



Institute of Law, Psychiatry,
and Public Policy

Child and Adolescent Civil Commitment Proceedings in Virginia: Annual Statistical Report FY19

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August, 2020

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The Institute of Law, Psychiatry and Public Policy (ILPPP) at the University of Virginia is an interdisciplinary program in mental health law, forensic psychiatry, forensic psychology, forensic neuropsychology and forensic social work. Institute activities include academic programs, forensic clinical evaluations, professional training, empirical and theoretical research, and public policy consultation and review.

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Annual Statistical Report

Child and Adolescent Civil Commitment Proceedings in Virginia FY 2019

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University of Virginia Institute of Law, Psychiatry, and Public Policy

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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 informing policy. 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 (hereafter, the Institute) at the University of Virginia, under contract with the Virginia Department of Behavioral Health and Developmental Services (DBHDS). Current analyses are based on data provided by DBHDS from the Office of the Executive Secretary of the Supreme Court of Virginia pursuant to Va. Code § 37.2-308.01.

In this report, the Institute presents data for FY 2010 through FY 2019 regarding the numbers of ECOs, TDOs, commitment hearings, and commitment orders pertaining to children and

adolescents, and, to the extent possible, assesses whether commitment practices have changed over time. The report also includes data pertaining to judicial orders authorizing alternative transportation of children and adolescents involved in commitment proceedings.

Sources of Data

Court clerks at Juvenile and Domestic Relations District Courts maintain records of civil commitment cases concerning children and adolescents through use of the Juvenile Case Management System (JCMS). The JCMS is maintained by the Office of the Executive Secretary of the Supreme Court and is used by each Juvenile and Domestic Relations District Court (JDR) to enter and track its cases. Data related to civil commitment hearings, ECOs, and TDOs in each district are entered into the JCMS by individual court clerks.

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, the eMagistrate system is used to generate the order.

Magistrate-Issued Emergency Custody Orders

There are two types of emergency custody that may be used for individuals. The first is the “magistrate-issued ECO” (ECO) which is issued by a magistrate and therefore captured in the eMagistrate system. The second type is “order-less emergency custody” (OEC) described in Va. Code § 37.2-808 (G) and (H). OECs are initiated by a law enforcement officer and do not involve a magistrate. Because they do not involve a magistrate, instances of order-less emergency custody are not captured in the eMagistrate data. Unlike for previous reports, the Institute did not obtain the data on emergency custody collected by DBHDS; therefore, we could not compare totals for each data source to calculate the number of order-less emergency custody cases that occur. Thus, the FY19 report presents data for only magistrate-issued ECOs.

According to data extracted from the eMagistrate system, 788 ECOs were issued for children and adolescents in FY18 and 810 ECOs were issued in FY19 (Figure 1). These are the highest counts on record. Though the number of ECOs issued to minors appeared to have leveled off between FY16 and FY17, an increase of 18.5% was observed between FY17 and FY18. A much smaller increase of 2.8% was observed between FY18 and FY19. The largest increase in the number of ECOs issued for children and adolescents occurred in the third quarter of FY18—the growth rate in this period was 22.0% (Figure 2). In recent years, ECO counts have continued to rise during the fourth quarter of the fiscal year, but counts decreased during quarter four in both FY18 and FY19. After the fourth quarter, counts tend to drop in the first quarter of the following fiscal year.

There were, on average, about 66 ECOs issued for children and adolescents per month during FY18 and about 68 issued per month during FY19 (Table 1). The number of ECOs issued per month do not follow a clear seasonal pattern; however, like in previous years, the number of ECOs issued for children and adolescents in FY18 appeared to peak around March-May. In FY19, though, the peak in number of ECOs issued occurred in September-November. In general, fewer ECOs are issued during school holiday periods (June-August and December) of each year.

Figure 1: Annual Frequency of ECOs Issued for Children and Adolescents, FY10-FY19

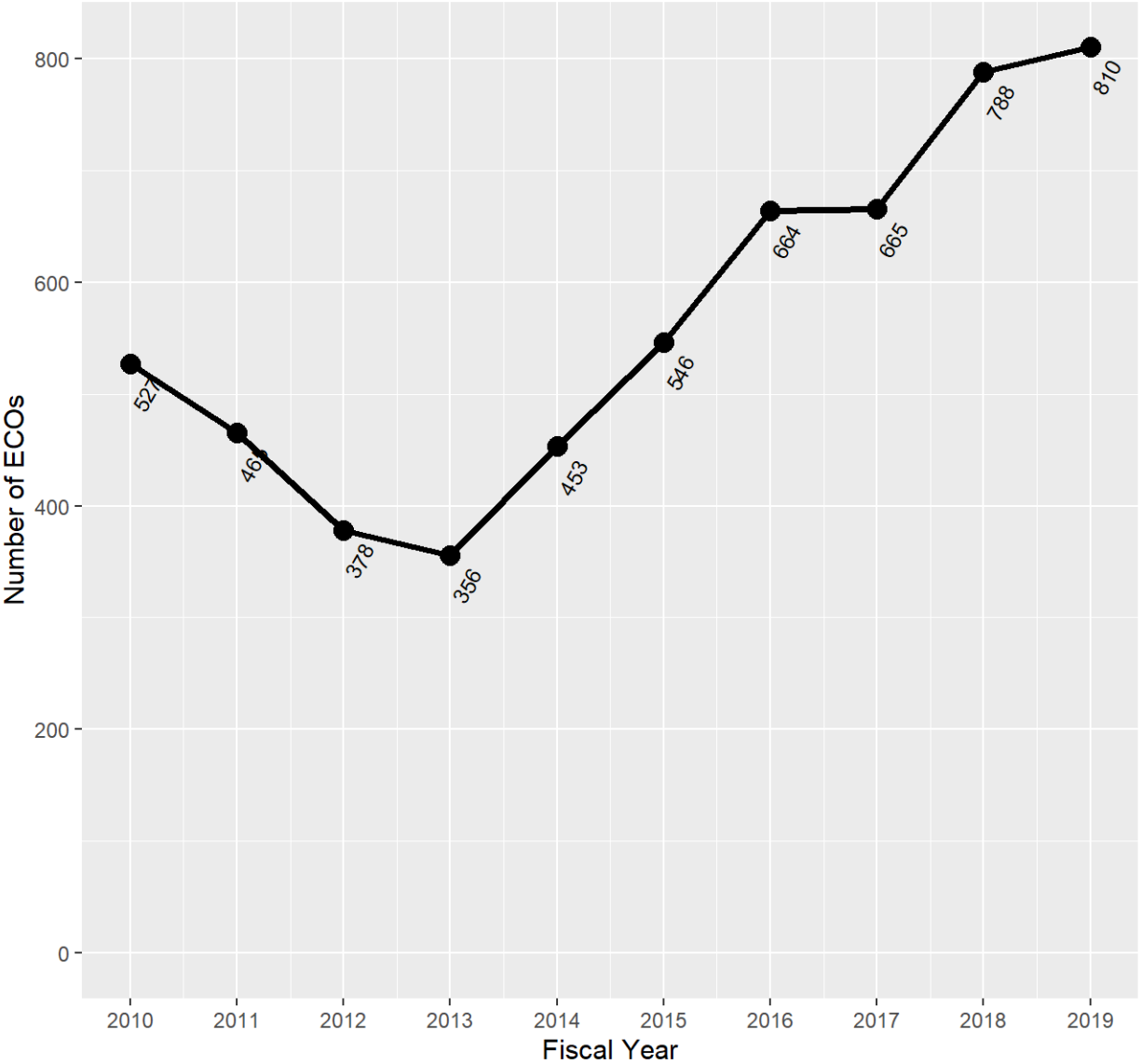


Figure 2: Quarterly Frequency of ECOs Issued for Children and Adolescents, FY14-FY19

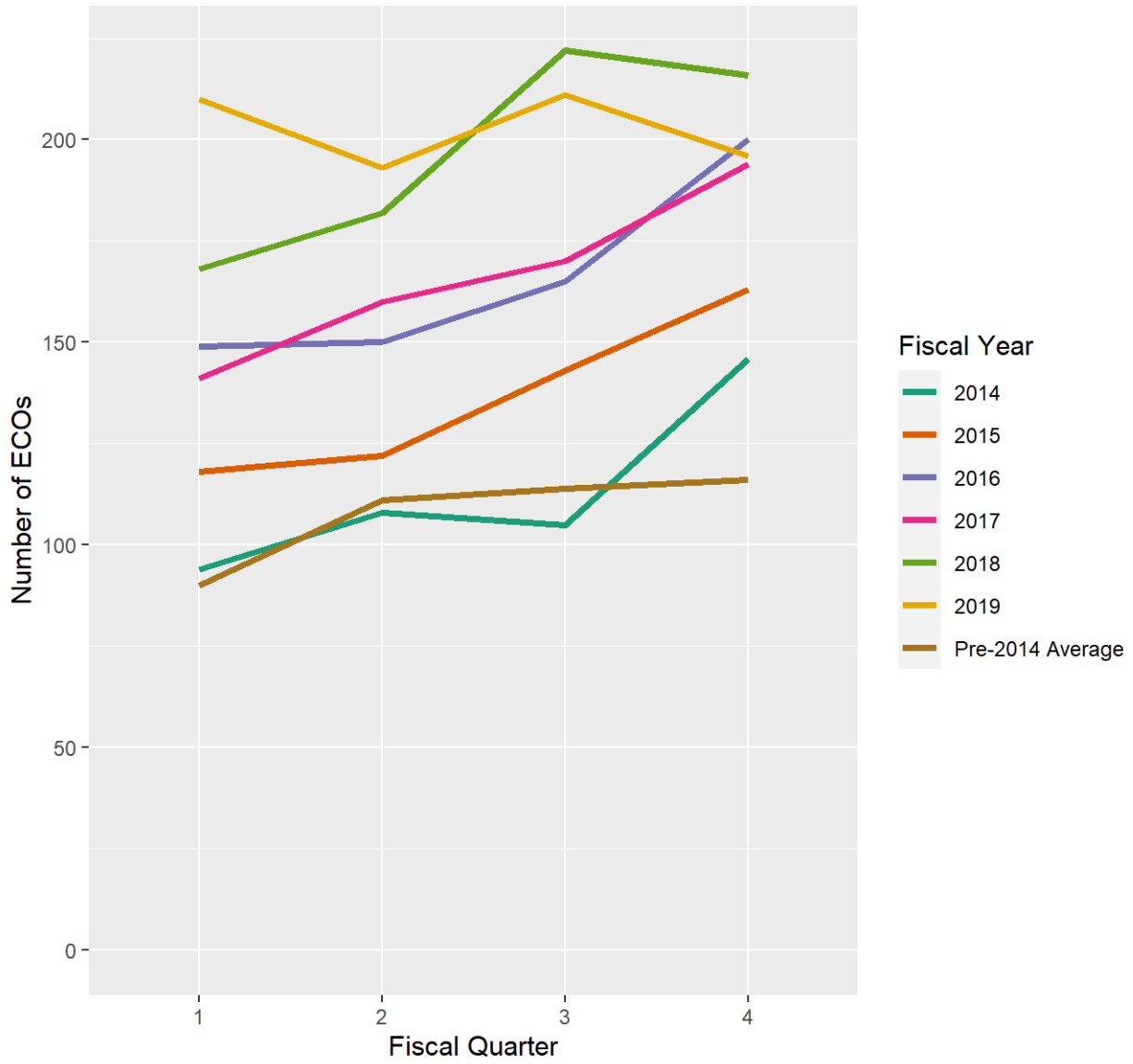


Table 1: Monthly Frequency of ECOs Issued for Children and Adolescents, FY10-FY19

<i>Month</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>
<i>July</i>	36	34	24	22	30	27	33	39	44	63
<i>August</i>	31	30	23	20	32	33	61	41	59	61
<i>September</i>	38	41	31	32	32	58	55	61	65	86
<i>October</i>	68	57	41	29	41	44	54	50	52	79
<i>November</i>	53	35	35	31	39	36	55	57	77	70
<i>December</i>	27	16	28	23	28	42	41	53	53	44
<i>January</i>	43	41	37	34	35	50	54	44	68	68
<i>February</i>	35	30	29	28	33	33	50	51	72	72
<i>March</i>	55	58	35	33	37	60	61	75	82	71
<i>April</i>	52	45	35	31	57	59	88	60	66	74
<i>May</i>	45	32	31	42	48	66	66	72	91	82
<i>June</i>	44	46	29	31	41	38	46	62	59	40
<i>Total</i>	527	465	378	356	453	546	664	665	788	810

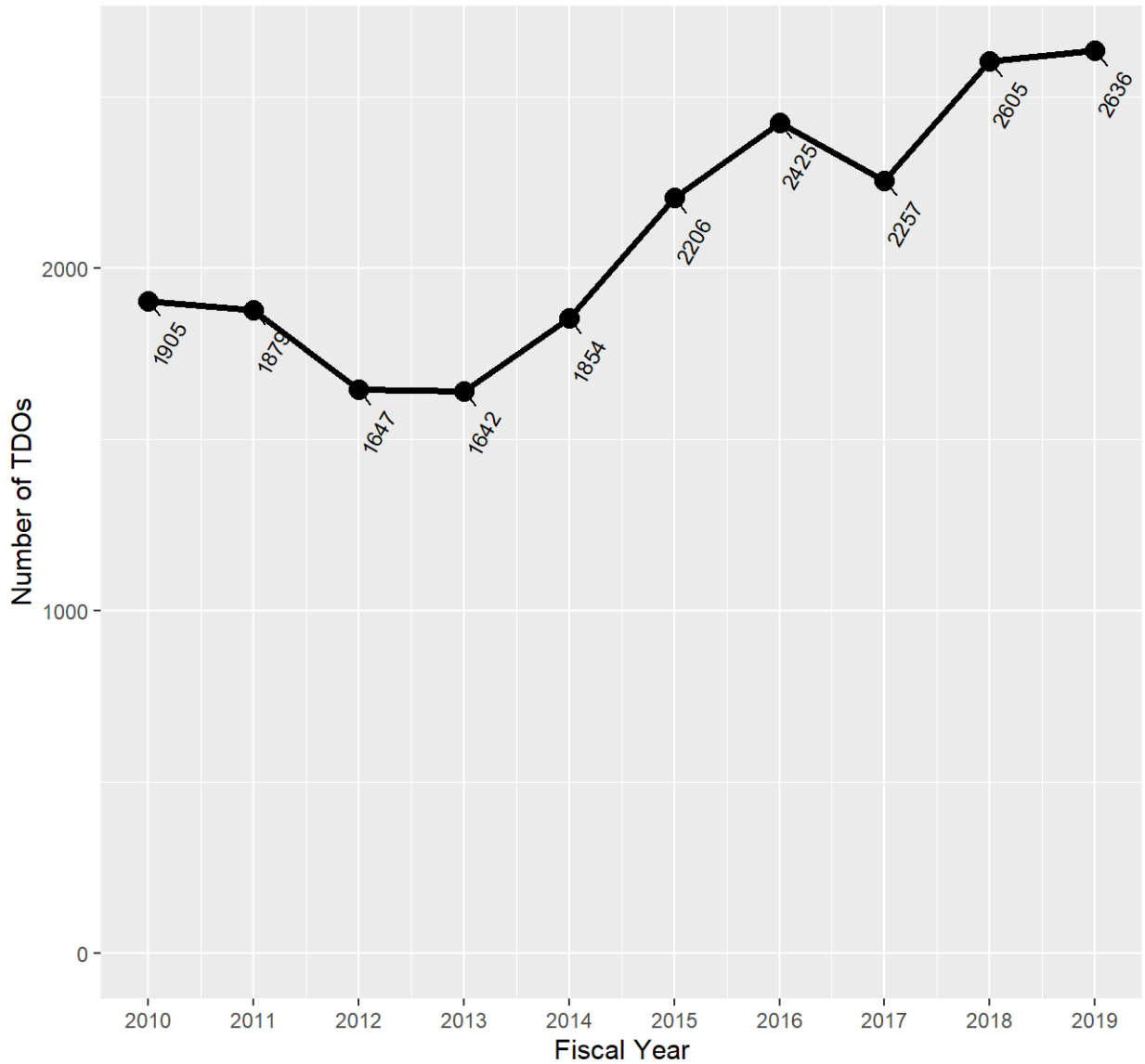
Temporary Detention Orders

The eMagistrate system is used by magistrates to issue TDOs pursuant to Va. Code § 37.2-809. 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” from the law enforcement officer tasked with service of process, the clerk enters the TDO into the JCMS database.¹ Because the eMagistrate system provides more comprehensive data regarding the number of TDOs issued than does the JCMS database, data from the eMagistrate system are used for TDO analyses in this report.

After three years of growth, the number of TDOs issued per year for children and adolescents decreased in FY17 (Figure 3). However, this decrease did not last more than one year. In FY18, 2,605 TDOs were issued for children and adolescents. This is a 15.4% increase over the previous year and was the highest number of TDOs recorded in any one year to date. After the steep growth between FY17 and FY18, the number of TDO issued increased only slightly to 2,636 in FY19. This 1.2% increase is the smallest rate of growth observed between any two years within the observation period. A similar pattern is reflected in the ECO data, as the number of ECOs issued for children and adolescents increased only slightly between FY18 and FY19. Though the leveling off that was observed between FY16 and FY17 did not continue into FY18, the low growth in the number of ECOs and TDOs issued between FY18 and FY19 may indicate a new plateau.

¹ In some instances, law enforcement officers do not return the “return of service” copy to the court, and therefore there TDOs cannot be entered into the JCMS database.

Figure 3: Annual Frequency of TDOs Issued for Children and Adolescents, FY10-FY19



Like in previous years, the number of TDOs issued for children and adolescents increased steeply during the second quarter of FY18 and FY19 (Figure 4). However, unlike in previous years where the number of TDOs issued decreased or increased only slightly during the third quarter, the steep increase in the number of TDOs issued continued into quarter three of both FY18 and FY19. The number of TDOs issued for children and adolescents then decreased in the fourth quarter of FY18 and FY19. Prior to FY18, a decrease during the fourth quarter of the fiscal year had not been observed since FY13.

On average, about 217 TDOs were issued per month for children and adolescents in FY18 and about 220 were issued per month in FY19 (Table 2). Similar to the patterns observed in the ECO data, the number of TDOs issued for children and adolescents generally peaks in March-May, and fewer TDOs are issued during the summer months. Interestingly, though the peak in number

of ECOs issued occurred earlier than usual in FY19 (September-November), the peak in TDOs still occurred in the expected period of March-May.

Figure 4: Quarterly Frequency of TDOs Issued for Children and Adolescents, FY10-FY19

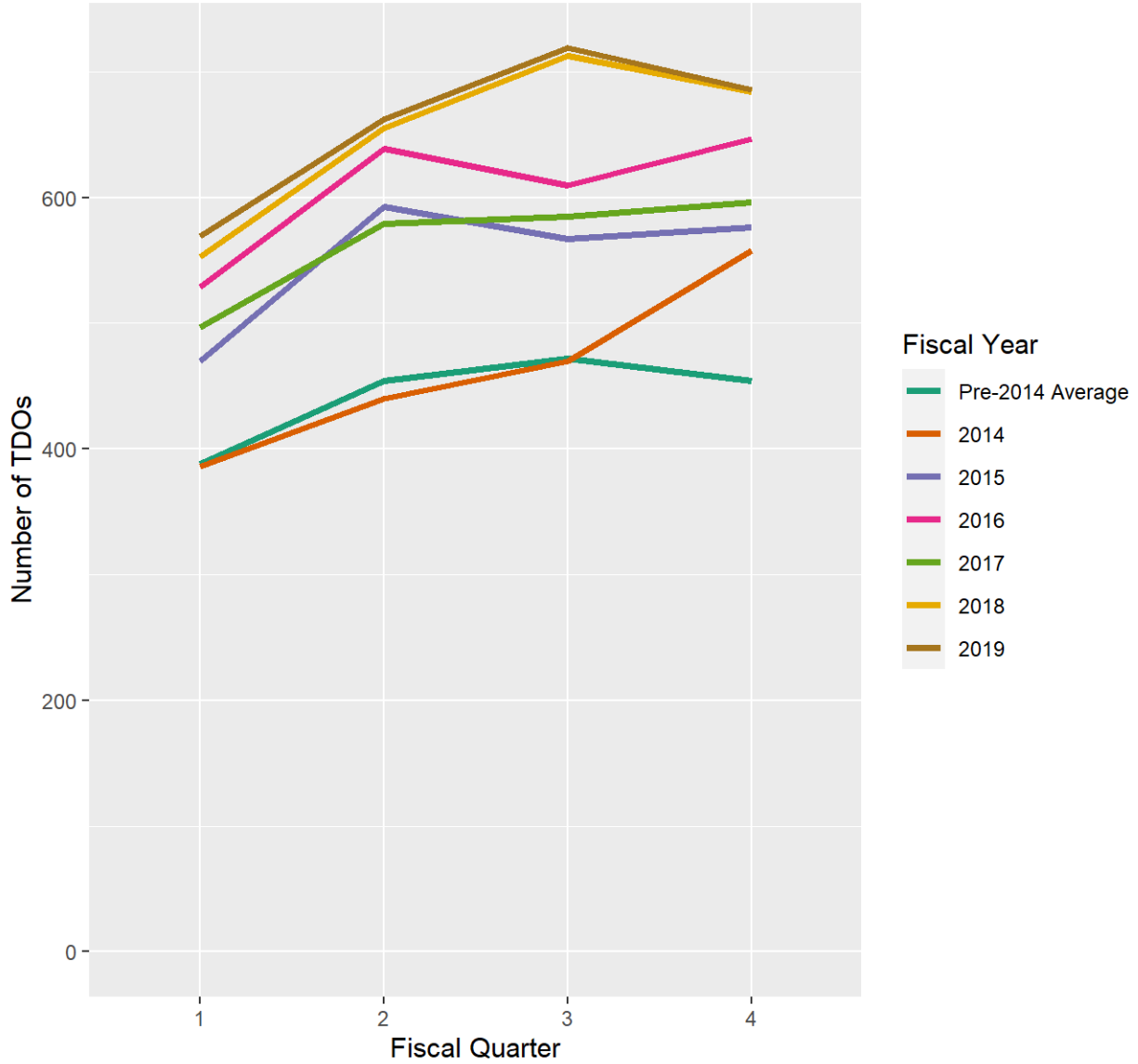


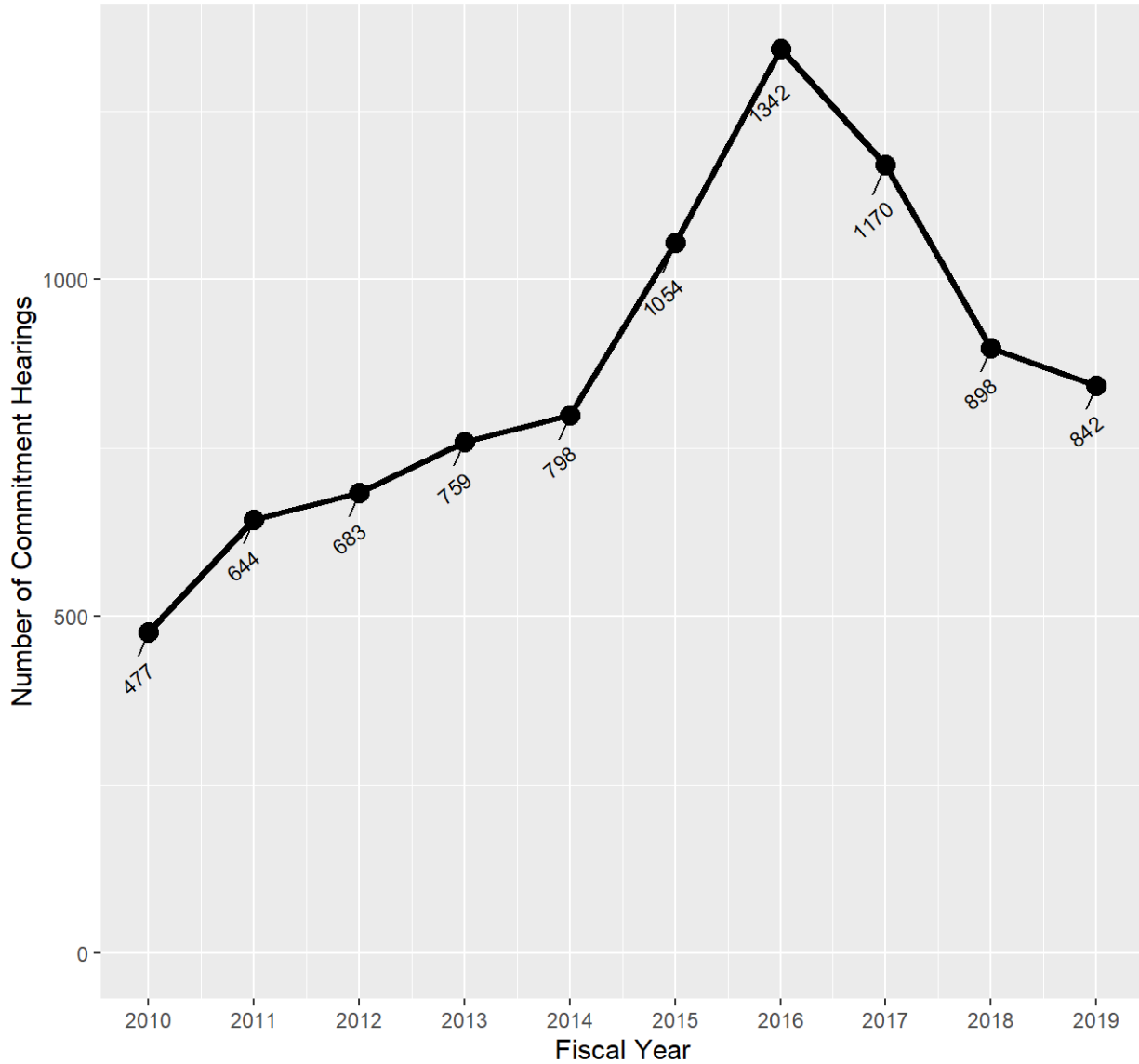
Table 2: Monthly Frequency of TDOs Issued for Children and Adolescents, FY10-FY19

<i>Month</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>
<i>July</i>	120	130	111	115	113	126	145	148	145	159
<i>August</i>	128	141	121	104	129	159	169	146	194	177
<i>September</i>	152	151	145	135	144	185	215	203	214	233
<i>October</i>	196	184	158	157	144	235	228	206	229	247
<i>November</i>	163	179	144	131	159	198	225	179	225	241
<i>December</i>	132	122	115	133	137	160	186	194	201	174
<i>January</i>	139	147	129	157	149	167	191	182	188	208
<i>February</i>	141	147	174	141	157	173	192	168	252	240
<i>March</i>	211	196	168	140	164	227	227	235	273	271
<i>April</i>	189	161	126	160	203	207	241	197	265	249
<i>May</i>	191	185	141	161	185	208	227	224	242	251
<i>June</i>	143	136	115	108	170	161	179	175	177	186
<i>Total</i>	1905	1879	1647	1642	1854	2206	2425	2257	2605	2636

Initial Commitment Hearings

Data extracted from JCMS were used to determine the number of commitment hearings held for children and adolescents across the Commonwealth. A decrease in the number of hearings held was observed between FY16 and FY17, and this trend slowed from FY18 to FY19 (Figure 5). In FY18, 898 commitment hearings were held for children and adolescents—a 23.2% decrease from the previous year. Between FY18 and FY19, the number of hearings held decreased by 6.23%. 842 commitment hearings were held for children and adolescents in FY19. This is the lowest number of hearings recorded in a single year since FY14.

Figure 5: Annual Frequency of Initial Commitment Hearings Involving Children and Adolescents, FY10-FY19



The number of hearings held per month in FY18 ranged from 52 to 106, with an average of about 75 hearings held per month (Table 3). FY18 monthly frequencies were lower than FY17 monthly frequencies in every month except August. The number of hearings held per month in FY19 ranged from 46 to 100, with an average of about 70. The annual decrease in commitment hearings held observed in FY19 was primarily the result of lower monthly frequencies during the first quarter of FY19 than during the first quarter of FY18. Additionally, unlike in previous years, the number of commitment hearings held for children and adolescents decreased during the fourth quarter in FY19 (Figure 6).

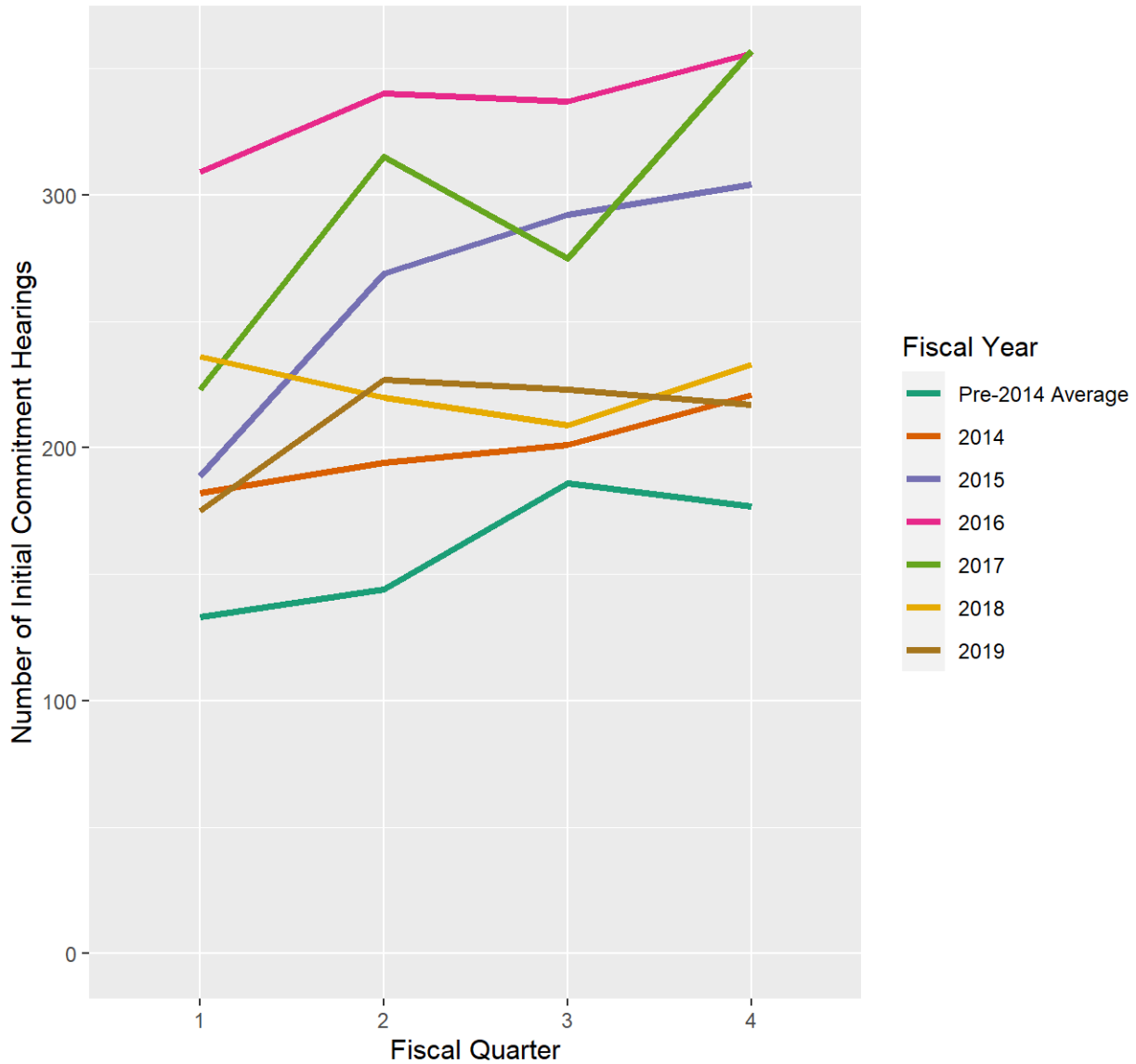
The number of TDOs issued was much higher than the number of commitment hearings held for children and adolescents in each month of FY18 and FY19. Annually, there were 66.1% fewer commitment hearings held than TDOs issued in FY18 and 68.1% fewer hearings than TDOs in

FY19. The largest difference during this two year period occurred in March of FY18 during which the TDO frequency (273) was 74.7% higher than the frequency of commitment hearings held (69). The smallest difference was observed in July of FY18 during which TDOs issued (145) exceeded commitment hearings held (59) by 59.3%.

Table 3: Monthly Frequency of Commitment Hearings Held for Children and Adolescents, FY10-FY19

<i>Month</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>
<i>July</i>	30	50	40	43	55	62	92	64	59	46
<i>August</i>	29	46	50	51	56	54	108	74	101	73
<i>September</i>	26	54	55	58	71	73	109	85	76	56
<i>October</i>	29	55	62	73	63	104	100	106	78	79
<i>November</i>	35	55	47	57	70	77	123	106	78	100
<i>December</i>	27	36	37	65	61	88	117	103	64	48
<i>January</i>	31	55	50	81	71	89	109	88	70	82
<i>February</i>	50	60	75	67	61	87	108	79	70	68
<i>March</i>	57	69	83	68	69	116	120	108	69	73
<i>April</i>	51	61	71	76	73	88	138	125	106	74
<i>May</i>	52	58	63	78	72	117	112	136	75	83
<i>June</i>	60	45	50	42	76	99	106	96	52	60
<i>Total</i>	477	644	683	759	798	1054	1342	1170	898	842

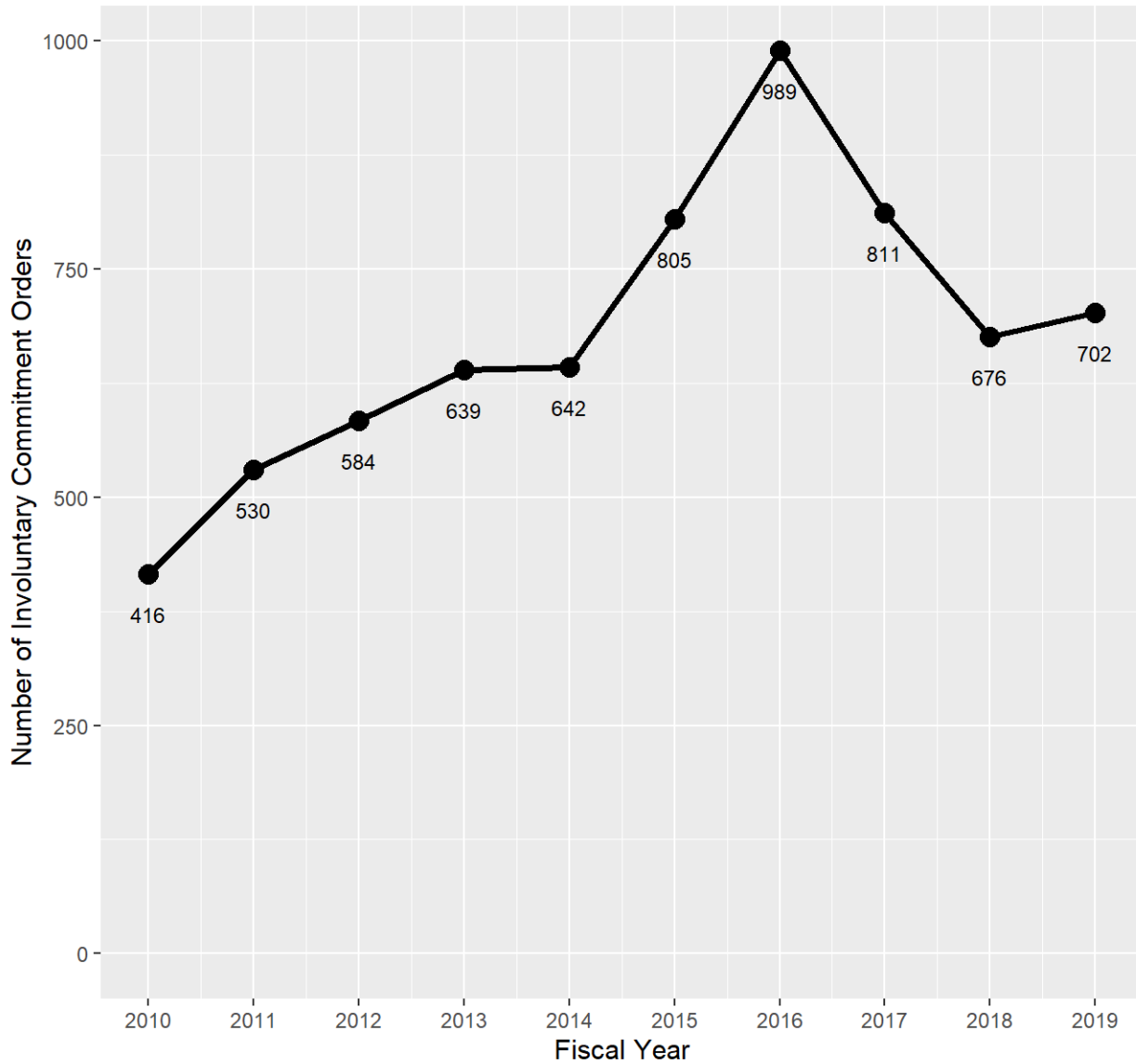
Figure 6: Quarterly Frequency of Initial Commitment Hearings Involving Children and Adolescents, FY10-FY19



Involuntary Commitment Orders

Disposition codes recorded in JCMS allow for the total number of involuntary commitment orders issued for children and adolescents to be counted. After a decrease in the annual number of involuntary commitment orders issued was observed between FY16 and FY17, the trend continued in FY18 (Figure 7). There was then a slight increase in annual involuntary commitment orders issued in FY19. A total of 676 involuntary commitment orders were issued in FY18, a 16.6% decrease from the 811 orders issued in FY17. In FY19, the number of orders issued increased 3.8%, rising to 702.

Figure 7: Annual Frequency of Involuntary Commitment Orders for Children and Adolescents, FY10-FY19



Unlike in most previous years where the number of involuntary commitment orders issued for children and adolescents fluctuated quarterly, numbers remained fairly consistent throughout the year with the exception of one quarter in both FY18 and FY19. In FY18, both the number of commitment hearings held and the number of involuntary commitment orders issued remained fairly stable throughout the year, with a slightly higher count in April driving an increase in the fourth quarter of the fiscal year (Figure 8 and Table 4). The number of involuntary commitment orders issued for children and adolescents per month in FY18 ranged from 38 to 89, with an average of about 56. Similar to the pattern observed in the number of commitment hearings held in FY19, the number of commitment orders issued increased during the second quarter of the fiscal year and was followed by stable counts in the third and fourth quarters. The number of involuntary commitment orders issued per month in FY19 ranged from 39 to 80, with an average of about 59.

Figure 8: Quarterly Frequency of Involuntary Commitment Orders Issued for Children and Adolescents, FY10-FY19

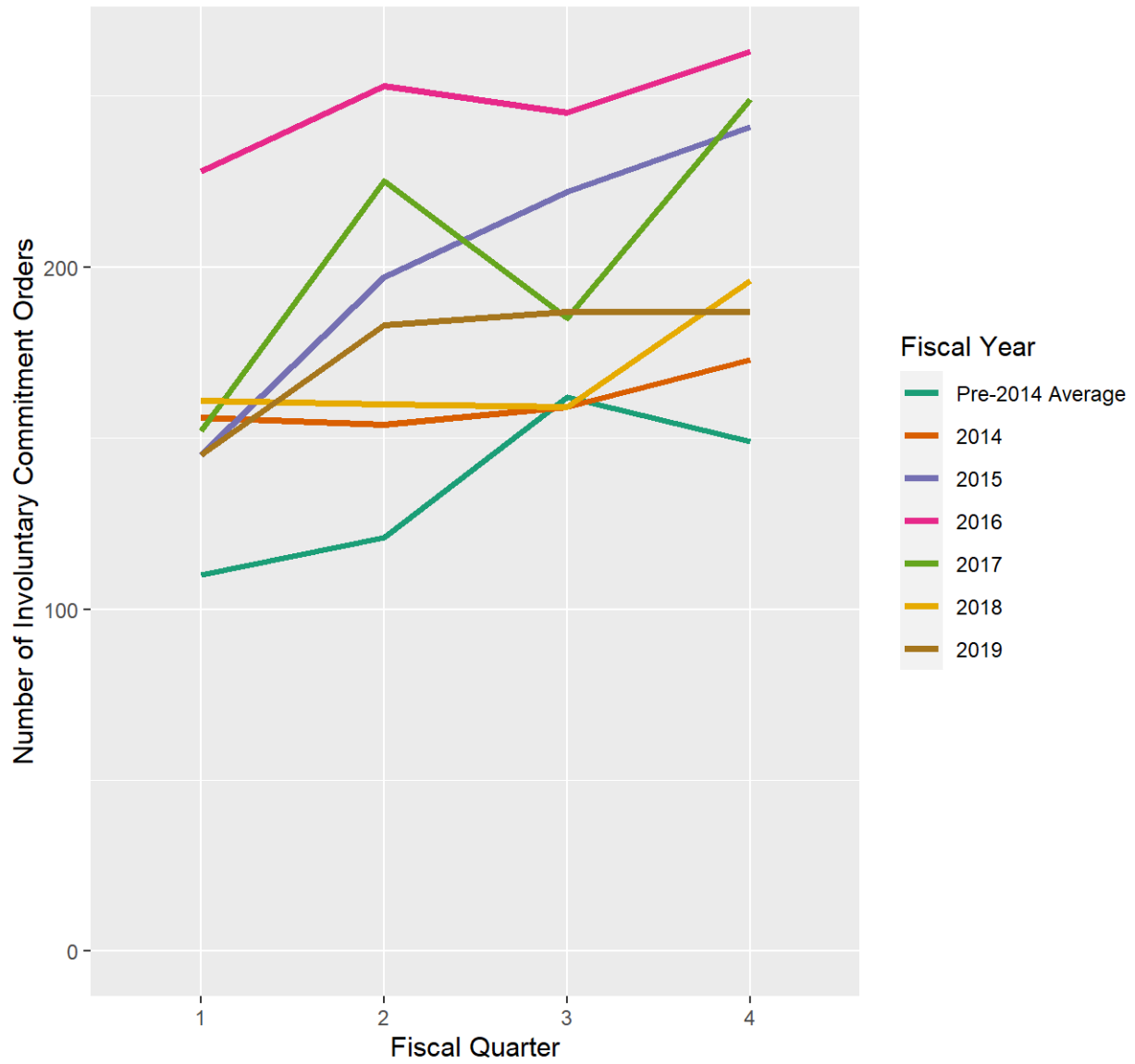


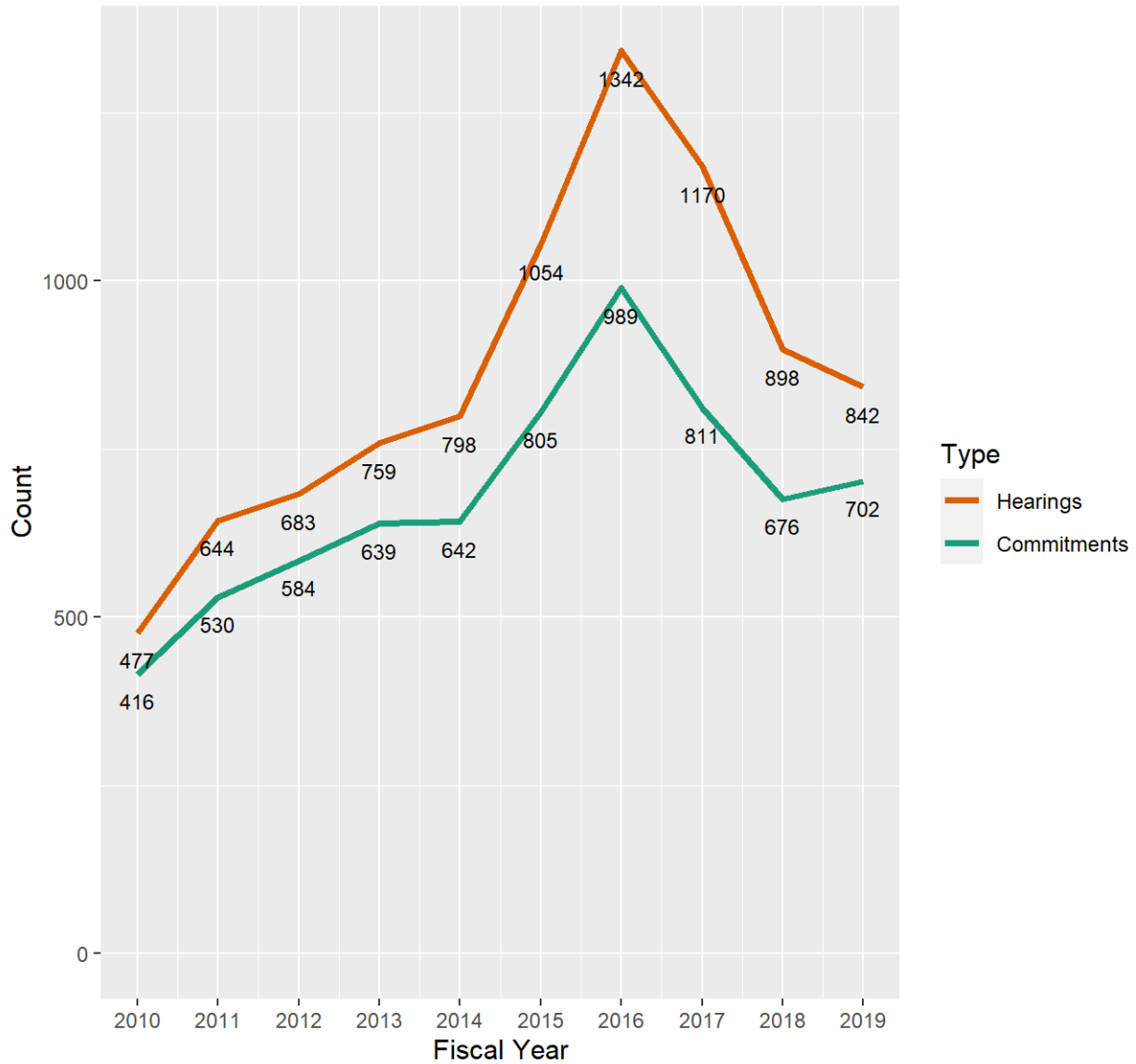
Table 4: Monthly Frequency of Involuntary Commitment Orders Issued for Children and Adolescents, FY10-FY19

<i>Month</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>
<i>July</i>	25	48	34	29	46	41	72	50	43	39
<i>August</i>	28	34	41	43	49	45	76	50	63	60
<i>September</i>	18	44	43	53	61	59	80	52	55	46
<i>October</i>	22	44	51	59	50	79	76	83	51	63
<i>November</i>	27	46	40	47	57	56	88	67	57	80
<i>December</i>	22	32	34	59	47	62	89	75	52	40
<i>January</i>	26	38	46	71	56	72	78	58	53	66
<i>February</i>	49	51	62	57	43	64	81	52	52	55
<i>March</i>	56	57	79	57	60	86	86	75	54	66
<i>April</i>	46	52	59	66	54	58	99	89	89	65
<i>May</i>	44	49	53	64	56	100	89	98	69	69
<i>June</i>	53	35	42	34	63	83	75	62	38	53
<i>Total</i>	416	530	584	639	642	805	989	811	676	702

Because the number of commitment hearings held for children and adolescents decreased but the number of commitment orders issued increased in FY19, the difference between these two measures is smaller than the difference observed in years prior (Figure 9). As a result, the frequency in which a commitment hearing resulted in an order for involuntary commitment increased in FY19. In FY18, 75.3% of commitment hearings held resulted in an order for involuntary commitment, while 83.4% of hearings resulted in commitment in FY19. In FY18, the smallest proportion of hearings resulting in involuntary commitments occurred in August (62.4%), and the largest proportion occurred in May (92%). During FY19, the smallest proportion of hearings resulting in commitment occurred in October (79.7%) and the largest proportion occurred in March (90.4%).

Note that these figures represent only children and adolescents for whom an involuntary commitment order was issued and not the total number of children and adolescents hospitalized. Children and adolescents can also be hospitalized via parental admission or voluntarily via a joint decision with a parent or guardian at the commitment hearing.

Figure 9: Annual Frequencies of Initial Commitment Hearings and Involuntary Commitment Orders for Children and Adolescents, FY10-FY19



Mandatory Outpatient Treatment and Other Commitment Hearing Dispositions

Disposition codes recorded in JCMS allow for the number of mandatory outpatient treatment (MOT) orders issued for children and adolescents to be counted. MOT orders are issued rarely, accounting for less than one percent of all commitment hearing outcomes in both FY18 and FY19. Seven MOT orders were issued for children and adolescents in FY18, and only one MOT order was issued in FY19 (Table 5).

Table 5: Annual Frequency of MOT Orders for Children and Adolescents, FY10-FY19

<i>Fiscal Year</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>
<i>Number of MOT Orders</i>	1	0	1	10	2	0	3	2	7	1

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 child or adolescent does not meet criteria or because a child or adolescent is voluntarily admitted). We have thus chosen to present data regarding only the dispositions of MOT and involuntary commitment 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 child or adolescent 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 §16.1-340, §16.1-340.2). Each time an ATO is issued it is entered into the eMagistrate system regardless of whether it is successfully executed.

The number of ATOs issued for children and adolescents per year increased considerably between FY16 (n=7) and FY17 (n=23), and this increase was sustained in FY18 when 26 ATOs were issued (Table 6). The number of ATOs issued per year for children and adolescents changed only slightly in FY19 in which 25 orders were issued. This three-year period of sustained increase may indicate the start of a new plateau. It is much more common for ATOs to be issued for children and adolescents under TDO than ECO. Of the total number of ATOs issued in FY18 and FY19, only 11.8% were issued for children and adolescents under ECO.

Table 6: Annual Frequency of ATOs Issued for Children and Adolescents by Order Type, FY10-FY19

<i>Type</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>
<i>ECOJ</i>	2	1	0	0	2	0	0	1	3	3
<i>TDOJ</i>	22	12	13	15	9	8	7	22	23	22
<i>Total</i>	24	13	13	15	11	8	7	23	26	25

In FY18, the most common alternative transportation provider was transportation services contracted specifically for the purpose of alternative transport, followed closely by a family member (Table 6). FY18 is the only year during the surveillance period in which alternative transport was assigned to execute the majority of ATOs. In FY19, family, alternative transport,

and medical transport all provided alternative transportation to six children and adolescents.

Table 7: Annual Frequency of ATOs issued for Children and Adolescents by Transportation Provider, FY10-FY19

<i>Transportation Provider</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>
<i>Alternative Transport</i>	2	0	1	2	0	1	1	6	10	6
<i>Family Friend</i>	17	8	6	6	7	2	2	7	9	6
<i>Health Care Provider</i>	1	1	1	1	0	0	0	1	0	1
<i>Medical Transport</i>	3	3	1	0	2	2	1	1	0	0
<i>Officer/CJS</i>	1	1	1	2	1	3	3	6	5	6
<i>Unknown</i>	0	0	0	1	0	0	0	0	1	3
<i>Total</i>	0	0	3	3	1	0	0	2	1	3
	24	13	13	15	11	8	7	23	26	25

Conclusion

Overall, it appears that several annual changes and trends noted in the FY17 report have continued. Despite the significant rise in the annual number of ECOs and TDOs in FY18, the number of commitment hearings held and the number of involuntary commitment orders issued for children and adolescents per year continued to decline during that year. A decline in annual commitment hearings held was again observed in FY19, though at a much slower rate than in previous years, and the number of commitment orders issued increased slightly. While the number of ECOs and TDOs issued in FY19 were the highest recorded during the surveillance period, the number of commitment hearings held and commitment orders issued during the same year were the lowest recorded since FY14. As in previous years, the use of mandatory outpatient treatment and alternative transportation for children and adolescents remains low but has increased slightly.

While quarterly trends in the number of ECOs and TDOs issued were similar in FY18 and FY19 as compared to previous years, the quarterly trends in the number of commitment hearings held and involuntary commitment orders issued differed. Compared to previous years, the number of commitment hearings held and involuntary commitment orders issued remained fairly stable across quarters, with the biggest differences observed in quarter four of FY18 and quarter two of FY19.

As surveillance continues, further exploration into quarterly trends may uncover factors that contribute to the observed differences in the number of commitment hearings held and involuntary commitment orders issued throughout the year. Though trends in the use of alternative transportation and mandatory outpatient treatment have remained fairly consistent over recent years, it will be important to monitor the impact of ongoing implementation of ATO programs and potential policy and practice changes to MOT in the coming years.