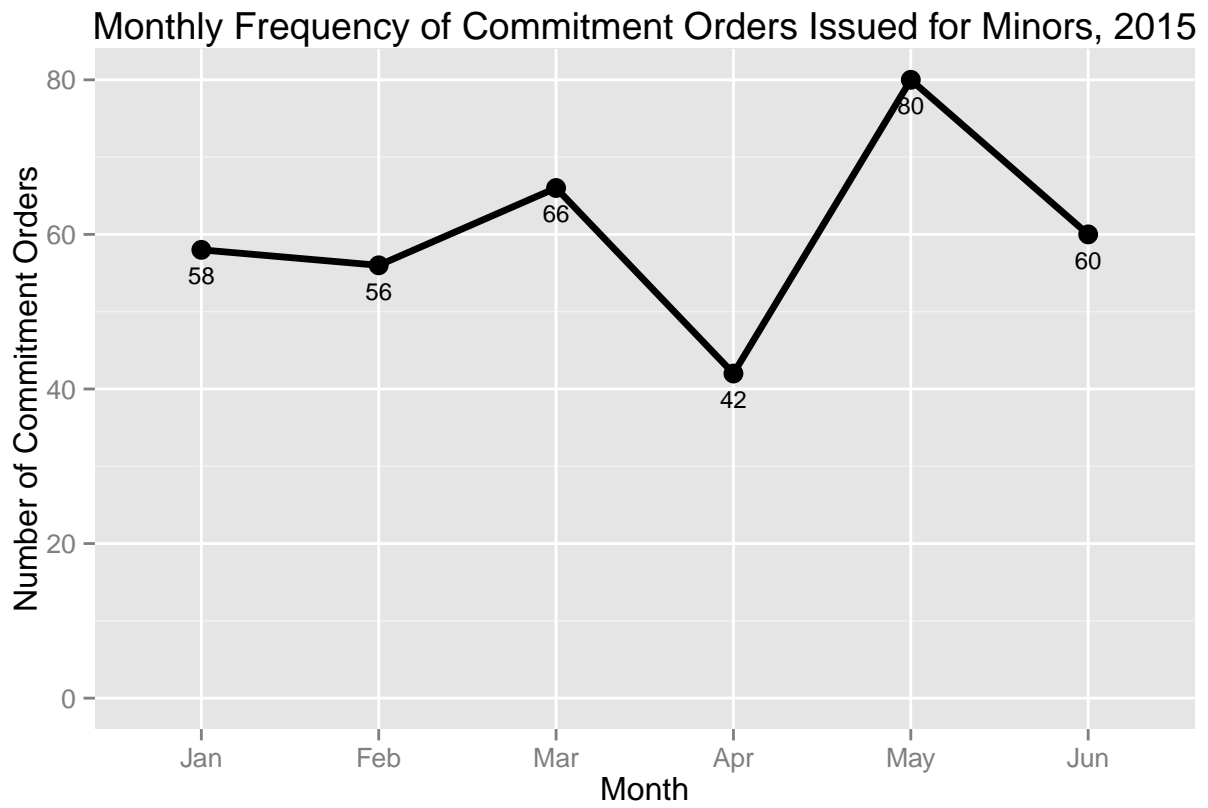
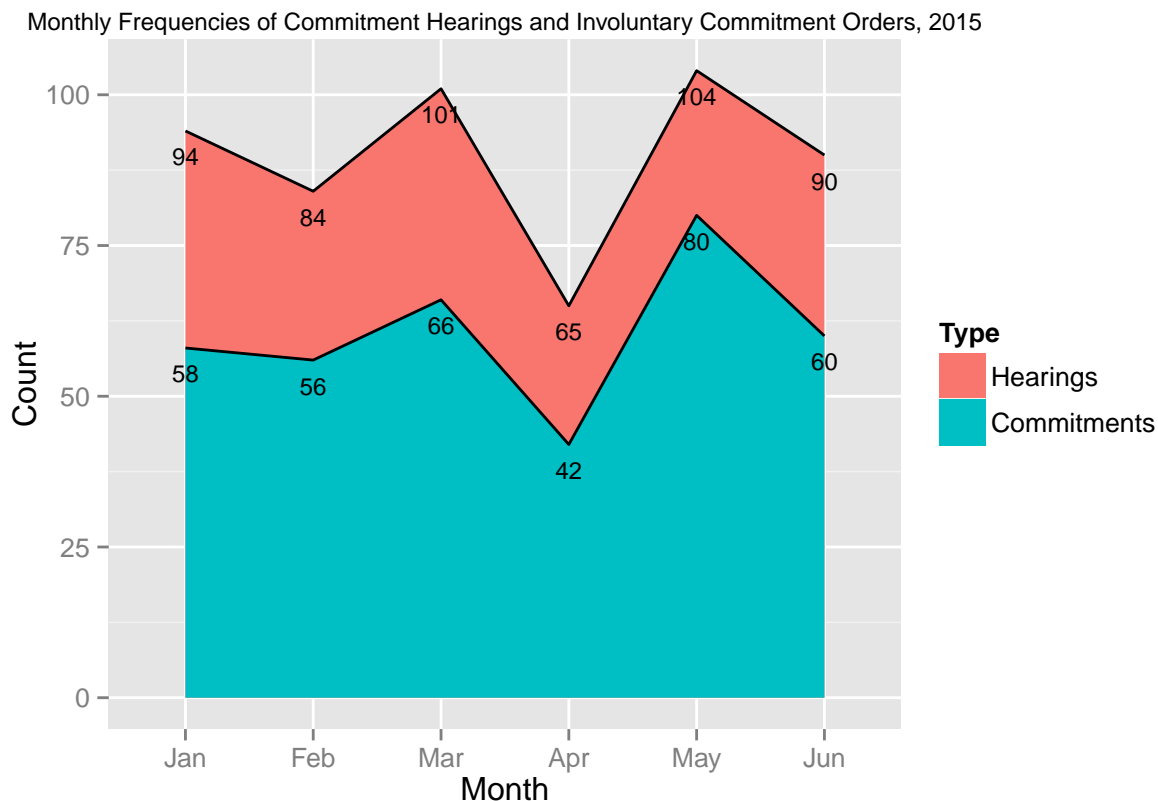


Figure 12



Mandatory Outpatient Treatment and Other Commitment Hearing Dispositions

Disposition codes recorded in JCMS allow for the number of orders for MOT issued for minors to be counted. However, no orders for MOT were issued for minors from January-June 2015.

The JCMS system includes data on other dispositions that may result from a commitment hearing, including “dismissed,” “released,” and “withdrawn”; however, information regarding the *reasons* for these dispositions is not tracked and we are therefore unable to practically interpret the dispositions (e.g., a dismissed case may be due to a judicial finding that a youth does not meet criteria or because a youth is voluntarily admitted). We have thus chosen to present only data regarding orders for MOT and involuntary commitment orders in order to prevent misinterpretation.

Alternative Transportation Orders

In most cases, the magistrate issuing an ECO or TDO will specify that the law-enforcement agency of the jurisdiction in which the minor resides or is located is to execute the order and provide transportation to the appropriate ECO or TDO facility. In some cases, after issuing an ECO or TDO, the magistrate will issue an alternative transportation order (ATO), allowing an alternative transportation provider, such as a medical transport provider or a family member to provide transportation to the appropriate facility (Va. Code § 37.2-810). All ATOs are counted by the eMagistrate system because an entry is made each time one is issued, regardless of whether it is successfully executed.

The number of ATOs issued for minors per year has decreased slightly since FY10, with only 11 ATOs in FY14 and 8 ATOs in FY15 (Table 7). Very few ATOs were issued in order to transport a minor under an ECO. The most common alternative transportation provider was medical transport in FY15 and a family member in FY14 (Table 8).

The 2014 legislative changes to the civil commitment system included a provision that allows magistrates to authorize any available and willing law enforcement agency to provide transportation for an individual under a TDO. This could potentially impact the number of ATOs issued; however, the small decrease from FY14 to FY15 seems in keeping with the general steady decline in the use of ATOs.

Table 7: Annual Frequency of ATOs Issued for Minors, by Order Type, FY10-FY15

Type	FY10	FY11	FY12	FY13	FY14	FY15
ECOJ	2	1	0	0	2	0
TDOJ	21	12	13	15	9	8

Figure 13

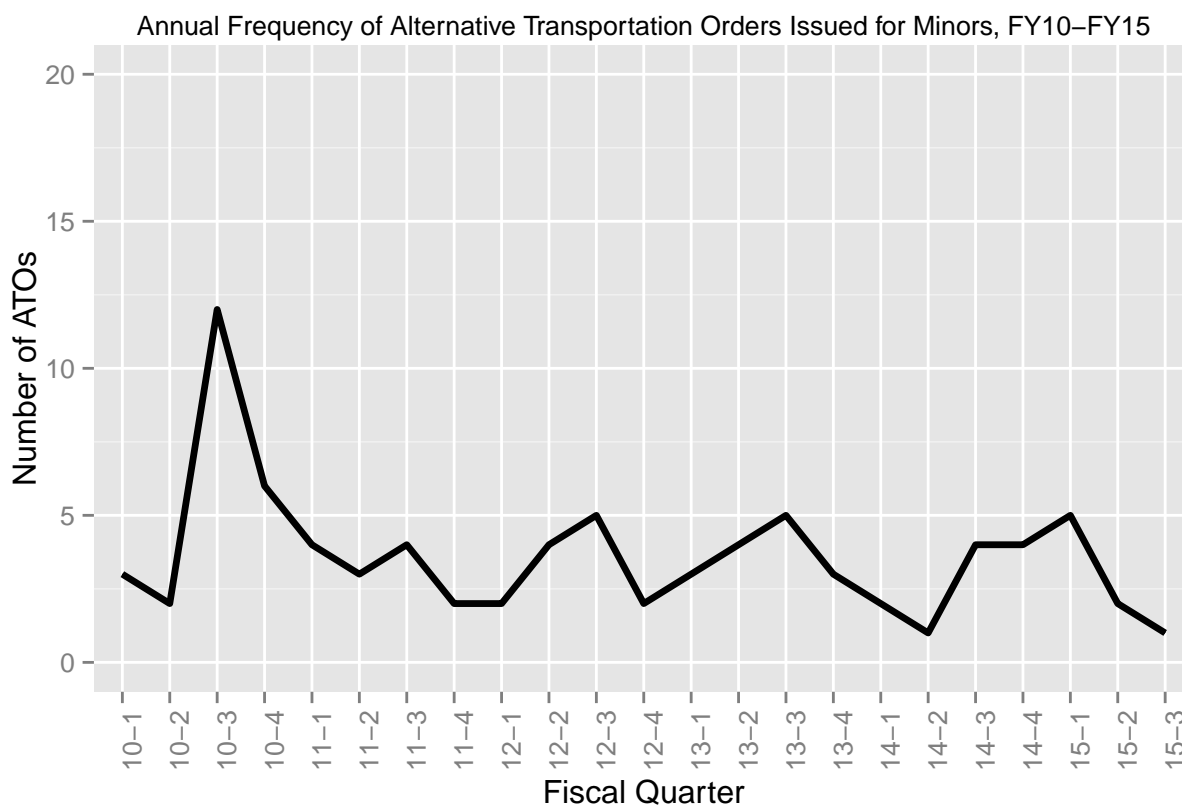


Table 8: Annual Frequency of ATOs Issued for Minors, by Transportation Provider, FY10-FY15

Transportation Provider	FY10	FY11	FY12	FY13	FY14	FY15
Family	16	10	7	7	7	2
Friend	3	1	0	0	0	0
Healthcare Provider	1	1	3	1	2	1
Medical Transport	3	1	1	3	1	5
Unknown	0	0	2	4	1	0