North Sound Behavioral Health
Administrative Services Organization

Board of Directors

Hybrid Meeting Agenda

August 10th, 2023

Board of Directors Members Present in Person:

Members Present via Zoom:

North Sound Behavioral Health Administrative Services Organization (North Sound BH-ASO) Staff Present:

Guests Present:

1. **Call to Order and Introductions** – Chair
2. **Tribal Acknowledgement:** Chair
   Tribal Behavioral Health | North Sound BH-ASO (nsbhaso.org)
3. **Revisions to the Agenda** – Chair
4. **Approval of the June 8th, 2023, Minutes, Motion #23-40** – Chair..... Attachment
5. **Comments & Announcements from the Chair**
   - Update on ASO Executive Director Selection
6. **Reports from Board Members**
7. **Comments from the Public**
8. **Report from the Advisory Board (AB)-**AB Chair
   (Available at Meeting) .....Attachment
9. **Report from the Finance Officer-**Margaret Rojas/Darrell Heiner
   (Available at Meeting) ..... Attachment
10. **Report from the Governance Operations Committee-**Chair

All matters listed with the Consent Agenda have been distributed to each Member for reading and study, are considered to be routine, and will be enacted by one action of the Board of Directors with no separate discussion. If separate discussion is desired, the item may be removed from the Consent Agenda and placed on the Regular Agenda by request of a Member.

Consent Agenda (Available at Meeting) .....Attachment

Due to the Board of Directors having no meeting in July, there are two months of claims paid along with payroll and associated employer benefits below.

Motion #23-41

- To review and approve the North Sound Behavioral Health Administrative Services Organization claims paid from June 1st, through June 30th, in the amount of $4,014,336.30.
- Payroll for the month of June in the amount of $185,175.16 and associated employer benefits in the amount of $86,071.95.

Motion #23-42

- To review and approve the North Sound Behavioral Health Administrative Services Organization claims paid from July 1st, through July 31st, in the amount of $3,977,431.05.
- Payroll for the month of July in the amount of $211,759.33 and associated employer benefits in the amount of $87,453.02.

11. Action Items

For Board Approval

Snohomish County Human Services

Snohomish County has requested an increase to their annual budget in the amount of $900,000 to align with actual costs for 24/7 mobile crisis outreach teams and crisis follow up services post interventions.

One-time Dedicated Cannabis Account (DCA) funds in the amount of $150,000 are being added from a reserve of unspent DCA funds.

Motion #23-43

- North Sound BH-ASO-Snohomish County-ICCN-23 Amendment 1 to provide additional funds for the mobile crisis outreach teams and one-time funding for Dedicated Cannabis Account. The contract term is January 1, 2023, through December 31, 2023, with an automatic one-year renewal on January 1, 2024, based on continued compliance with the terms of the contract.

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Volunteers of America (VOA)
VOA has requested additional funds to align with costs of providing 24/7 North Sound Regional Crisis Line services. The annual increase to their contract is $443,740.

Motion #23-44

- North Sound BH-ASO-VOA-ICCN-23 Amendment 1 to provide additional funds for the North Sound Regional Crisis Line. The contract term is January 1, 2023, through December 31, 2023, with an automatic one-year renewal on January 1, 2024, based on continued compliance with the terms of the contract.

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Tulalip Tribes-Family Haven
Family Haven is a longstanding Federal Block Grant (FBG) provider in the region. The services are an outreach and engagement to at-risk youth on the reservation. The intent is to reengage the youth in school, behavioral health services and their tribal culture. The annual budget for this contract is $74,850.

Motion #23-45

- North Sound BH-ASO-Tulalip Tribes Family Haven-FBG-23 to provide funding to continue services for at-risk youth. The contract term is July 1, 2023, through June 30, 2024, with an automatic one-year renewal on July 1, 2024, based on continued compliance with the terms of the contract.

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12. Introduction Items

Conquer Addiction
Conquer addiction was the successful bidder for the Assisted Outpatient Treatment (AOT) Request for Proposals (RFP) in the North Sound Region. Conquer will provide AOT services in Snohomish County. The annual funding is $236,844.

Motion# XX-XX
North Sound BH-ASO-Conquer Addiction-ICN-23 to provide AOT services in Snohomish County. The contract term is August 1, 2023, through July 31, 2024, with an automatic one-year renewal on August 1, 2024, based on continued compliance with the terms of the contract.

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Touchstone Behavioral Health
Touchstone Behavioral Health is a provider of youth services in Whatcom County. This contract is for outpatient services and youth 23-hour crisis stabilization services. The contract is a Fee for Service Contract.

Motion #XX-XX

- North Sound BH-ASO-Touchstone Behavioral Health-ICN-23 to provide youth outpatient services and youth crisis stabilization services in Whatcom County. The contract term is September 1, 2023, through August 31, 2024, with an automatic one-year renewal on September 1, 2024, based on continued compliance with the terms of the contract.

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Mount Baker Presbyterian Church (MBPC)

The MBPC has been a partner in our opioid outreach program and our Federal HRSA grant for Medication Assisted Treatment in east Skagit County. MBPC conducts outreach and engagement in the Concrete area and will be expanding into Sedro Woolley. The annual budget total is $125,000 an increase of $95,000.

Motion #XX-XX

North Sound BH-ASO-PSC-23 to provide outreach and engagement to individuals struggling with their substance use and/or mental health. The contract term is September 1, 2023, through August 31, 2024, with an automatic one-year renewal on September 1, 2024, based on continued compliance with the terms of the contract.

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13. DRAFT Report from the Director ..... Attachments

14. Adjourn

Next Meeting: September 1st, 2023

North Sound Behavioral Health
Administrative Services Organization

Board of Directors

Hybrid Meeting Agenda

June 8th, 2023

Board of Directors Members Present in Person:

- **Peter Browning,** Commissioner; Skagit County, Board Chair
- **Cammy Hart-Anderson**, Human Services, designated alternate for Dave Somers; County Executive, Snohomish County
- **Malora Christensen,** designated alternate for Satpal Sidhu, County Executive, Whatcom County
- **Jill Johnson**, Commissioner, Island County
- **Sam Low**, County Council, Snohomish County

Members Present via Zoom:

- **George Kosovich,** Public Health**,** designated alternate for Peter Browning, Commissioner; Skagit County
- **Perry Mowery,** Behavioral Health Supervisor, designated alternate for Satpal Sidhu, County Executive; Whatcom County
- **Pat O'Maley Lanphear**, North Sound BH-ASO Advisory Board, Chair
- **Nicole Gorle**, Legislative Analyst, Snohomish County; designated alternate for Nate Nehring, County Council
- **Barbara LaBrash,** Human Services Manager, San Juan County, designated alternate for Cindy Wolf and newly appointed Jane Fuller
- **Barry Buchanan,** County Council; Whatcom County
- **Jane Fuller**, County Council; San Juan County

North Sound Behavioral Health Administrative Services Organization (North Sound BH-ASO) Staff Present:

- **Joe Valentine**, Executive Director, North Sound BH-ASO
- **Darrell Heiner**, Senior Accountant, North Sound BH-ASO
- **Margaret Rojas,** Assistant Executive Director, North Sound BH-ASO
- **Lisa Hudspeth,** Program Specialist, North Sound BH-ASO
- **Charles DeElena,** Business Improvement Manager/Compliance Officer, North Sound BH-ASO

- **Kimberly Nakatani,** Accountant, NS BH-ASO Accountant
- **Darrell Heiner,** Sr. Accountant, North Sound BH-ASO
- **Maria Arreola,** Senior Administrative Assistant**,** Minute Taker, sitting in for the Clerk of the Board, Joanie Wenzl

Guests Present:

- Lori Fleming, Hannah Fisk

Call to Order and Introductions – Chair

The Chair called the meeting to order and initiated introductions.

Tribal Acknowledgement-Chair

Tribal Behavioral Health | North Sound BH-ASO (nsbhaso.org)

The Chair announced that in upcoming meetings the Tribal Land Acknowledgement will be read at the start of each meeting.

Revisions to the Agenda – Chair

No revisions to the agenda were requested.

Approval of the May 4th, 2023, Minutes, Motion #23-25 – Chair..... Tab 1

Cammy Hart-Anderson moved the motion for approval, Jill Johnson seconded, all in favor, none opposed, motion #23-25 carried.

Comments & Announcements from the Chair

None

Reports from Members

Skagit, San Juan, Island, Whatcom, and Snohomish gave updates on their respective counties regarding behavioral health happenings.

Comments from the Public

No comments from the public

Report from the Advisory Board

Pat O'Maley Lanphear, Advisory Board Chair, gave the report from the Advisory Board and answered questions from Board Members.

Report from the Finance Officer

Joe Valentine gave the report from the Finance Officer and answered questions.

Report from the Governance Operations Committee

All counties have signed the Opioid Abatement Council MOUs. Each county has identified a member to sit on the Opioid Abatement Council. The process of moving forward with the initial meeting will begin soon.

All matters listed with the Consent Agenda have been distributed to each Member for reading and study, are considered to be routine, and will be enacted by one action of the Board of Directors with no separate discussion. If separate discussion is desired, the item may be removed from the Consent Agenda and placed on the Regular Agenda by request of a Member.

Consent Agenda

Motion #23-26

- To review and approve the North Sound Behavioral Health Administrative Services Organization claims paid from May 1st, 2023, through May 31st, 2023, in the amount of $2,471,569.13.
- Payroll for the month of May in the amount of $193,094.41 and associated employer benefits in the amount of $88,493.25.

Jill Johnson moved the motion for approval, Barry Buchanan seconded, all in favor, none opposed, motion #23-26 carried.

1. **Action Items**

For Board Approval

The contracts for motions #23-27 to # 23-31 fall into four distinct categories:

- Health Care Authority (HCA) contract provides funding for the period of July 1, 2023, through December 31, 2023. The Housing Assistance with Recovery Peer Supports (HARPS) provides funding for the period of July 1, 2023 through June 30, 2024.
- Downstream contracts for General Fund-State (GF-S) Mandatory Services (Crisis Outreach, Involuntary Treatment Act (ITA) Services, ITA inpatient, Secure Withdrawal Management, Proviso Funding)
- Downstream contracts for Substance Abuse Block Grant (SABG) Priority Services (Pregnant & Parenting Women Housing Services (PPW), Individuals using Intravenous Drugs (IUID) Opiate Outreach)
- Downstream contracts for GF-S/SABG/Mental Health Block Grant (MHBG) Services within Available Resources (Mental Health & Substance Use Disorder Outpatient, SUD Residential, Triage Services)

The downstream contracts follow the HCA contract. The funding for the downstream contracts is included in the same amendment, which is why you will see the same numbered amendment under a different category of funding. The funding allocations for the downstream contracts will be developed over the next month.

Health Care Authority

- K-6334 is providing the GF-S funding for the period of January 1, 2023, through December 31, 2023 and Federal Block Grant funds for the period of January 1, 2023, through June 30, 2024.
    - New GF-S funding is expected for the period of July – December 2023, however the details have not been provided by HCA to date.

Motion#23-27

HCA-NS BH-ASO-K-6334-Amendment 1 providing the ASO GF-S funding and legislative provisos for the period of July 1, 2023, through December 31, 2023, and Federal Block Grant Funding for the period of January 1, 2023 through June 30, 2024

Cammy Hart-Anderson moved the motion for approval, Jill Johnson seconded, all in favor, motion #23-27 carried.

- K-6178 Housing and Recovery through Peer Support Services (HARPS) team providing permanent supportive housing services for individuals exiting or at risk of entering a behavioral healthcare setting.

Motion #23-28

HCA-NS BH-ASO-K-23 for the purpose of funding the HARPS team and HARPS subsidies. The maximum amount on this contract is $616,440 with a term of July 1, 2023, through June 30, 2024.

Cammy Hart-Anderson moved the motion for approval, Jill Johnson seconded, all in favor, motion #23-28 carried.

GF-S Mandatory Services

The following contracts provide mandatory behavioral health services.

- Compass Health
  - Mobile Crisis Outreach ongoing and the expansion funds introduced in April, ITA services, Program for Assertive Community Treatment (PACT), Evaluation and Treatment Services, E&T Discharge Planners, Whatcom Triage Diversion Pilot, Child Youth and Family Crisis Outreach Team
- Snohomish County
  - Mobile Crisis Outreach, ITA services
  - Proviso Funding-Jail Transition Services, Designated Cannabis Account, Trueblood Funds
- Volunteers of America
  - Toll Free Crisis Hotline
- Telecare
  - Evaluation and Treatment Services, Discharge Planners
- American Behavioral Health Services (ABHS)
  - Secure Withdrawal Management
- Lifeline Connections
  - PACT
- Snohomish County Superior Court
  - Juvenile Treatment Services
- Island County
  - Proviso Funding-Jail Transition Services, Trueblood Funds, Designated Cannabis Account
- San Juan County
  - Proviso Funding-Jail Transition Services, Designated Cannabis Account
- Skagit County
  - Proviso Funding-Jail Transition Services, Designated Cannabis Account, Trueblood Funds

- Whatcom County
    - Proviso Funding-Jail Transition Services, Designated Cannabis Account, Trueblood Funds

Motion #23-29

NS BH-ASO-Compass Health-ICCN-23 Amendment 1 to provide ongoing and expansion funding for continue services under this contract. The contract term is January 1, 2023, through December 31, 2023 with an automatic one-year renewal on January 1, 2024 based on continued compliance with the terms of the contract. The six (6) month amount is from July 1, 2023 – December 31, 2023.

NS BH-ASO-Snohomish County-ICCN-23 Amendment 1 to provide the funding to continue services under this contract. The contract term is January 1, 2023 through December 31, 2023 with an automatic one-year renewal on January 1, 2024 based on continued compliance with the terms of the contract.

NS BH-ASO-VOA-ICCN-23 Amendment 1 to provide the funding to continue services under this contract. The contract term is January 1, 2023 through December 31, 2023 with an automatic one-year renewal on January 1, 2024 based on continued compliance with the terms of the contract.

NS BH-ASO-Telecare-ICCN-23 Amendment 1 to provide the funding to continue services under this contract. The contract term is January 1, 2023 through December 31, 2023 with an automatic one-year renewal on January 1, 2024 based on continued compliance with the terms of the contract.

NS BH-ASO-ABHS-ICN-23 Amendment 1 to provide the funding to continue services under this contract. The contract term is January 1, 2023 through December 31, 2023 with an automatic one-year renewal on January 1, 2024 based on continued compliance with the terms of the contract.

NS BH-ASO-Lifeline Connections-ICN-23 Amendment 1 to provide the funding to continue services under this contract. The contract term is January 1, 2023 through December 31, 2023 with an automatic one-year renewal on January 1, 2024 based on continued compliance with the terms of the contract.

NS BH-ASO-Snohomish County Superior Court-ICN-23 Amendment 1 to provide the funding to continue services under this contract. The contract term is January 1, 2023 through December 31, 2023 with an automatic one-year renewal on January 1, 2024 based on continued compliance with the terms of the contract.

NS BH-ASO-Island County-ICN-23 Amendment 1 to provide the funding to continue services under this contract. The contract term is January 1, 2023 through December 31, 2023 with an automatic one-year renewal on January 1, 2024 based on continued compliance with the terms of the contract.

NS BH-ASO-San Juan County-ICN-23 Amendment 1 to provide the funding to continue services under this contract. The contract term is January 1, 2023 through December 31, 2023 with an automatic one-year renewal on January 1, 2024 based on continued compliance with the terms of the contract.

NS BH-ASO-Skagit County-Interlocal-23 Amendment 1 to provide the funding to continue services under this contract. The contract term is January 1, 2023 through December 31, 2023 with an automatic one-year renewal on January 1, 2024 based on continued compliance with the terms of the contract.

NS BH-ASO-Whatcom County-ICN-23 Amendment 1 to provide the funding to continue services under this contract. The contract term is January 1, 2023 through December 30, 2023 with an automatic one-year renewal on January 1, 2024 based on continued compliance with the terms of the contract.

Substance Abuse Block Grant (SABG) & Mental Health Block Grant (MHBG) Priority Services

The following contracts are providing SABG priority Services:

- Brigid Collins
  - Pregnant and Parenting Women (PPW) Housing Support Services
- Evergreen Recovery Centers
  - PPW Housing Support Services
  - Homeless Outreach and Stabilization Team (HOST)
- Catholic Community Services
  - PPW Housing Support Services
- Compass Health
  - San Juan HARPS subsidies
  - Certified Peers on Mobile Crisis Teams
- Therapeutic Health Services
  - Medication Assisted Treatment
- Island County
  - Opiate Outreach, HARPS subsidies
- Community Action of Skagit County
  - Opiate Outreach
- Snohomish County
  - Opiate Outreach
- Whatcom County
  - Opiate Outreach
- Lifeline Connections
  - Peer Pathfinder, Peer Pathfinder Incarceration Transition Pilot, HARPS Team with Skagit & Whatcom subsidies
- Telecare Corp.
  - Peer Bridger Program, Peer Bridger Participant Relief Funds

Barry Buchanan moved motion for approval, Jill Johnson seconded, all in favor, motion #23-29 carried.

Motion #23-30

NS BH-ASO-Brigid Collins-ICN-23 Amendment 1 to provide the funding to continue services under this contract. The contract term is January 1, 2023 through December 31, 2023 with an automatic one-year renewal on January 1, 2024 based on continued compliance with the terms of the contract.

NS BH-ASO-ERC-ICN-23 Amendment 1 to provide the funding to continue services under this contract. The contract term is January 1, 2023 through December 31, 2023 with an automatic one-year renewal on January 1, 2024 based on continued compliance with the terms of the contract.

NS BH-ASO-CCS NW-ICN-23 Amendment 1 to provide the funding to continue services under this contract. The contract term is January 1, 2023 through December 31, 2023 with an automatic one-year renewal on January 1, 2024 based on continued compliance with the terms of the contract.

NS BH-ASO-Compass Health-ICCN-23 Amendment 1 to provide the funding to continue services under this contract. The contract term is January 1, 2023 through December 31, 2023 with an automatic one-year renewal on January 1, 2024 based on continued compliance with the terms of the contract.

NS BH-ASO-THS-ICN-23 Amendment 1 to provide the funding to continue services under this contract. The contract term is January 1, 2023 through December 31, 2023 with an automatic one-year renewal on January 1, 2024 based on continued compliance with the terms of the contract.

NS BH-ASO-Island County-ICN-23 Amendment 1 to provide the funding to continue services under this contract. The contract term is January 1, 2023 through December 31, 2023 with an automatic one-year renewal on January 1, 2024 based on continued compliance with the terms of the contract.

NS BH-ASO-CASC-ICN-23 Amendment 1 to provide the funding to continue services under this contract. The contract term is January 1, 2023 through December 31, 2023 with an automatic one-year renewal on January 1, 2024 based on continued compliance with the terms of the contract.

NS BH-ASO-Snohomish County-ICCN-23 Amendment 1 to provide the funding to continue services under this contract. The contract term is January 1, 2023 through December 31, 2023 with an automatic one-year renewal on January 1, 2024 based on continued compliance with the terms of the contract.

NS BH-ASO-Whatcom County-ICN-23 Amendment 1 to provide the funding to continue services under this contract. The contract term is January 1, 2023 through December 31, 2023 with an automatic one-year renewal on January 1, 2024 based on continued compliance with the terms of the contract.

NS BH-ASO-Lifeline Connections-FBG-23 Amendment 1 to provide additional funding to the Peer Path Finder services under this contract. The contract term is January 1, 2023 through December 31, 2023 with an automatic one-year renewal on January 1, 2024 based on continued compliance with the terms of the contract.

NS BH-ASO-Telecare-FBG-23 Amendment 1 to provide additional funding to Peer Bridger services under this contract. The contract term is January 1, 2023 through December 31, 2023 with an automatic one-year renewal on January 1, 2024 based on continued compliance with the terms of the contract.

GF-S/SABG/MHBG Services within Available Resources

- Compass Health
    - SUD outpatient services in San Juan County
    - Snohomish & Whatcom County Triage Services
- Consejo Counseling and Referral Services
    - Mental health outpatient services
    - Substance use outpatient services
- City of Mount Vernon
    - Integrated co-responder outreach project
- Evergreen Recovery Centers
    - Withdrawal Management Services

    - Mental Health Infant Specialist
- Island County
    - Co-Responder project
- Lifeline Connections
    - SUD Outpatient services
    - Recovery Housing
- Lake Whatcom Center
    - PACT
    - Mental Health outpatient services
    - Substance Use outpatient services
- Pioneer Human Services
    - Island, Skagit & Whatcom withdrawal management services
    - One-time funding for the North Sound Behavioral Health Facility in the amount of $140,000
    - Co-Occurring residential services, adding North Sound Behavioral Health Treatment Facility
- Sea Mar
    - Mental health outpatient services
    - Substance use outpatient services
    - SUD residential services
- Snohomish County
    - Co-Responder project
- Sunrise Services
    - Mental health outpatient services
    - Substance use outpatient services
- Volunteers of America (VOA)
    - Peer Outreach follow up services
- Whatcom County
    - Co-responder project

Cammy Hart-Anderson moved a motion for approval, Sam Low seconded, all in favor, motion #29-30 carried.

Motion #23-31

NS BH-ASO-Compass Health-ICCN-23 Amendment 1 to provide the funding to continue services under this contract. The contract term is January 1, 2023 through December 31, 2023 with an automatic one-year renewal on January 1, 2024 based on continued compliance with the terms of the contract.

NS BH-ASO-Consejo-ICN-21-23 Amendment 1 to provide the funding to continue services under this contract. The contract term is January 1, 2023 through December 31, 2023 with an automatic one-year renewal on January 1, 2024 based on continued compliance with the terms of the contract.

NS BH-ASO-City of Mount Vernon-Interlocal-23 Amendment 1 to provide funding for the integrated co-responder team with the City of Mount Vernon Police Department. The contract term is June 1, 2022 through June 30, 2023 with an automatic one-year renewal on January 1, 2024 based on continued compliance with the terms of the contract.

NS BH-ASO-ERC-ICN-23 Amendment 1 to provide the funding to continue services under this contract. The contract term is January 1, 2023 through December 31, 2023 with an automatic one-year renewal on January 1, 2024 based on continued compliance with the terms of the contract.

NS BH-ASO-Island County-ICN-23 Amendment 1 to provide the funding for co-responder services under this contract. The contract term is January 1, 2023 through December 31, 2023 with an automatic one-year renewal on January 1, 2024 based on continued compliance with the terms of the contract.

NS BH-ASO-Lifeline Connections-ICN-23 Amendment 1 to provide the funding to continue services under this contract. The contract term is January 1, 2023 through December 31, 2023 with an automatic one-year renewal on January 1, 2024 based on continued compliance with the terms of the contract.

NS BH-ASO-LWC-ICN-19-22 Amendment 1 to provide the funding to continue services under this contract. The contract term is January 1, 2023 through December 31, 2023 with an automatic one-year renewal on January 1, 2024 based on continued compliance with the terms of the contract.

NS BH-ASO-PHS-ICN-23 Amendment 1 to provide the funding to continue services under this contract. The contract term is January 1, 2023 through December 31, 2023 with an automatic one-year renewal on January 1, 2024 based on continued compliance with the terms of the contract.

NS BH-ASO-Sea Mar-ICN-23 Amendment 1 to provide the funding to continue services under this contract. The contract term is January 1, 2023 through December 31, 2023 with an automatic one-year renewal on January 1, 2024 based on continued compliance with the terms of the contract.

NS BH-ASO-Snohomish County-ICCN-23 Amendment 1 to provide the funding to continue services under this contract. The contract term is January 1, 2023 through December 31, 2023 with an automatic one-year renewal on January 1, 2024 based on continued compliance with the terms of the contract.

NS BH-ASO-Sunrise Services-ICN-23 Amendment 1 to provide the funding to continue services under this contract. The contract term is January 1, 2023 through December 31, 2023 with an automatic one-year renewal on January 1, 2024 based on continued compliance with the terms of the contract.

NS BH-ASO-VOA-ICCN-23 Amendment 1 to provide the funding for emergency response suicide prevention follow up services under this contract. The contract term is January 1, 2023 through December 31, 2023 with an automatic one-year renewal on January 1, 2024 based on continued compliance with the terms of the contract

NS BH-ASO-Whatcom County-ICN-23 Amendment 1 to provide the funding co-responder services under this contract. The contract term is January 1, 2023 through December 31, 2023 with an automatic one-year renewal on January 1, 2024 based on continued compliance with the terms of the contract.

Department of Commerce-Behavioral Health Rental Assistance

- This contract is a renewal of funding for Community Behavioral Health Rental Assistance (CBRA) for individuals exiting inpatient/residential services and in need of housing, the funding can be used for short-term and long-term housing, with the latter is the goal.

Sam Low moved a motion for approval, Jill Johnson seconded, all in favor, motion #23-31 carried.

Motion #23-32

Department of Commerce-NS BH-ASO-23 to provide the funding for rental assistance in the amount of $1,366,830.00 for the period of July 1, 2023, through June 30, 2024.

- The following motion is the downstream contracts allocating the behavioral health rental assistance funds and Federal Block Grant funds for housing case management services.
    - Bridgeways provides CBRA rental assistance and case management services in Snohomish County.
    - Compass Health provides CBRA rental assistance and case management services in Snohomish County.
    - Lifeline Connections provides CBRA rental assistance case management services in Skagit and Whatcom County.
    - Lake Whatcom Center provides CBRA rental assistance and case management services in Whatcom County.
    - Pioneer Human Services provides CBRA rental assistance and case management services in Island County.

Cammy Hart-Anderson moved a motion for approval, Sam Low seconded, Jane abstained, motion #23-32 carried.

Motion #23-33

NS BH-ASO-Bridgeways-CBRA-23 for the provision of CBRA rental assistance and program expenses in Snohomish County. The contract term is July 1, 2023, through June 30, 2024, with an automatic one-year renewal on July 1, 2024, based on continued compliance with the terms of the contract.

NS BH-ASO-Compass Health-CBRA-23 for the provision of CBRA rental assistance and program expenses in Snohomish County. The contract term is July 1, 2023, through June 30, 2024, with an automatic one-year renewal on July 1, 2024, based on continued compliance with the terms of the contract.

NS BH-ASO-Lifeline Connections-CBRA-23 for the provision of CBRA rental assistance and program expenses in Skagit and Whatcom County. The contract term is July 1, 2023, through June 30, 2024, with an automatic one-year renewal on July 1, 2024, based on continued compliance with the terms of the contract.

NS BH-ASO-Lake Whatcom Center-CBRA-23 for the provision of CBRA rental assistance and program expenses Whatcom County. The contract term is July 1, 2023, through June 30, 2024, with an automatic one-year renewal on July 1, 2024, based on continued compliance with the terms of the contract.

NS BH-ASO-Pioneer Human Services-CBRA-23 for the provision of CBRA rental assistance and program expenses in Island County. The contract term is July 1, 2023, through June 30, 2024, with an automatic one-year renewal on July 1, 2024, based on continued compliance with the terms of the contract.

Helping Hands Project Organization

- Helping Hands Project Organization is a Behavioral Health Agency emphasize serving elders and people of color in Snohomish County.

Cammy Hart-Anderson moved a motion for approval, Jill Johnson seconded, all in favor, motion #23-33 carried.

Motion #23-34

NS BH-ASO-Helping Hands Project-23 for the provision of outpatient services in Snohomish County, this is a Fee for Service contract. The contract term is January 1, 2023, through June 30, 2024, with an automatic one-year renewal on July 1, 2024, based on continued compliance with the terms of the contract.

Recovery Navigator Programs (RNP)

- The continued funding for RNP is included in the HCA contract. The following motion is the downstream contracts.
    - Island County provides RNP services in Island County
    - Community Action of Skagit County provides RNP services in Skagit County
    - Compass Health provides RNP services in San Juan County
    - Whatcom County LEAD program provides RNP services in Whatcom County
    - Snohomish County LEAD program provides RNP services in Snohomish County

Barry Buchanan moved a motion for approval, Jill Johnson seconded, all in favor, motion #23-34 carried.

Motion #23-35

North Sound BH-ASO-Island County-RNP-23 for the provision of RNP services in Island County. The contract term is July 1, 2023, through June 20, 2024, with an automatic one-year renewal on July 1, 2024, based on continued compliance with the terms of the contract.

North Sound BH-ASO-Community Action of Skagit County-RNP-23 for the provision of RNP services in Skagit County. The contract term is July 1, 2023, through June 20, 2024, with an automatic one-year renewal on July 1, 2024, based on continued compliance with the terms of the contract.

North Sound BH-ASO-Compass Health-RNP-23 for the provision of RNP services in San Juan County. The contract term is July 1, 2023, through June 20, 2024, with an automatic one-year renewal on July 1, 2024, based on continued compliance with the terms of the contract.

North Sound BH-ASO-Whatcom County-RNP-23 for the provision of RNP services in Whatcom County. The contract term is July 1, 2023, through June 20, 2024, with an automatic one-year renewal on July 1, 2024, based on continued compliance with the terms of the contract.

North Sound BH-ASO-Snohomish County-RNP-23 for the provision of RNP services in Snohomish County. The contract term is January 1, 2023, through December 31, 2023, with an automatic one-year renewal on January 1, 2024, based on continued compliance with the terms of the contract.

Jill Johnson moved a motion for approval, Barry Buchanan seconded, all in favor, motion #23-35 carried.

The following contracts were introduced in April and were inadvertently left off the May Board of Directors agenda.

Health Care Authority (HCA)-Department of Behavioral Health Recovery-Housing and Recovery (DBHR) through Peer Services (HARPS) Expansion Grant

These expansion funds are provided to support the Substance Use Disorder (SUD) Peer on the HARPS team.

Motion #23-36

- Health Care Authority-North Sound BH-ASO-K6751 for the provision of adding $109,996 to the contract for the SUD Peer program expenses. The term of the contract is March 15, 2023, through March 14, 2024.

The next motion is the downstream HARPS contract with Lifeline Connections, the provider of the HARPS team services.

Jill Johnson moved a motion for approval, Cammy Hart-Anderson seconded, all in favor, motion #23-36 carried.

Motion #23-37

- North Sound BH-ASO-Lifeline Connections-FBG-23 Amendment 1 for the provision of adding $109,996 to the contract for SUD Peer program expenses. The contract term is January 1, 2023, through December 31, 2023, with an automatic one-year renewal on January 1, 2024, based on continued compliance with the terms of the contract.

Jill Johnson moved a motion for approval, Sam Low seconded, all in favor, motion #23-37 carried.

Health Care Authority - Projects for Assistance in Transition from Homelessness (PATH)

This contract adds supplemental funds in the amount of $10,769.23 to the PATH contract for outreach goods and services. The provider must submit a plan describing the method and intended outcome for allocating support service funding by February 29, 2024.

Motion #23-38

- Health Care Authority-North Sound BH-ASO-K6742 for the provision of adding funds to PATH services in the amount of $10,769.23 for outreach goods and services. The term of the contract is March 1, 2023, through February 29, 2024.

Cammy Hart-Anderson moved a motion for approval, Jill Johnson seconded, all in favor, motion #23-38 carried.

The next motion is the downstream contract with Bridgeways adding the $10,769.23 to their PATH contract.

Motion #23-39

- North Sound BH-ASO-Bridgeways-PATH-21-23 Amendment 1 for the provision of adding the supplemental funds for outreach goods and services in the amount of $10,769.23. The contract term is May 1, 2021, through September 30, 2023, with an automatic one-year renewal on October 1, 2023, based on continued compliance with the terms of the contract.

Perry Mowery moved a motion for approval, Jill Johnson seconded, all in favor, motion #23-39 carried.

***

Information Item

- Block Grant Final Review

Lisa Hudspeth provided an overview of the Block Grant and answered questions.

Report from the Executive Director

Joe highlighted the Legislative bills of interest.
Other topics in the Executive Director's Report included:

- Final Legislative and Budget Update
- Behavioral Health System Coordination Committee-Network Adequacy Workgroup
- Crisis Services Update
- Projected Operating Deficit for the North Sound Behavioral Health Treatment Center in Everett – Update
- Everett Herald Article on the "Hands Up" Project
- Recovery Navigator Program Success Stories
- Snohomish County Council Approves Conditional Use Permit for Stanwood Psychiatric Facility
- Cascade Behavioral Health Hospital

Adjourn

There will be no meeting in July due to summer recess. The next meeting will be August 10th, 2023.

Executive Director

We are pleased to announce JanRose Ottaway-Martin has accepted the position of Executive Director, her first day will be September 11, 2023. JanRose comes with a breadth of experience working for King County Behavioral Health and Recovery Division in multiple capacities. Her current position is Business Operations Manager/Project Program Manager, she has been in that position for three (3) years. JanRose is a North Sound resident, has a master's degree in social work and is extremely enthusiastic about her new position with North Sound.

Commercial Insurance Plans

1688 requires fully funded commercial payers to provide a behavioral health crisis network of care to their members. The original implementation was January 1, 2023 but the OIC granted a delay until January 1, 2024 as long as the commercial payers were, in good faith, working towards contracting with the ASOs or regional crisis providers. The State workgroup (https://1688bhcs.com) that was set up to work through the barriers of setting up this system has not been able to reach agreed upon solutions. Commercial payers have stringent processes that they would like to follow and will not provide funding to support the ASO to build the infrastructure necessary to verify eligibility and submit claims. That means the resources required to make this work would come from North Sound BH-ASOs general state funds. North Sound prefers not to use GFS to set up this system that would not really provide the return necessary to justify the cost. The rates being suggested by the commercial payers does not come close to covering the costs of providing crisis services. If the ASO and commercial payers cannot come to an agreement on contract terms then the commercial payers will look to contract directly with the crisis providers to try to build their network.

Opioid Abatement Council

North Sound will be reaching out to participants on the OAC to schedule a meeting in September. We will call for agenda items prior. We've set up a website to link to counties/cities dashboards when their information is posted. There are several logistical items to be addressed at the first meeting.

86(a) Proviso Submission (Attachment I)

North Sound has submitted a proposal for funds to divert individuals from the criminal justice system. HCA added $2,317,000 in FY 2024 and $4,433,000 in FY2025, proviso 86 provided for a targeted grant program to fund three BH-ASO's to transition persons who are either being diverted from criminal prosecution to behavioral health treatment services or need housing upon discharge from crisis stabilization services. It is our intention to braid this funding with our current Community Behavioral Health Rental Assistance contract with Dept. of Commerce, Outreach Teams, and housing providers.

Western State Hospital & the Pechman Ruling (Attachment II)

WSH is looking to discharge approximately 120 patients in the next 60 (actually 45) days to make room to transfer those civil patients in the forensic side of the hospital to make room for those in county jail to be transferred in. We were informed that there are 133 patients currently on the active discharge and if we can discharge them in the time allotted, we will meet WSH's goal. We have concerns about this because there are multiple clients on the NS-ASO list alone that should not be on the active DC list, but WSH has refused to remove them. The liaisons brought up multiple concerns such as the notification requirements, lack of community providers, and lack of available housing. WSH and HCA are asking the liaisons to make priority lists of who can be discharged quickly and discuss with discharge teams what needs to be done to get people discharged in next 60 (45) days. HCA/DSHS are moving quickly to build capacity in the community, Long Term beds are being resources and contracted with a number of providers on the west side. HCA is working tirelessly to contract for community beds, so far they have acquired 69 long term beds and are seeking more.

Recovery Navigator Program (RNP) Restricted Funds

HCA has requested the amount of RNP funds each ASO has built up since the original allocation. Due to slow startup, it appears several ASO have a reserve. The reason for the request is legislative staff have been told there is up to $18M in reserves statewide. Currently we have approximately $3M of unspent, restricted funds. We have consistently reached out to our RNP providers to inquire whether they can use the extra funds. At this point, we do not know if HCA will be asking the ASOs to return a portion of the funds or use the unspent funds in the calculation for the budget ask in the 2024 Leg session.

Substance Abuse Block Grant (SABG) Reduction (Attachment III)

HCA notified all the ASOs the standard SABG grant will be reduced by $1.5M statewide. This grant has been stable with no increases or decreases for several years. The funding is targeted toward opioid outreach and treatment for individuals who use intravenous drugs. North Sound suggested a proportional cut by population across the ASOs which resulted in a $260,439.98 cut from our $3,289,438 grant. We believe the cut can be absorbed without effecting services provided under this grant. We are cutting Recovery Housing funds from this grant but have funds in the ARPA FBG to cover these services, and the final cut is to our crisis stabilization capacity funding, reducing it by $31,439.98.

Medical Director Retirement

Dr. Glenn Lippman has made the decision to retire effective on October 1, 2023. It will be a huge loss to our organization and statewide, Dr. Lippman has been an effective advocate for the individuals we serve and has provided his expertise across ASOs, the Health Care Authority and numerous other organizations. He will be greatly missed. We are meeting next week to discuss recruitment of a new Medical Director.

BHSCC Network Adequacy Workgroup (Attachment IV)

Two (2) focus groups have taken place. The east side focus group only have one (1) provider in attendance, however, the west side had good attendance. The notes are attached, Michael McAuley volunteered to be the scribe for the latter session. A few takeaways:

- Open access is available for SUD limited for MH
- Workforce recruitment/retention continues to be a struggle for providers
- No consistent tracking for access to service

Crisis Services Update (Attachment V)

- Attached is the crisis dashboard, services appear stable with no fluctuations to note. The county specific data is attached as well.

From:	Leonard, Ruth (HCA)
To:	Liu, Inna; Villines, Tiffany; Becknell, Leah; Sindi Saunders; Karen Richardson; Margaret Rojas, M Ed.; Reading, Michael
Cc:	Jacobson, Craig (HCA)
Subject:	FW: BHASO grants for diversion housing
Date:	Friday, July 7, 2023 9:27:22 AM
Attachments:	image001.png image002.png image003.png

Good Morning, I am following up on the proviso for diversion housing. There were more than three regions who expressed interest. Based on your proposals HCA will determine regions selected. The full proviso is:

(86)(a) $2,317,000 of the general fund—state appropriation for fiscal year 2024 and $4,433,000 of the general fund—state appropriation for fiscal year 2025 are provided solely for a targeted grant program to three behavioral health administrative services organizations to transition persons who are either being diverted from criminal prosecution to behavioral health treatment services or are in need of housing upon discharge from crisis stabilization services. The authority must provide an opportunity for all of the behavioral health administrative service organizations to submit plans for consideration.

(b) Grant criteria must include, but are not limited to:

(i) A commitment to matching individuals with temporary lodging or permanent housing, including supportive housing services and supports, that is reasonably likely to fit their actual needs and situation, is non-congregate whenever possible, and takes into consideration individuals' immediate and long-term needs and abilities to achieve and maintain housing stability; and

(ii) A commitment to transition individuals who are initially matched to temporary lodging into a permanent housing placement, including appropriate supportive housing supports and services, within six months except under unusual circumstances.

(c) When awarding grants, the authority must prioritize applicants that:

(i) Provide matching resources;

(ii) Focus on ensuring an expeditious path to sustainable permanent housing solutions; and

(iii) Demonstrate an understanding of working with individuals who experience homelessness or have interactions with the criminal legal system to understand their optimal housing type and level of ongoing services

Please submit your plan to me by COB July 28, 2023

Ruth Leonard, MA, SUDP
Section Supervisor
Strategic Design and Program Oversight
805 Plum Street
PO Box 45530
Olympia, WA 98504-5330
Cell -360-643-6955
ruth.leonard@hca.wa.gov

(regular work hours: 6:00 to 5:00 M-TH)

Washington State Health Care Authority

www.hca.wa.gov

988 SUICIDE & CRISIS LIFELINE

From: HCA BH ASO <HCABHASO@hca.wa.gov>
Sent: Thursday, June 22, 2023 2:59 PM
To: Liu, Inna <Inna.Liu@carelon.com>; Metcalf, Robin <Robin.Metcalf@carelon.com>; Becknell, Leah <Leah.Becknell@carelon.com>; Villines, Tiffany <Tiffany.Villines@carelon.com>; Karen Richardson <karenr@gcbh.org>; Sindi Saunders <sindis@gcbh.org>; Karen Spoelman <Karen.spoelman@kingcounty.gov>; Reading, Michael <mreading@kingcounty.gov>; Joe Valentine <joe_valentine@nsbhaso.org>; Jennifer Whitson <jennifer_Whitson@nsbhaso.org>; Charles Deelena <Charles_DeElena@nsbhaso.org>; Margaret Rojas <Margaret_Rojas@nsbhaso.org>; Michael McAuley <michael_mcauley@nsbhaso.org>; Justin D Johnson <JDJOHNSON@spokanecounty.org>; Schultz, Laura M. <LSCHULTZ@spokanecounty.org>; Magee, Ashley <AMAGEE@SpokaneCounty.org>; Thompson, Jessica <JSTHOMPSON@spokanecounty.org>; Kbeilstein@spokanecounty.org; Becky Meeks <bmeeks@grbhaso.org>; Lexa Donnelly <ldonnelly@grbhaso.org>; Trinidad Medina <tmedina@grbhaso.org>; rguerrero@grbhaso.org; Stephanie J. Lewis <sjlewis@kitsap.gov>; Jolene Kron <jkron@kitsap.gov>; Mark Freedman <mark.freedman@tmbho.org>; Joe Avalos <joe.avalos@tmbho.org>
Cc: Leonard, Ruth (HCA) <ruth.leonard@hca.wa.gov>
Subject: {EXTERNAL} FW: BHASO grants for diversion housing

Good Afternoon
During the Exhibit A review meetings HCA added $2,317,000. FY 2024 and there is $4,433,000. For FY2025 Identified in proviso 86 provided for a targeted grant program to fund three BH-ASO's to transition persons who are either being diverted form criminal prosecution to behavioral health treatment services or need housing upon discharge from crisis stabilization services. HCA is required to provide an opportunity for all the BH-ASO's to submit plans for consideration.

As a first step in this process, I would like to determine interest in implementing this resource. Please respond to me at ruth.leonard@hca.wa.gov letting know if you are interested in submitting a

plan to utilize these funds by June 30. Once we get responses, we will determine next steps.
Thank you, Ruth

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Washington State Health Care Authority
www.hca.wa.gov

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

A.B., by and through her next friend CASSIE CORDELL TRUEBLOOD, et al., Plaintiffs, v. WASHINGTON STATE DEPARTMENT OF SOCIAL AND HEALTH SERVICES, et al., Defendants.	CASE NO. C14-1178 MJP FINDINGS OF FACT AND CONCLUSIONS OF LAW ON PLAINTIFFS' MOTION FOR MATERIAL BREACH OF CONTEMPT SETTLEMENT AGREEMENT

This matter comes before the Court on Plaintiffs' Motion for Material Breach of Contempt Settlement Agreement and Motion for Civil Contempt. (Dkt. No. 938.) Having reviewed the Motion, the Response (Dkt. No. 943), the Reply (Dkt. No. 954), the brief of Amici King, Pierce, and Snohomish Counties (Dkt. No. 950-1), Plaintiffs' Response to the Amici (Dkt. No. 957), Defendants' Response to the Amici (Dkt. No. 958), Amici's Reply (Dkt. No. 962), and all supporting materials, and having held a four-day Evidentiary Hearing from June 12 through

June 16, 2023, the Court GRANTS in part the Motion and issues the following Findings of Fact and Conclusions of Law.

SUMMARY

In April 2015, the Court found that the Washington State Department of Social and Health Services (DSHS) was violating the constitutional rights of pretrial criminal detainees in city and county jails by failing to provide them timely court-ordered competency evaluations and restoration services. (See Findings of Fact and Conclusions of Law (Dkt. No. 131).) The Court certified a class of similarly-situated criminal detainees—the Trueblood Class. Members of the Trueblood Class are presumed to be innocent but cannot stand for trial until their competency is evaluated and restored. (See id.; Order Certifying Class (Dkt. No. 84).) Delay in receiving competency services violates Trueblood Class Members' constitutional rights and leaves them in peril. Prolonged incarceration exacerbates Class Members' underlying mental illnesses, denies them access to consistent mental health treatment, and adds yet more trauma that leads to recidivism.

To protect Class Members' constitutional right to prompt receipt of competency services and minimize further harms, the Court issued a Permanent Injunction (as modified), which requires DSHS to provide competency evaluation and restoration within strict time limits: (1) seven days for inpatient competency evaluations and restoration; and (2) fourteen days for jail-based competency evaluations. Without evaluation and restoration, the criminal process of these Class Members is halted, and the criminal justice system cannot move forward with trials or plea negotiations with members of the Class.

It is important to remember that Class Members are presumed innocent. They have not been convicted of any crime for which they have been arrested. More importantly, no one should

assume that arresting individuals, placing them in jail, and providing competency services is any form of "treatment" for a mental illness. Competency evaluation and restoration is not treatment. It does not assist or help treat any underlying mental health issue.

More than eight years later, DSHS continues to violate the Trueblood Class Members' constitutional rights and the Permanent Injunction. (See Attachment A to the Declaration of Thomas Kinlen (Dkt. No. 999-1) (documenting excessive wait times of Trueblood Class Members).) The Court has not sat idly by during this time. The Court has twice found DSHS in contempt of the Permanent Injunction, which has led to the imposition of daily fines calculated as to each Trueblood Class Member who does not receive timely competency services. The Court appointed a monitor to oversee DSHS's compliance with the Permanent Injunction, which requires the Parties to submit quarterly reporting to the Court and Court Monitor. And the Court has conducted more than thirty hearings in this single case. The Court has also imposed roughly $400 million in fines, $100 million of which has been paid by DSHS while the remaining balance has been held in abeyance in the hope of compliance. The Court has authorized the distribution of over $80 million of the collected fines to fund diversion programs selected by the Parties to help keep individuals from becoming Trueblood Class Members and to redress the harms DSHS continues to place on Class Members by denying them timely competency services. This included construction of Building 27 at WSH and distribution of funds to the following grantees around the State of Washington: (1) King County; (2) Kitsap County; (3) Pierce County; (4) Thurston County; (5) Mason County; (6) Comprehensive Healthcare; (7) Great Rivers Behavioral Health Organization; (8) Catholic Charities; (9) Lourdes Health Network; (10) Frontier Behavioral Health; (11) Columbia River Mental Health Services; (12) Lifeline

Connections; and (13) Olympic Health And Recovery Services. And yet, DSHS has never once been in compliance with the Permanent Injunction.

To bring itself into substantial compliance with the Court's permanent injunction, DSHS negotiated a Settlement Agreement with Plaintiffs in late 2018 with the oversight and assistance of a Washington State Court of Appeals Judge. (Dkt. No. 599-1.) The Settlement Agreement contains many goals for programming and organization which DSHS has carried out. But the touchstone of this litigation and the Settlement Agreement remains the timely provision of competency evaluation and restoration services. For this reason, "the fundamental goal of th[e Settlement] Agreement is to provide timely competency services to Class Members pursuant to the Court's orders." (Id. at 4.) One of the key components DSHS negotiated to meet this goal was its agreement to add ninety-two additional forensic beds (for a total of at least 303 beds) by December 31, 2019, for use by Class Members at the two state-run psychiatric hospitals: Eastern State Hospital (ESH) and Western State Hospital (WSH). (Id. at 19 (Section III(B)(4)).) While DSHS has added some bed capacity, it agrees that it failed to ensure that these promised beds were available to Class Members from at least September 2022 through May 2023. Over these nine months, Class Members waited on average between: (1) 13.6 to 16.2 days to receive jail-based competency evaluations, representing 65% to 84% rate of compliance with the Permanent Injunction; (2) 45.7 and 133.1 days for inpatient competency evaluations, representing a 0% to 17% rate of compliance with the Permanent Injunction; and (3) 82.1 to 130.4 days for restoration services, representing a 0% to 8% rate of compliance with the Permanent Injunction. Plaintiffs now ask the Court to find Defendants in material breach of the Settlement Agreement's bed addition requirement and in contempt of the Court's Permanent Injunction from at least September 2022 through May 2023.

After hearing evidence over four days, the Court finds that DSHS materially breached the Settlement Agreement from September 2022 through May 2023 by failing to provide the negotiated-for bed space for Class Members at the state hospitals. The Court also finds DSHS in further contempt of the Permanent Injunction by knowingly and inexcusably denying Class Members timely competency services over this same time period. Although several factors impacted the rise in wait times, the primary reason Class Members suffered was DSHS's own lack of foresight, creativity, planning, and timely response to a crisis of its own making. The Court is unpersuaded that DSHS adequately planned for and took reasonable measures to address the bed shortage. Specifically, DSHS removed civil beds at WSH and closed wards at the same time it used the remaining forensic beds for "Civil Conversion" patients instead of Class Members. Civil Conversion patients are individuals whose criminal charges have been dismissed and a court then orders that person "converted" or "flipped" from the criminal or forensic side to the civil commitment side, where the individual must be evaluated, but not treated at a state hospital. These individuals are not held in jail, and unlike Class Members they do not possess the constitutional right to be evaluated promptly. Notwithstanding this distinction, DSHS prioritized Civil Conversion patients over Class Members at state hospitals. This violated Class Members' constitutional rights, the terms of the Settlement Agreement, and the Court's Permanent Injunction. And it hobbled the criminal justice system within the State, creating yet more Civil Conversion patients and lengthening wait times for Class Members' receipt of competency services.

As part of the remedy for the breach of the Settlement Agreement and the Court's Permanent Injunction, the Court will require DSHS to pay the fines that were assessed but uncollected for untimely inpatient competency evaluation and restoration services from

September 1, 2022, through May 30, 2023. The size of this fine is substantial: $100,318,000.00. This represents roughly one-third of the Court's total uncollected fines. The Court finds the payment of these fines necessary to redress DSHS's inexcusable violation of Class Members' constitutional rights from at least September 2022 through May 2023. The other relief the Court imposes seeks to open up more forensic beds at the state hospitals and clear out Civil Conversion patients who have occupied forensic beds that should be open to and used by Class Members. Additional fines will be imposed on DSHS for delays in moving Civil Conversion patients out of state hospital beds.

While DSHS has met many of the Settlement Agreement's elements, it has not met its core goal. And its most recent failure to provide adequate forensic beds to Class Members is both inexcusable and contrary to the very heart of the Settlement Agreement and the Court's Permanent Injunction. The Court will ensure that the fines collected are targeted at providing services to the harmed Class Members and that DSHS acts with all due speed to treat Class Members humanely, justly, and according to their constitutional rights.

FINDINGS OF FACT

A. The Competency Evaluation and Restoration System

1. Defendant DSHS is charged under Washington law with overseeing competency services, which includes jail-based, inpatient, and outpatient competency evaluations and competency restoration services for those charged with crimes within the State. RCW 10.77 et seq.

2. The competency process begins when there is reason for a state court judge or an attorney to doubt that an individual charged with a crime is competent to stand trial. Because state and federal law forbid the criminal prosecution of individuals who do not understand the

charges against them or are unable to aid in their own defenses, courts order that these individuals' competency be evaluated to determine whether they may stand trial. RCW 10.77.050; see also Medina v. California, 505 U.S. 437, 449 (1992) ("[T]he Due Process Clause affords an incompetent defendant the right not to be tried[.]").

3. When a court orders an individual to receive a competency evaluation, the criminal case is stayed (i.e., halted) during the competency-related proceedings. See RCW 10.77.084; Washington State Court Rules: Superior Court Criminal Rules, CrR 3.3(e)(1).

4. Competency evaluations may be conducted in jail, in the community in an "outpatient" setting, or in an "inpatient" setting at one of the two state hospitals, Eastern State Hospital (ESH) or Western State Hospital (WSH).

5. When an individual is found not competent, they then can be ordered to undergo restoration services. Competency restoration services must be provided at ESH or WSH, or, in certain cases, at alternative residential treatment facilities at Fort Steilacoom and Maple Lane. RCW 10.77.086; RCW 10.77.088.

6. Competency evaluation and restoration is not treatment for mental illness. It is stabilization and education so that the individual can understand the criminal charges brought against them. The competency system is designed solely to determine whether the person accused of a crime is competent to stand trial on criminal charges. As such, even those Class Members who receive restoration services do not per se obtain medical treatment for their underlying mental health conditions.

7. No police officer, prosecutor, judge, or member of the public should assume that restoration is treatment for mental illness. It is not. Competency evaluation and restoration do not provide treatment of Class Members' underlying mental health conditions.

8. Consistent with the Court's Permanent Injunction, competency evaluations for those in jail (also called "jail-based" evaluations) must occur within 14 days of the signing of a court order for such an evaluation. (Order Modifying Permanent Injunction as to In Jail Competency Evaluations (Dkt. No. 303).) Inpatient evaluations at ESH or WSH or at an outpatient evaluation must occur within seven days of the signing of a court order. (Findings of Fact and Conclusions of Law (Dkt. No. 131).) And for those ordered to receive restoration services, the individual must be admitted within seven days of signing of the court order. (Id.)

9. The Court entered the Permanent Injunction in order to protect Class Members' rights under the Due Process Clause of the Fourteenth Amendment to receive timely competency treatment while being incarcerated pending criminal charges. (See Dkt. No. 131 at 16-25; Order Granting Plaintiffs' Motion for Summary Judgment at 5-7 (Dkt. No. 104) (noting that Defendants "agree that Plaintiffs and class members have due process rights to be free from prolonged incarceration absent conviction, and in restorative treatment when they are being incarcerated for the purpose of competency evaluation and restoration").)

10. It is important to note in the context of Plaintiffs' Motion that Class Members do not include "Civil Conversion" patients. Civil Conversion patients are "defined as a patient whose felony criminal charges have been dismissed for reasons of incompetency to stand trial, and the criminal court orders the Department to admit the patient to a state hospital for purposes of an evaluation for civil commitment under Wash. Rev. Code § 71.05." (Updated Stipulation Re: Hearing at 3 (Dkt. No. 992).); see RCW 71.05.280. A Court may also order such individuals to be committed to a state hospital for treatment. See RCW 10.77.086(5).

11. "If the patient was waiting in jail for a competency service at the time of dismissal or waited in jail before being admitted to a Department facility for a competency service, that

patient was a Trueblood class member." (Updated Stip. at 3.) "Once a felony conversion patient is admitted for evaluation, the state hospital may not file a petition for commitment if the patient is assessed to not meet the criteria for civil commitment." (Id.) "Even if a petition is filed a felony conversion patient could still be released if the state does not prove in court that the patient meets civil commitment criteria by clear, cogent, and convincing evidence. Over the last several years, approximately 80% of felony conversion court orders lead to a civil commitment to the state hospital by the superior court following admission, evaluation, and the filing of a civil commitment petition." (Id.) And Civil Conversion patients may then be either recommitted or discharged. (Tr. Ex. 113.)

12. But those individuals who are found incompetent to stand trial and have their misdemeanor charges dismissed cannot be ordered into state hospitals. They are instead directed for evaluation and detention, if they meet civil commitment criteria, within the local civil commitment system in each region. RCW 10.77.088(5).

13. While a Class Member may become a Civil Conversion patient by dint of a court order dismissing the felony charges and ordering civil commitment, a Civil Conversion patient lacks the same rights as a Class Member. That is because Class Members possess rights under the Due Process Clause of the Fourteenth Amendment to receive timely competency evaluation and restoration treatment while they face criminal charges. Civil Conversion patients do not possess these same rights because they no longer face criminal charges and are not held in jail.

14. While Civil Conversion patients are civilly committed, they receive treatment for their underlying mental health conditions.

15. Civil Conversion patients and Class Members have competing needs for forensic beds at both ESH and WSH. Historically, Civil Conversion patients were required to receive an

initial hospital-based evaluation before being eligible for transfer to community-based treatment facilities. See RCW 10.77.086(5) (2022); (June Monitor Report at 35.) A recent change in state law effective May 15, 2023, no longer requires Civil Conversion patients to be sent to ESH or WSH for an initial evaluation. RCW 10.77.086(5) (effective date: May 15, 2023); see WA LEGIS 453 (2023), 2023 Wash. Legis. Serv. CH. 453 (S.S.S.B. 5440) (WEST). Instead, they may be sent to "a facility operated or contracted by" DSHS. RCW 10.77.086(5).

B. The Composition of the Trueblood Class

16. The most important people in this action are the Trueblood Class Members and their right to receipt of timely competency services.

17. As the Court Monitor recently summarized, "Trueblood Class Members are in the main individuals who may have intellectual and developmental disabilities, serious and disabling mental health and/or substance use conditions, traumatic brain injuries and/or other cognitive impairments." (Court Monitor's Quarterly Report dated June 8, 2023, at 1 (Tr. Ex. 12).) "These vulnerable people too often find themselves involved with the criminal justice system because of nonresponsive health and human services systems upon which they would better depend for care, treatment, rehabilitation, and recovery support services." (Id.)

18. Data presented at the Evidentiary Hearing about the "Baseline Characteristics" of the Trueblood Class from State Fiscal Year (SFY) 2019 to SFY 2022 confirm the accuracy of the Court Monitor's assessment.

19. Dr. Thomas J. Kinlen, Director of the Office of Forensic Mental Health Services within the Behavioral Health Administration (BHA) of the DSHS, testified about those data.

20. The average Trueblood Class Member is a male, person of color:

a. living in desperate poverty;

b. experiencing homelessness or living without stable housing;

c. possessing little likelihood of employment;

d. suffering from a serious mental illness, which is most likely to include a psychotic diagnosis;

e. requiring substance use disorder treatment; and

f. for roughly one-third of the Class, likely living with a chronic physical disease.

21. Trueblood Class Members cycle through the State's criminal justice and competency system, receiving repeated competency evaluation and restoration orders. Between 2019 and 2022, almost all Class Members were arrested at least once in the prior year, with the Class averaging three arrests in the prior year.

22. For each year between 2019 and 2022 the average Class Member had been ordered to receive competency evaluations three times in the preceding five years. Over this same period, the average Class Member received approximately two prior orders for competency restoration and around one-third had been found not competent to stand trial.

23. From SFY 2019 through 2022, roughly half of the Class Members had only been charged with a misdemeanor as their most serious criminal offense. (Tr. Ex. 104.) Most Class Members commit crimes linked to poverty and homelessness in which they live and their underlying mental health conditions. Examples include theft of food, indecent exposure for urinating or defecating in public due to the lack of an available restrooms, or trespassing on private property to sleep.

C. Class Members Suffer Harm from Delayed Receipt of Competency Services

24. Class Members waiting in jail for competency services face serious harms to their physical and mental safety and wellbeing.

25. The Evidentiary Hearing confirmed the same core facts the Court found to be true in 2016 when it issued an Order Modifying the Permanent Injunction. (Dkt. No. 303.) In that Order, the Court explained:

> Jails are inherently punitive institutions, and are not designed or administered so as to provide for the needs of the mentally ill. A correctional environment, calibrated to provide safety and order, is incongruous with the particular needs of the mentally ill, and results in people with confirmed or suspected mental illness spending more time in solitary confinement, where their mental health further deteriorates. This deterioration is in direct conflict with the State's interest in prompt evaluation and treatment so that the individual may be brought to trial, especially for individuals whose illnesses become more habitual and harder to treat while they wait in isolation.
>
> In jails, class members are routinely held in a solitary lock down for twenty-three hours out of every day for reasons unrelated to their mental health needs. Class members are placed in solitary confinement because they are victimized by other inmates, or because symptoms of their illnesses prevent them from following generally applicable rules or behavioral expectations. Sometimes class members are placed in solitary confinement for their erratic or unpredictable behavior, not as punishment for breaking the rules, but to prevent them from continuing to break other rules which may result in additional charges or some other more serious form of punishment. These same solitary confinement cells are used to punish other inmates for bad behavior. Class members cannot enter or exit their cells freely, and are not encouraged to interact with other people. Even class members on suicide watch are observed by video camera; they experience almost no human interaction, even though isolation is known to be clinically destructive to these individuals' mental health.
>
> Incarceration, generally, is bad for class members for several reasons. While waiting for long periods of time in local jails, class members are not receiving the mental health treatment they need. Their conditions worsen not only because of lack of treatment, but because prolonged incarceration exacerbates mental illness, making symptoms more intense and more permanent, and reducing the likelihood the person's competency can ever be restored. Incarceration increases the likelihood of suicide. Incarceration also unnecessarily exposes class members to harmful conditions such as jail overcrowding, which leads to increased violence among inmates and to the targeting of individuals perceived as weak. Because class members are stigmatized for what others perceive as erratic and unpredictable behavior, they are less likely to find a social support

> network within the jail and therefore are less successful than others at navigating the jail environment, increasing their feelings of isolation, terror, and despair.

(Order Modifying Preliminary Injunction at 15-16 (paragraph numbering removed).)

26. The Court adopts the findings above. As Dr. Kinlen confirmed: jails make Class Members sicker.

27. There is an adverse impact that incarceration has on Class Members' ability to obtain treatment once out of the criminal justice system. As a result of prolonged incarceration, Class Members lose Medicaid benefits. Roughly one-third of Trueblood Class Members lack Medicaid benefits. Without Medicaid, the vast majority of the Class Members cannot obtain necessary access to mental and physical health care for their serious mental health and medical conditions.

28. Class Members have difficulty re-enrolling in Medicaid once they become re-eligible after incarceration. The process is complicated, particularly for Class Members who lack stable housing and suffer from serious mental health conditions.

D. The Court's Permanent Injunction and Contempt Orders

29. After holding a trial in March 2015, the Court issued a permanent injunction on April 2, 2015, requiring DSHS to provide jail-based and inpatient competency evaluations within seven days of a signed court order. (See Findings of Fact and Conclusions of Law (Dkt. No. 131).) The Court gave DSHS nine months to comply with the Permanent Injunction.

30. DSHS appealed and the Ninth Circuit largely affirmed the injunction. (Dkt. No. 233.) But the Ninth Circuit directed the Court to reassess whether jail-based evaluations should be completed within seven days or some other time period.

31. Before reconsidering the scope of the Permanent Injunction, the Court found DSHS in contempt of the Permanent Injunction. (Dkt. No. 289.) The Court noted that as of May

2016, DSHS failed to provide competency restoration within seven days of a court order for 68% of Class Members and competency evaluation services within seven days of a court order for 80% of the Class Members. The Court found Plaintiffs had proved by clear and convincing evidence that DSHS had not taken all reasonable steps to comply with the Permanent Injunction, notwithstanding its efforts at increasing bed counts, staffing, and diversion services, among other things. The Court then imposed fines for every day that each Class Member does not timely receive competency services.

32. After remand, the Court held an evidentiary hearing and modified the Permanent Injunction in August 2016 to require jail-based evaluations within fourteen days of a court order. (Order Modifying Permanent Injunction (Dkt. No. 303).) The Court did not alter the Permanent Injunction's requirement that inpatient orders must be completed within seven days. The Court found that as of July 2016, the average wait time for jail-based competency evaluations statewide was 11.4 days and that only thirty-five percent of such evaluations were completed within seven days of a court order. (Id., Findings of Fact ¶ 31.)

33. On October 17, 2017, the Court found DSHS in contempt of the Permanent Injunction, as modified. (Dkt. No. 506.) The Court found that DSHS had failed to comply with the timeliness requirements for jail-based evaluations since April 2015 when the Court issued its Permanent Injunction. The Court also found that DSHS had amassed $30,696,500 in fines and penalties that had been collected as of October 2017. The Court further found that as of June 2017, only 46.2% of Class Members waiting in jail received timely competency services, and that the remainder of Class Members waited beyond the mandated time for services, which slowed the criminal justice system and harmed the Class Members. The Court found that Defendants failed to comply with the specific and definite portions of the Court's Orders

requiring the timely completion of jail-based competency evaluations within fourteen days of receipt of a court order or twenty-one days from the date of the court order. The Court also found that DSHS failed to take all reasonable steps to reduce wait times for jail-based competency evaluations, had not taken all reasonable steps to comply with the Permanent Injunction, and had not demonstrated substantial compliance or that they were unable to comply with the Court's Orders. The Court increased daily fines and expressed its hope that "Defendants will stop their procrastination and false promises." (Id. at 13.)

E. The Settlement Agreement

34. In late 2018, DSHS negotiated for and entered into a Settlement Agreement through which the Parties intended DSHS to bring itself into substantial compliance with the Court's orders. (Dkt. No. 599-1.) The Parties were assisted in their negotiations by a Washington State Court of Appeals Judge.

35. DSHS recognized "the fundamental goal of th[e Settlement] Agreement is to provide timely competency services to Class Members pursuant to the Court's orders." (Id. at 4.)

36. The Settlement Agreement requires changes in how DSHS provides competency evaluation and restoration services and delivery of other services intended to reduce the number of individuals who become or remain Class Members.

37. The Court approved the Settlement Agreement on December 12, 2018. (Dkt. No. 623.)

38. One of the central provisions of the Settlement Agreement required the State to add 50 beds at ESH and 42 beds at WSH for Class Members by December 31, 2019. (Id. at 19 (Section III(B)(4)).) Adequate bed capacity for Class Members forms the bedrock of the Court's Permanent Injunction and prior Contempt Orders. Without adequate forensic beds, Class

Members face increased wait times for competency services and DSHS remains unable to meet the Court-imposed deadlines to satisfy its constitutional obligation to Class Members.

39. Although the Settlement Agreement did not require DSHS to track the utilization of additional bed availability, DSHS was required to add 92 forensic beds by December 31, 2019. At the time the Parties signed the Settlement Agreement in October 2018 there were 211 beds in use by Class Members at WSH and ESH. (Tr. Ex. 101.) This meant that DSHS promised to provide at least 303 beds for Class Members by the end of 2019.

F. DSHS's Lack of Compliance with the Settlement Agreement

40. Plaintiffs gave notice to DSHS in September 2022 that they believed DSHS was in breach of the Settlement Agreement's requirement for additional forensic beds.

41. The Parties agree that DSHS breached the Settlement Agreement's requirement to provide at least 303 forensic beds from September 2022 through May 2023. The Parties also agree that DSHS cured the breach by having added more than 303 beds by the end of May 2023. But the Parties dispute whether the breach was material.

42. The Court briefly reviews historical data on bed space at WSH and ESH. At the time the case was tried in March 2014, there were 125 forensic beds statewide in use by Class Members. When the Court first found DSHS in contempt of the Permanent Injunction in July 2016, there were 143 forensic beds in use by Class Members statewide. When the Court found DSHS again in contempt in October 2017, there were 200 forensic beds in use by Class Members statewide. And in October 2018, at the time the Parties entered into the Settlement Agreement, there were 211 forensic beds in use by Class Members statewide.

43. Although the State failed to meet the December 31, 2019 deadline to add 92 beds, the Court granted additional time at DSHS's request with Plaintiffs' agreement. (Dkt. Nos. 743,

750, and 752.) DSHS opened 50 additional forensic beds at ESH in Summer 2020, while opening an additional 40 beds at WSH in February 2021. (Declaration of Kevin Bovenkamp ¶ 3 (Dkt. No. 944).)

44. In 2021, the State began construction of a 350-bed forensic hospital on the WSH campus. The new hospital has an anticipated completion date between 2027 and 2029. (Evidentiary Hearing Exhibit ("Tr. Ex.") 3 a 6.) Because the new hospital is being sited on the same footprint of the existing hospital at WSH, DSHS has had to close wards as part of the construction process. The following table details each ward closure at WSH as of the date of the Evidentiary Hearing:

WSH Ward	Scheduled Closure Date	Actual Closure Date	# of Beds lost
E5	7/1/2021	7/1/2021	30
E3	11/1/2021	11/1/2021	30
S8	3/1/2022	4/1/2022	30
S3	7/1/2022	9/6/2022	31
S7	11/1/2022	12/16/2022	29
S9	4/1/2023	6/30/2023 (scheduled)	29
		TOTAL	**179**

45. As a result of the ward closures, DSHS removed 150 beds from WSH from July 2021 through the date of the Evidentiary Hearing, with 29 beds slated to be removed at the end of June 2023.

46. In March 2023, there were only 250 beds in use by Class Members. (Dkt. No. 978-1.)

47. In April and May 2023, the State opened two new wards at WSH (F9 and F10), which added 58 forensic beds for Class Members. (Court Monitor Report dated June 8, 2023, at 17, 20, 35 (Tr. Ex. 12).)

48. By the end of May 2023, there were 334 forensic beds used by or potentially available to Class Members.

49. But Even with the addition of these beds, DSHS, by its own calculations, would still need an additional 213 forensic beds at WSH to clear the waitlist for all Class Members in the next twelve months to comply with the Court's Permanent Injunction. (Tr. Ex. 102 at 15.)

50. DSHS also provides forensic bed forecasting. (See Tr. Ex. 102 at 20.) According to its own projections, DSHS will not have sufficient forensic beds capacity for Class Members through 2023 and 2024. (Id.)

51. Not every bed at WSH and ESH is available to or in use by Class Members. As of the Court Monitor's June 2023 report, there were 428 licensed beds at WSH. (Tr. Ex. 12 at 35.) Only 171 were occupied by Class Members, while 125 were occupied by Civil Conversion patients and 123 were occupied by patients who have been found "not guilty by reason of insanity" (NGRI patients). At ESH, the forensic ward capacity is 175 beds, with only 146 occupants at the time of the Court Monitor's report. Of those beds, only 73 are used by Class Members, with seven Civil Conversion patients and 66 NGRI patients.

G. Increased Wait Times for Competency Evaluation and Restoration Services

52. The lack of adequate forensic bed capacity has driven up the wait times for Class Members to receive competency services.

53. The Court reviews some historical data regarding jail-based competency evaluations. In July 2016, the average wait time for a completed jail-based competency

evaluation was 11.4 days as averaged between WSH and ESH. Only 35 percent of jail-based evaluations were completed within 7 days of the signing of a court order. (Dkt. No. 303 at ¶ 31.) DSHS reached its best compliance with jail-based evaluations in August 2018, completing 92% of evaluations on time. It has never duplicated that result.

54. As to the timeliness of jail-based competency evaluations the Court Monitor presented the following table capturing the twenty-four-month data (Tr. Ex. 12 at 7):

	Number of Orders	Complete w/in 14 days of Signature (Tables 8/11)	Complete w/In 14 Days of Receipt (Tables 8/11)	Average Number Days
April *2021*	386	81/84%	85/89%	12.3
May	381	86/79%	89/84%	11.9
June	438	76/75%	81/78%	12.4
July	479	74/77%	77/80%	13.0
August	545	73/63%	77/68%	13.4
September	491	62/71%	67/74%	14.8
October	492	74/79%	77/84%	13.4
November	500	83/74%	86/78%	12.6
December	489	72/67%	79/72%	13.5
January *2022*	439	63/68%	68/73%	15.4
February	473	72/69%	74/72%	14.4
March	599	71/75%	76/81%	13.7
April	594	72/70%	78/74%	13.6
May	538	73/74%	78/79%	14.2
June	561	68/60%	74/66%	14.7
July	634	65/62%	69/67%	15.2
August	642	59/59%	65/63%	15.3
September	539	61/67%	65/70%	15.7
October	535	65/67%	68/70%	16.2
November	458	67/75%	71/78%	15.5
December	481	73/66%	75/70%	13.7
January *2023*	584	68/75%	75/84%	14.4
February	465	74/75%	83/82%	14.1
March	608	78/77%	84/82%	13.6
April, 1st look	515	75/57%	81/62%	14.0

55. From September 2022 through April 2023, the number of jail-based orders ranged between 458 and 608, with the wait times reaching their highest in October 2022. Over this same time, DSHS was able to timely complete evaluations between 61% and 78% of the time as measured from the order's signature date and between 65% and 84% of the time if measured from the receipt of the order.

56. The Court Monitor presented data concerning inpatient competency evaluations. By way of historic reference, in July 2019, the average number of days for inpatient competency evaluation was 39.5 days, while in October 2020, Class Members waited an average of 38 days for inpatient restoration services. The following table captures twenty-four months of data from April 2021 through April 2023.

Month Under Review	Number of Orders	Complete W/In 7 Days of Signature	Complete W/In 7 Days of Receipt	Average Number Days
		Tables 9/12	*Tables 9/12*	
April *2021*	20	2%/0%	2%/10%	31.5
May	21	6%/14%	6%/19%	31.3
June	27	19%/11%	19%/26%	20.5
July	24	11%/17%	11%/17%	18.9
August	34	25%/12%	31%/12%	21.4
September	29	20%/14%	20%/14%	30.9
October	17	3%/6%	3%/6%	49.9
November	25	13%/12%	17%/16%	37.3
December	31	0%/0%	0%/0%	44.0
January *2022*	32	20%/13%	20%/13%	25.7
February	22	19%/18%	24%/23%	44.2
March	16	3%/19%	3%/19%	61.7
April	25	15%/16%	20%/12%	39.9
May	15	10%/13%	10%/7%	23.2
June	22	5%/5%	5%/5%	68.1
July	34	43%/26%	43%/26%	37.3
August	35	16%/14%	16%/11%	33.7
September	39	3%/13%	3%/8%	45.7
October	25	9%/0%	9%/0%	63.3
November	13	0%/8%	0%/8%	69.9
December	19	11%/5%	11%/5%	102.7
January *2023*	17	3%/6%	3%/6%	78.7
February	7	0%/0%	0%/0%	133.1
March	8	0%/0%	0%/0%	129.8
April 1st look	6	5%/17%	5%/17%	90.7

57. From September 2022 through April 2023, the number of inpatient competency evaluation orders started at 39 in September 2022 and steadily fell to 6 in April 2023. Wait times over this same period of time rose from 63.3 days wait up to a maximum of 133.1 days, falling more recently to 90.7 days. Timely provision of these evaluations has been poor—ranging between 0% and 17% when measured from the date of signature and 0% to 17% if measured from date of receipt.

58. The Court Monitor also presented data on inpatient competency restoration performance. The following table captures twenty-four months of data from April 2021 through April 2023.

Month Under Review	Number of Orders	Complete W/In 7 Days of Signature	Complete W/In 7 Days of Receipt	Average Number Days
		Table 10/13	Table10/13	
April *2021*	135	12%/14%	13%/15%	34.8
May	115	14%/14%	14%/14%	27.5
June	109	2%/3%	5%/6%	34.0
July	152	6%/5%	6%/5%	36.1
August	155	7%5%	7%/5%	33.3
September	184	12%/5%	13%/7%	38.9
October	186	5%8%	6%/9%	48.3
November	169	10%/9%	11%/9%	49.0
December	190	7%/8%	7%/8%	50.9
January *2022*	171	5%/5%	8%/7%	48.2
February	187	6%/5%	6%/5%	55.4
March	171	6%/6%	6%/6%	61.1
April	196	3%/3%	2%/3%	57.9
May	185	7%/5%	8%/5%	53.9
June	181	11%/7%	11%/7%	65.1
July	145	3%/3%	3%/3%	77.1
August	205	6%/7%	7%/5%	69.1
September	166	5%/4%	7%/4%	82.1
October	140	3%/5%	3%/5%	96.3
November	130	5%/8%	5%/3%	95.6
December	159	1%/2%	2%/1%	95.6
January *2023*	120	2%/8%	2%/5%	106.7
February	138	5%/7%	5%/6%	133.5
March	160	6%/6%	6%/5%	119.1
April 1st look	129	5%/6%	5%/5%	130.4

59. From September 2022 through April 2023, the number of inpatient competency restoration orders stretched from between 120 and 166 each month. Wait times over this same period of time rose from 82.1 to 133.5 days with wait times in April 2023 at 130.4 days. Timely provision of restoration services has been poor—ranging between 1% and 8% when measured from the date of signature and 1% to 5% if measured from date of receipt.

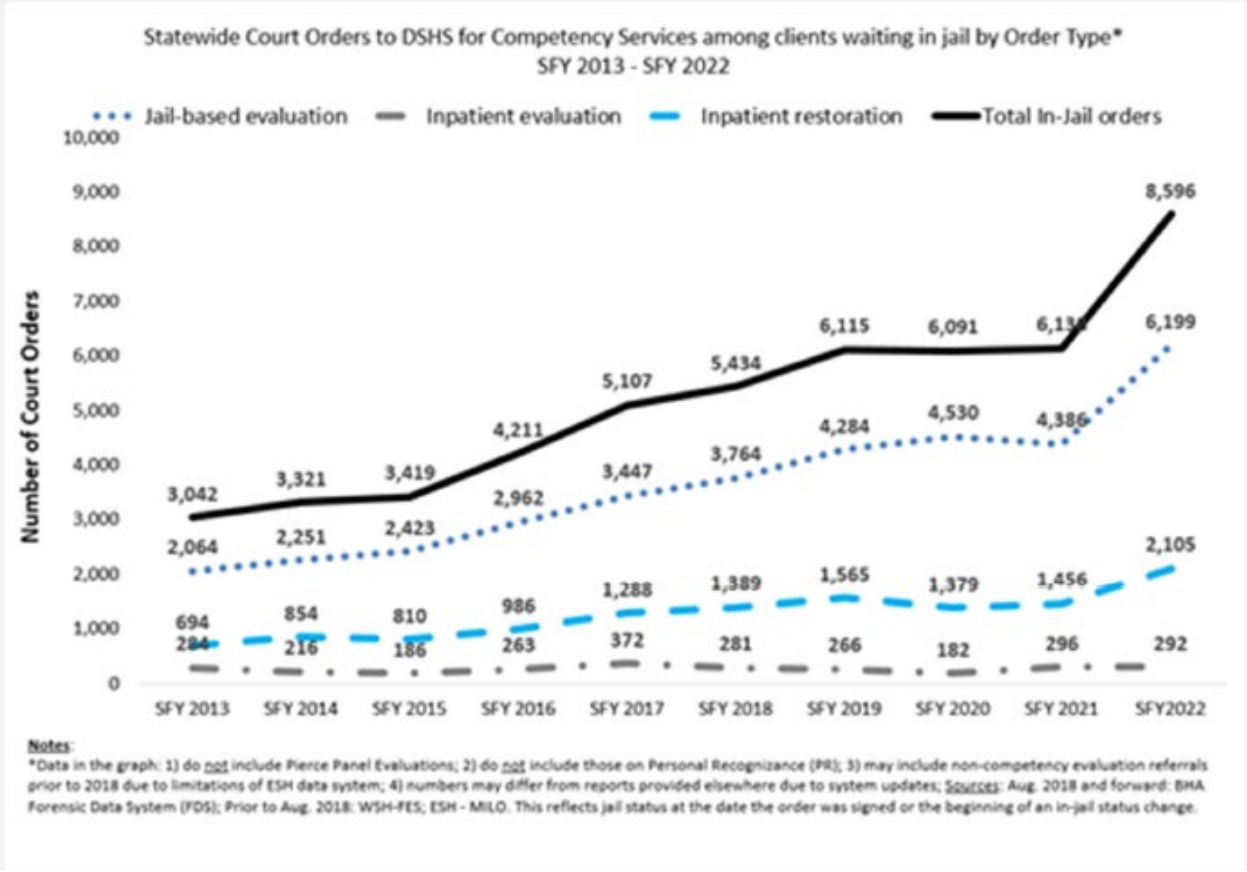
60. Current rates for restoration services were six to seven months for Class Members at WSH and four to five months at ESH, while individuals waiting for outpatient restoration faced two-month delays.

61. The number of "outlier cases," where a Class Members waits 20 or more days for evaluations and 40 days or more for restoration has greatly increased. There were 15 cases in June 2021, 188 in April 2022, and 405 in August 2022, with the longest wait for inpatient restoration reaching 681 days. There were 537 outlier cases in December 2022, 515 cases in January 2023, 438 cases in February 2023, and 399 in March 2023. (Tr. Ex. 12 at 12.)

H. Increase in Demand for Competency Services

62. The demand for competency services has gone up consistently over the past ten years. But the total number of in-jail referrals for competency services increased more rapidly between SFY 2021 and SFY 2022. The total went from 6,131 competency orders in 2021 to 8,596 in 2022. (Tr. Ex. 2 at 3.) This is an increase of roughly 40%.

63. The following chart was presented to the Court as "reflecting data kept in the Forensic Data System" and, according to Dr. Kinlen's sworn declaration, is "a true and accurate depiction of demand for competency services":



64. Both the flattening of competency orders in 2020 and the increase in 2022 reflect the impact that the COVID-19 pandemic had on jail admission rates and demands for competency services. As the COVID-19 pandemic took hold in 2020, fewer individuals were booked in jail and the demand for competency services slackened. But as the jails reopened in 2021 and 2022, a backlog of criminal cases began to churn through the courts, raising the number of competency orders.

65. While the uptick in competency orders for SFY 2022 is significant, it was not altogether unexpected, particularly given the historic data and DSHS's knowledge that the pandemic created a substantial backlog. Historical data show that there was an average increase in jail-based orders from SFY 2013 through 2019 of approximately 12% per year. Had that same rate of annual increase been applied to SFY 2020 through 2022, the total jail-based orders would

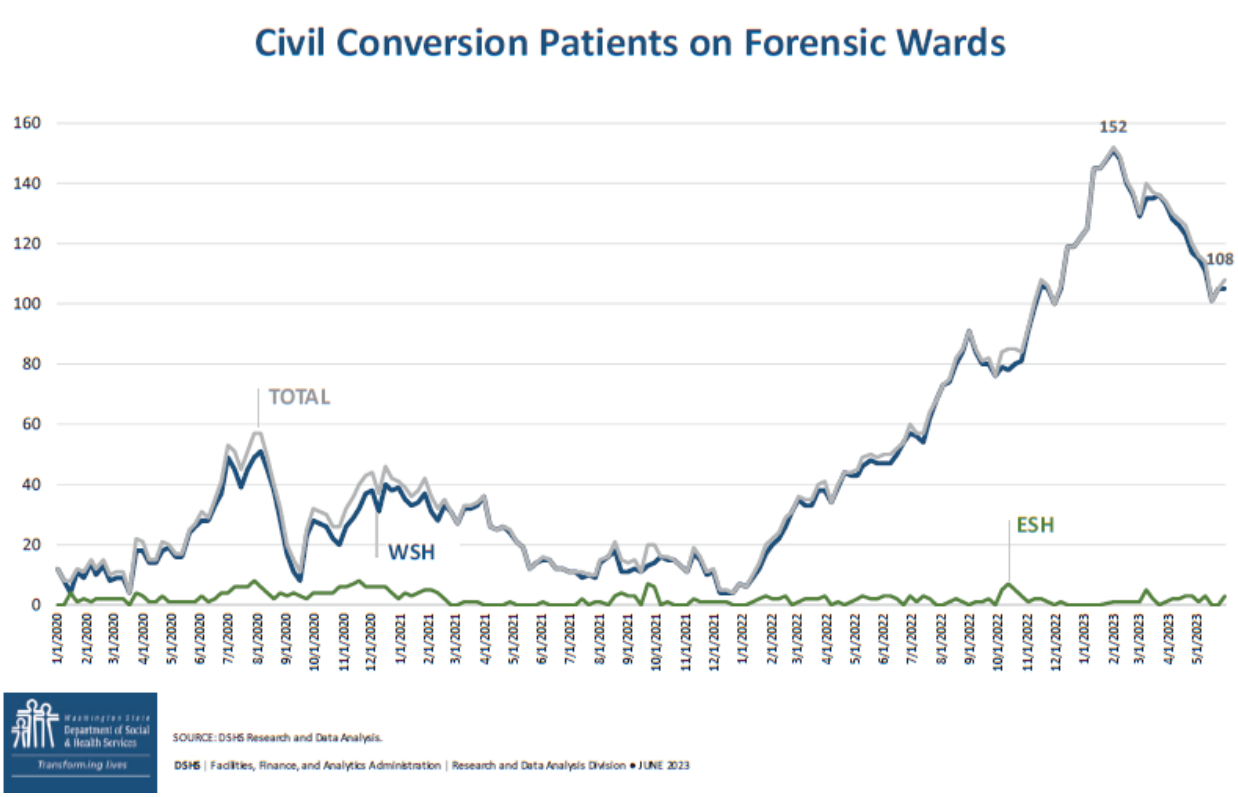
have been 6,882 in 2020, and 7,745 in 2021, and 8,717 in 2022 (approximately 100 more than the actual number of orders). This broader view of those data shows how COVID-19 slowed the growth rate only temporarily as the criminal justice systems slowed down and then quickened as the system reopened to process the backlog. As DSHS has conceded, "While COVID-19 cases continue to impact the Department, more acute current impacts result from a backlog of cases now being processed in the criminal justice system." (Quarterly Status Report at 4 (Dkt. No. 990-1 at 6).) This statement was made with explicit reference to the chart above. And it impacts the total number of Civil Conversion patients, who would have been in need of competency services prior to having their charges dismissed.

I. Civil Conversion Patient Demand Stripped Bed Capacity from Class Members

66. One of the primary drivers for increased Class Member wait times and lack of forensic bed capacity at WSH from September 2022 through May 2023 are Civil Conversion patients housed in forensic beds at WSH.

67. The number of Civil Conversion orders requiring evaluations as ESH and WSH went up 40% between SFY 2021 and SFY 2022.

68. The following chart shows the increase in Civil Conversion patients in forensic wards from January 2020 to the May 2023 (Tr. Ex. 102 at 22):



69. The above chart shows that on average, between January 1, 2020, and July 2022, there were anywhere between 5 and 50 Civil Conversion patients in forensic beds at WSH. This is consistent with testimony that DSHS usually saw approximately 30-35 Civil Conversion patients in forensic beds at WSH from 2016 to 2022. But between July 1, 2022, and February 2023, that number climbed from nearly 60 to 152. That number has since decreased to 102 as of May 1, 2023, but still remains historically high.

70. The above chart also shows that at ESH, the number of Civil Conversion patients has remained steady throughout this entire time period.

71. Over the same period of time that Civil Conversion patients at WSH increased rapidly in 2022, the number of orders for competency services did not similarly increase, as the three tables in Section H confirm.

72. DSHS presented historical data on the total number of Civil Conversion orders from SFY 2018 through 2022, with only partial data for 2018. These data show: (1) in 2018, there were 142 Civil Conversion orders (106 at WSH and 36 at ESH); (2) in 2019, there were 369 Civil Conversion orders (284 at WSH and 85 at ESH); (3) in 2020, there were 443 Civil Conversion orders (340 at WSH and 103 at ESH); (4) in 2021, there were 473 Civil Conversion orders (364 at WSH and 109 at ESH); and (5) in 2022, there were 660 Civil Conversion orders (490 at WSH and 170 at ESH). And the number of Civil Conversion orders have been coming down steadily in 2023.

73. An analysis of these somewhat limited data shows that between 2019 and 2020 the number of Civil Conversion orders increased by 20%, while the increase between 2020 and 2021 was only 6%. The increase between 2018 and 2019 is 260%, but this reflects—to some unknown extent—the lack of complete data for 2018.

74. Several interrelated factors contributed to the rise in Civil Conversion orders and their impact on the lack of forensic bed space at WSH for Class Members. The Court finds three primary drivers: (1) DSHS's inability to accommodate an increase in demand for competency and Civil Conversion orders in 2022; (2) DSHS's decision to continue ward closures at WSH; and (3) DSHS's admission algorithm for patients at WSH.

75. First, the COVID-19 pandemic created a backlog within the criminal justice system. As the annualized data show, there was a large decrease in competency orders in 2020 and 2021 that then rose significantly in 2022. Similarly, the data show that Civil Conversion orders decreased substantially in 2021 but then rose significantly in 2022. The increase in demand for competency services put a strain on DSHS's forensic bed capacity. It also caused competing demand for bed space between Class Members and Civil Conversion patients. The

increase in demand led to an increase in Class Member wait times for competency services, as DSHS was unable to keep up with demand. Longer wait times led to more Civil Conversion orders. As Kevin Bovenkamp, Assistant Secretary for the BHA of DSHS, wrote in December 2022: an "increase in wait times for inpatient beds . . . leads to more dismissals and an increase in civil conversion patients." (Tr. Ex. 7.)

76. Second, the closure of five wards at WSH had a substantial impact on the number of Civil Conversion patients occupying forensic beds at WSH that should have been used by Class Members. According to Assistant Secretary Bovenkamp, "[t]he COVID fueled backlogs and the newest spike in demand occurred while the Department is beginning construction of the new forensic hospital on the WSH campus." (Bovenkamp Decl. ¶ 13(b) (Tr. Ex. 1).) Through the closures, WSH effectively lost 150 forensic beds for use by Class Members from July 2021 through December 2022 by placing Civil Conversion patients in those beds. At its zenith, the Civil Conversion patient population at WSH was 153. Had DSHS kept the WSH wards open, the beds in those civil wards would have been filled with Civil Conversion patients. By shutting down civil wards at WSH when the Civil Conversion patients were increasing in number, the State effectively created a bed shortage for Class Members from at least September 2022 through May 2023. The increased number of Civil Conversion patients occupying forensic beds was directly attributable to the closure of the civil wards at WSH. This was poor planning for the laudable goal of building a new hospital.

77. Use of forensic beds by Civil Conversion patients poses a significant delay in Class Members obtaining access to forensic beds. As Assistant Secretary Bovenkamp admitted, "each civil conversion patient admitted to the state hospital has resulted in fewer beds available for competency patients [Class Members], and those beds being unavailable for longer periods of

time." (Tr. Ex. 7 at 1.) That is because "[w]hen a treatment bed is occupied by a civil conversion patient during a year, it services only that patient, instead of it being able to serve at least 4-5 competency patients [Class Members] in that bed, during the same time period." (Tr. Ex. 7 at 1.)

78. Third, DSHS's decision to continue use of an admission algorithm that prioritizes Civil Conversion patients over Class Members at WSH deprived Class Members of forensic beds. Developed in 2016, the algorithm assigns points for various characteristics of an individual seeking admission into ESH or WSH. (See Tr. Ex. 111.) The higher the points, the more priority that person has. The highest point score by order type is given to Civil Conversions. The algorithm's prioritization of Civil Conversion patients had not been problematic until the total number of Civil Conversion orders began to increase in 2022. But this changed as the demand for beds increased as the criminal justice system processed the backlog of criminal cases.

J. DSHS Failed to take Reasonable Steps to Avoid or Address the Breach

79. DSHS did not take all reasonable steps to ensure the 92 additional beds provided for in the Settlement Agreement were available to Class Members from September 2022 through May 2023.

80. DSHS failed to take reasonable steps to address the bed shortage at WSH and longer wait times for Class Members. There are three root failures: (1) the failure to prepare for and react swiftly to the rise in demand for competency services and Civil Conversion orders; (2) the decision to continue prioritizing Civil Conversion patients over Class Members and the delay in stopping new admissions; and (3) the decision not to delay ward closures at WSH.

81. First, DSHS was aware of the backlog of cases that the COVID-19 pandemic created. DSHS was also aware that as the COVID-19-related restrictions eased, the criminal justice system would see an increase in volume of both competency and Civil Conversion orders.

Despite being aware of the backlog, DSHS was surprised by the speed and total volume of orders. For example, the Assistant Secretary for the Behavioral Health Administration of DSHS, Kevin Bovenkamp, was surprised by the speed and total volume of orders. Dr. Kinlen similarly knew there would be a backlog of cases that would come through the criminal justice system and impact competency and Civil Conversion orders as the COVID-19 pandemic matured. Dr. Kinlen was not able to figure out when the backlog would start to clear, and the rates might increase. To gauge this potential, Dr. Kinlen spoke with "community local partners" within a few counties. But Dr. Kinlen did not identify any historical data he relied on to help forecast demand or information from the courts themselves.

82. DSHS did not act on its knowledge that COVID-19 created a backlog of competency and Civil Conversion orders to adequately plan for the surge in demand. DSHS had historic data for both competency orders and Civil Conversion orders that it could have used to project capacity needs. Had DSHS used, for example, historic growth rates for competency orders, it could have reasonably forecast the demand needs. (See ¶ 65, above.) Similarly, had DSHS applied a 20% annual rate of increase to project the number of Civil Conversion orders, it would have expected roughly it would have expected 532 Civil Conversion orders in 2021 (443 x 120%) and 638 Civil Conversion orders in 2022 (532 x 120%). This would have prepared DSHS to expect a number closer to what it saw in 2022.

83. The Court recognizes that forecasts are only as good as the data and that DSHS could not have known with precision the timing and rate of increase in demand. Even with that caveat, DSHS showed only limited diligence in trying to address the rise in demand for competency services and Civil Conversion orders. DSHS did not timely move to identify beds outside of WSH to take Civil Conversion patients. Although Assistant Secretary Kevin

Bovenkamp undertook some efforts internally to find new locations for Civil Conversion patients, the first documented efforts appear to have occurred in November 2022. (Tr. Ex. 6.) And this did not lead to alternative bed capacity for Civil Conversion until 2023 when roughly 32 Civil Conversion patients were moved to beds at South Sound Behavioral Hospital and Wellfound Behavioral Health Hospital. Plans are also under way to expand the number of beds at these facilities, and additional 16 beds for Civil Conversion patients should be online at a facility in Thurston County. But as of the date of the Evidentiary Hearing, only 32 individuals had been moved out of WSH to these two facilities.

84. Second, DSHS knowingly violated the Court's Permanent Injunction and the fundamental goal of the Settlement Agreement by prioritizing Civil Conversion patients over Class Members. And it failed to take prompt action to change its admission practices.

85. Once DSHS saw a spike in both competency and Civil Conversion orders and a dramatic increase in Civil Conversion patients at WSH, DSHS knowingly prioritized Civil Conversion patients over Class Members. In a memorandum dated September 9, 2022, Assistant Secretary Bovenkamp wrote to Jilma Menses, Secretary of DSHS:

> Dr. Waiblinger and I met and discussed the bed space concerns at WSH and potential impacts to admissions. We agreed that WSH should prioritize Civil conversion cases ahead of Forensic cases, still admitting as many TB [Trueblood] class members as possible. We are not stopping TB class member admissions as we intend to still take them in as we are able to.

(Tr. Ex. 5 (emphasis added).) This decision violated the Court's Permanent Injunction and the fundamental goal of the Settlement Agreement.

86. Assistant Secretary Bovenkamp was aware that the Court's Permanent Injunction required Trueblood Class Members to be admitted in a timely fashion, but he continued to believe the algorithm's prioritization was proper. Assistant Secretary Bovenkamp knew there is

no authority that would either compel admission of Civil Conversion patients over Class Members or that doing so would follow the Court's Permanent Injunction or satisfy Class Members' constitutional rights. Assistant Secretary Bovenkamp admitted at the Evidentiary Hearing: "Our intent was to continue to balance the competing demand of state law and your Court order and continue to admit the most serious patients based on the algorithm into the hospital into the beds we had available." But Civil Conversion patients do not have the same rights as Class Members—a point DSHS willfully ignored.

87. DSHS failed to take swift or meaningful action to stop prioritizing Civil Conversion patients over Class Members. Despite the lack of bed space and rising number of Civil Conversion patients at WSH, DSHS waited until December 2022 to adjust admission procedures for Civil Conversion patients. (Tr. Ex. 7.) After the changes in admissions took effect, DSHS denied admission to 43 of roughly 160-180 total Civil Conversion patients. Even with the change in the algorithm in December 2022, the number of Civil Conversion patients increased through February 2023. DSHS could have changed the algorithm's prioritization of Civil Conversion patients earlier than it did. DSHS did not stop admitting Civil Conversion patients until March 2023. By stopping new admissions of Civil Conversion patients, DSHS has seen a large decrease from over 130 Civil Conversion patients in March to 108 patients in May 2023. DSHS could have stopped admitted Civil Conversion patients into forensic beds well before March 2023.

88. Additionally, DSHS did not apply the admission criteria to screen existing Civil Conversion patients in WSH to determine whether they could be moved to non-forensic beds. DSHS could have, but chose not to. And it did so despite the fact that roughly half of the Civil Commitment patients do not need to be housed in a hospital setting.

89. DSHS could also have transferred more patients from WSH to ESH, but did so for only 10 individuals.

90. Third, DSHS failed to take any steps to delay closures of wards at WSH when it saw the increase in demand for both competency services and Civil Conversion orders. DSHS knew that further ward closures would increase wait times for Class Members, but nonetheless continued to shut down wards in the face of increasing demand. DSHS presented no evidence that it could not have delayed ward closures to handle the surge in demand. Its decision to close more wards helped only to increase the number of beds absent for Class Members from September 2022 through May 2023.

K. DSHS's Explanations for the Lack of Beds and Rise in Wait Times

91. DSHS contends that the Omicron wave of COVID-19 adversely impacted timely competency services because it created a backlog of patients awaiting admission and slowed discharged. Omicron infections at WSH began and lasted throughout 2022, creating difficulty for DSHS to admit and move patients through the different wards at WSH. DSHS points to this as a cause of increased wait times for Class Members. As of April 2023, both ESH and WSH no longer have any COVID-19 restrictions.

92. DSHS has also faced staffing shortages at the state hospitals. DSHS's staff vacancy rates are consistent with nationwide data. And the vacancy rates have not changed in any meaningful way from 2022 through 2023. (See Monitor Report at 17 (noting that staffing "rates haven't changed"); id. at 19 (noting that "Staffing has remained stable although staffing for behavioral health services across the state remains challenging."); Id. at 20 ("Staffing has been remarkably stable"—in reference to clinical and non-clinical staff at Maple Lane and Fort

Steilacoom).) The vacancy rates presented by the Parties in their most recent Status Report show relatively stable staffing vacancies. (See Dkt. No. 990-1 at 8.)

L. Civil Conversion Admission Group

93. The State also implemented what the Court finds to be a troubling process of determining which Civil Conversion patients to admit.

94. In December 2022, the State started to convene a group to consider which Civil Conversion patients would be admitted or not. The Court refers to this as the "Admission Group." Dr. George Petzinger, Chief Medical Officer at the Gage Center at WSH, testified that DSHS continues to use the Admission Group to determine whether a Civil Conversion patient needs a forensic bed or not.

95. The Admission Group includes Assistant Secretary Bovenkamp, Dr. Kinlen, Dr. Petzinger, and the CEOs and CMOs of WSH and ESH. The Admission Group does not include a public defender or representative of the individuals being considered for admission.

96. The Admission Group makes decisions about which Civil Conversion patients to admit or not based on the charging information and the Admission Group's assessment of the risk to public safety and the acuity of the Civil Conversion patient. (See Tr. Ex. 112.) The Admission Group examines the history of past arrests including juvenile convictions, the result of prior charges, and jail-based clinical evaluations.

97. Without any particular knowledge of how to read or evaluate criminal history or any legal expertise on charging decisions, the Admission Group's subjective evaluation is suspect for implicit bias. This is a significant problem given that people of color form the majority of the Trueblood Class.

98. DSHS could identify no statute that authorized the Admissions Group and no criteria for them to use public safety as a criterion to determine admission.

M. Additional Efforts by DSHS

99. Keri Waterland, Ph.D., Washington State Health Care Authority's (HCA) Division Director for the Division of Behavioral Health and Recovery, discussed HCA's efforts to create diversion programs and services that provide community mental health care and treatment and housing services.

100. Relevant to Plaintiffs' Motion is the fact that HCA played a role in contracting with South Sound and Wellfound to identify beds for Civil Conversion patients. Indeed, HCA started to look for beds in November 2022 for Civil Conversion patients.

101. Director Waterland stated that if HCA had more money, it could identify and secure new beds for Civil Conversion patients. These funds could help pay higher contract rates.

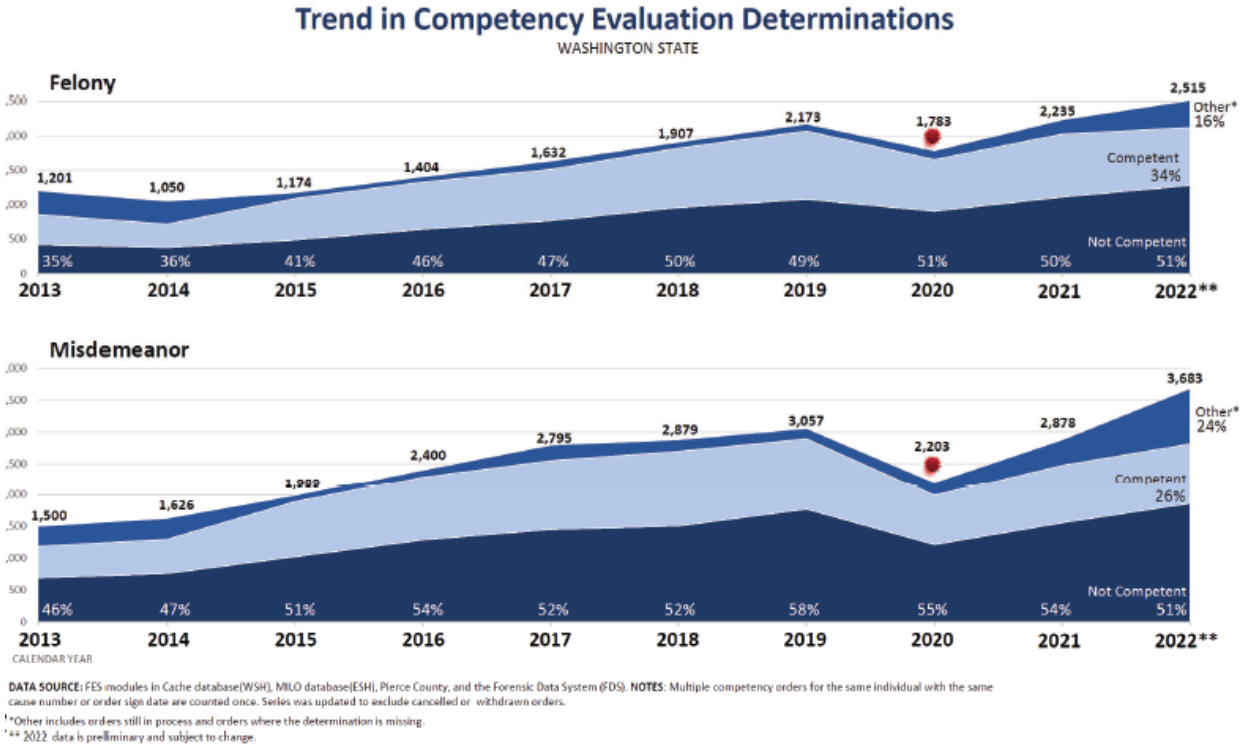
102. The Court appreciates the efforts that HCA has undertaken, and the money the state has allocated to fund the programs and services. These programs and services are important to the Class Members and the overall Settlement Agreement. But ultimately, the Court finds this information to be of limited utility to the issues presented by Plaintiffs' Motion. That is because the Court was presented with no data showing how any of the services or programs HCA provides has increased bed space (aside from South Sound and Wellfound) or reduced wait times for Class Members. So while the Court believes that diversion and housing assistance remain critical to the ultimate goal of the Settlement Agreement and DSHS's ability to comply with the Permanent Injunction, the information presented was not relevant to determining the legal issues presented.

N. County Concerns over Evaluations

103. Amici King, Pierce, and Snohomish Counties raised concerns about the quality of competency evaluators and the overall rates of "not-competent" findings. They also questioned whether the State was taking sufficient steps to acquire new hospital space.

104. Amici failed to identify or propose any evidence that would show any problem in the quality of competency evaluations.

105. The Parties stipulated that "the outcomes of competency evaluations, specifically, the rate at which criminal defendants are found competent or incompetent by Department evaluators has remained relatively steady during the pendency of this case, as represented in the attached chart titled 'Trend in Competency Evaluation Determinations'[.]" The chart referenced was admitted as Exhibit 106 and it depicts the following:



106. This supports the Parties' assertions. There is no spike in the rate of competent or not-competent findings that might suggest a problem with the evaluation process. Any increase can be correlated with the types of arrests being made and not the quality of the evaluations. In addition, and perhaps most importantly, it is the ordering court that makes the ultimate determination on when to order restoration, not the evaluator.

O. Fines Held in Abeyance

107. Since entry of the Settlement Agreement, the Court has calculated the fines for untimely inpatient and outpatient competency services as part of each monthly judgment, but those fines have not been due to the Court's registry and remain held in abeyance.

108. From December 2018 to the present, the Court has held in abeyance payment of $290,656,500 in inpatient and outpatient restoration fines.

109. From September 1, 2022, through May 31, 2023, the Court has calculated the fines held in abeyance to be $100,318,000. (See Dkt. Nos. 923, 928, 933, 935, 953, 970, 973, 987, 989, 1001.)

CONCLUSIONS OF LAW

A. Standard

1. In order for the Court to find a party in civil contempt, the "moving party has the burden of showing by clear and convincing evidence that the contemnors violated a specific and definite order of the court. The burden then shifts to the contemnors to demonstrate why they were unable to comply." F.T.C. v. Affordable Media, 179 F.3d 1228, 1239 (9th Cir. 1999) (quoting Stone v. City and County of San Francisco, 968 F.2d 850, 856 n.9 (9th Cir. 1992)). "The contempt 'need not be willful,' and there is no good faith exception to the requirement of

obedience to a court order." In re Dual-Deck Video Cassette Recorder Antitrust Litig., 10 F.3d 693, 695 (9th Cir. 1993) (citation omitted).

2. Civil contempt is defined as "a party's disobedience to a specific and definite court order by failure to take all reasonable steps within the party's power to comply." Inst. of Cetacean Research v. Sea Shepherd Conservation Soc'y, 774 F.3d 935, 945 (9th Cir. 2014) (citing In re Dual-Deck, 10 F.3d at 695).

3. Substantial compliance with a court order is a defense to an action for civil contempt. Gen. Signal Corp. v. Donallco, Inc., 787 F.2d 1376, 1379 (9th Cir. 1986). "If a violating party has taken 'all reasonable steps' to comply with the court order, technical or inadvertent violations of the order will not support a finding of civil contempt." Id. A party's inability to comply with a judicial order also constitutes a defense to a charge of civil contempt. F.T.C., 179 F.3d at 1239.

4. A district court has the inherent power to hold a party in civil contempt in order to enforce compliance with an order of the court. Shillitani v. United States, 384 U.S. 364, 370 (1966); see also United States v. United Mine Workers, 330 U.S. 258, 303-04 (1947). Courts also have a "wide latitude" in determining whether a party is in contempt of its orders. Gifford v. Heckler, 741 F.2d 263, 266 (9th Cir. 1984). As such, it is up to the court to determine whether an entity is in contempt, and that decision is subject to abuse of discretion review. F.T.C., 179 F.3d at 1239. Once finding a party in contempt, federal courts also have broad remedial powers to address noncompliance. Stone, 968 F.2d at 861-62 (affirming court's power to authorize sheriff to override state law); see also, e.g., Brown v. Plata, 563 U.S. 493 (2011) (imposing prison population limit); Nat'l Org. for the Reform of Marijuana Laws v. Mullen, 828 F.2d 536 (9th Cir. 1987) (affirming appointment of a Special Master). When the least intrusive measures fail to

rectify the problems, more intrusive measures are justifiable. Stone, 968 F.2d at 861 (citing Hutto v. Finney, 437 U.S. 678, 687 n.9 (1978)). Federal courts possess whatever powers are necessary to remedy constitutional violations because they are charged with protecting these rights. Id. (citing Hutto, 437 U.S. at 687 n.9); Milliken v. Bradley (Milliken II), 433 U.S. 267, 280–81 (1977). When the least intrusive measures fail to rectify the problems, more intrusive measures are justifiable. Stone, 968 F.2d at 861 (citing Hutto 437 U.S. at 687 n.9). This Court's orders may infringe upon state laws because "otherwise valid state laws or court orders cannot stand in the way of a federal court's remedial scheme if the action is essential to enforce the scheme." Id. at 862.

5. Civil contempt sanctions can be imposed for one or both of two distinct purposes: to compel or coerce the defendant into compliance with a court's order, and to compensate the complainant for losses sustained as a result of the contemnor's noncompliance. Shuffler v. Heritage Bank, 720 F.2d 1141, 1147 (9th Cir. 1983). "Where a fine is not compensatory, it is civil only if the contemnor is afforded an opportunity to purge." Int'l Union, United Mine Workers of Am. v. Bagwell, 512 U.S. 821, 829 (1994).

6. Civil contempt fines can take the form of per diem fines imposed for each day a contemnor fails to comply with an affirmative court order, or of fixed fines imposed and suspended pending future compliance. See Int'l Union, United Mine Workers of Am., 512 U.S. at 829. "A court, in determining the amount and duration of a coercive fine, must 'consider the character and magnitude of the harm threatened by continued contumacy, and the probable effectiveness of any suggested sanction in bringing about the result desired.'" Whittaker Corp. v. Execuair Corp., 953 F.2d 510, 516 (9th Cir. 1992) (quoting United Mine Workers, 330 U.S. at

304). "Generally, the minimum sanction necessary to obtain compliance is to be imposed." Id. at 517.

7. "The construction and enforcement of settlement agreements are governed by principles of local law which apply to interpretation of contracts generally." Jeff D. v. Andrus, 899 F.2d 753, 759 (9th Cir. 1989) (applying Idaho contract law to a Settlement Agreement and Stipulation entered into in Idaho where the Parties were all Idaho residents). In determining substantial compliance and material breach, Washington courts look to the criteria identified in the Restatement (Second) of Contracts § 241. See DC Farms, LLC v. Conagra Foods Lamb Weston, Inc., 179 Wn. App. 205, 221 (2014). The Restatement's criteria include:

> (a) the extent to which the injured party will be deprived of the benefit which he reasonably expected; (b) the extent to which the injured party can be adequately compensated for the part of that benefit of which he will be deprived; (c) the extent to which the party failing to perform or to offer to perform will suffer forfeiture; (d) the likelihood that the party failing to perform or to offer to perform will cure his failure, taking account of all the circumstances including any reasonable assurances; (e) the extent to which the behavior of the party failing to perform or to offer to perform comports with standards of good faith and fair dealing.

Restatement (Second) of Contracts § 241 (1981).

B. Jurisdiction

8. The Court continues to possess subject matter jurisdiction and jurisdiction to enforce the Settlement Agreement and issue orders of contempt.

C. DSHS was in Material Breach of the Settlement Agreement

9. The Parties agree that DSHS breached the Settlement Agreement by failing to provide adequate forensic beds as promised in the Settlement Agreement to Class Members from September 2022 through May 2023.

10. The Court finds by clear and convincing evidence that DSHS's failure to provide the required number of beds resulted from its failure to make all reasonable efforts to comply with the Settlement Agreement.

11. This breach was material because it contravened "the fundamental goal of th[e Settlement] Agreement . . . to provide timely competency services to Class Members pursuant to the Court's orders." (Settlement Agreement at 4.) And the breach cannot be said to be an "unintentional or minor" deviation from the Settlement Agreement that might not constitute a material breach. (See id. § V(A)(3).) Here the breach was material because it "substantially defeat[ed] the object which the Parties intend to accomplish" for at least nine months. (Id.)

12. DSHS knew or should have been aware that there was a backlog of Class Member evaluations that would lead to an increase in the number of Civil Conversion orders and greater demand for bed space at WSH. DSHS failed to plan and forecast adequately. Not only did DSHS fail to plan, but it also actively removed civil beds by closing five wards at WSH to begin initial construction on a new hospital that will not likely open until 2029. Doing so created a civil bed shortage for Civil Conversion patients that DSHS tried to remedy by placing these individuals in forensic beds that should have been reserved for Class Member use given the primacy of Class Member's constitutional rights. This violated Class Members' constitutional rights. And once DSHS saw a spike in the number of Civil Conversion patients occupying forensic beds at WSH, it failed to take reasonable steps to address the bed shortage for Class Members that this created.

13. DSHS knew that the increase in wait times for Class Members would spawn more Civil Conversion orders, as prosecutors dismiss charges against Class Members because they are languishing in jail waiting for competency services. Given that DSHS knew that a COVID-19 related backlog was heading through the criminal justice system and sparking greater numbers of

competency orders, it should have known that it would see higher Civil Conversion orders. The Court saw no evidence that DSHS adequately forecasted or planned for this increase.

14. The Court is particularly struck by DSHS's willful decision to violate Class Members' constitutional rights to receive timely competency services. Assistant Secretary Bovenkamp testified that he knew DSHS was violating this Court's Permanent Injunction by prioritizing Civil Conversion patients over Class Members despite the fact Civil Conversion patients lack the same rights as Class Members to timely services. Assistant Secretary Bovenkamp wrote in September 2022 that "WSH should prioritize Civil conversion cases ahead of Forensic cases, still admitting as many TB [Trueblood] class members as possible." (Tr. Ex. 5.) His testimony did nothing to convince the Court that he and DSHS did not knowingly chose to violate the core goal of the Settlement Agreement. And it shows that DSHS consciously chose to ignore the Settlement Agreement and the Court's Permanent Injunction.

15. DSHS also took far too long to change its admission policies for Civil Conversion patients. As has been made clear, DSHS has had the power to refuse admission of Civil Conversion patients to WSH. DSHS failed to act on that authority, and did not take any steps to limit admissions until December 2022. And even then, it did little to help triage Civil Conversion patients out of WSH.

16. DSHS took a laconic and inadequate approach to identifying alternative placements for Civil Conversion patients. The first evidence of action was in November 2022. While this ultimately unearthed some beds at South Sound and Wellfound for Civil Conversion patients, it was well into a crisis largely of DSHS's own creation, having chosen to continue closing wards at WSH as Conversion Orders spiked. Specifically, DSHS could have delayed closure of two wards in September and December 2022 in light of the spike in Civil Conversion

patients taking up forensic beds at WSH. Its only response was a limited effort to find a handful of alternative beds.

17. The State had ample alternative actions it could have taken but did not. These include, but are not limited to: (1) delaying ward closures at WSH; (2) ceasing new admission of Civil Conversion patients before March 2023; (3) swiftly changing the admission algorithm to no longer prioritize Civil Conversion patients over Class Members; (4) promptly discharging Civil Conversion patients from WSH to alternative facilities; (5) identifying additional capacity in advance of the ward closures and by no later than September 2022 to take Class Member and/or Civil Conversion patients; and/or (6) supporting legislation to eliminate competency restoration for Class Members charged with only misdemeanor and nonviolent Class C felonies.

18. DSHS failed to identify any compelling evidence that it could not have complied with the Settlement Agreement's bed requirement. While the Court acknowledges that Civil Conversion and competency orders have increased and the precise timing of their increase was unknown, those increases were foreseeable. And DSHS knew its failure to timely provide competency services would increase the number of Civil Conversion orders. There is thus a direct correlation between DSHS's failure to provide timely competency services to Class Members and the increase in Civil Conversion orders. And while the Court understands that Civil Conversion patients are often Class Members before their charges are dismissed, the Court cannot accept this as a reason to violate Class Members' constitutional rights to timely competency services. And prioritizing Civil Conversion patients in hospital beds increased wait times for Class Members because Civil Conversion patients occupy forensic beds for four-to-five times longer, as DSHS reports, than Class Members.

19. DSHS's breach of the Settlement Agreement caused continued harm and trauma to the Trueblood Class Members. As a result of inadequate bed space, Class Members lacked access to prompt competency evaluation and restoration services. This compounded the harms and trauma Class Members suffer from prolonged incarceration and delays in being processed through the criminal justice system. Even those Class Members awaiting inpatient treatment suffered harms. During that period of time Class Members did not receive care for their underlying mental health conditions. That is because competency services do not include treatment. Class Members waiting for services, whether in jail or outpatient, continue to suffer without care. And for those who lose access to Medicaid, they often cannot get access to treatment once released. These harms have been documented throughout the life of this case and they remain unremediated.

20. The Court also rejects DSHS's contention that it could not have ensured adequate bed capacity for Class Members over the nine months in question. DSHS raises three arguments: (1) it did not control the volume of Civil Conversion or competency orders and could not have foreseen demand; (2) the Omicron wave of COVID-19 prevented it from providing timely services; and (3) it lacked adequate staffing.

21. The Court rejects DSHS's argument that it had no agency in the volume of competency and Civil Conversion orders and could not have been prepared. DSHS knew of the backlog within the criminal justice system and the strain this would put on bed demand at WSH. DSHS also knew that the increase in delays in providing competency services would increase the number of Civil Conversion orders. It further knew that keeping Civil Conversion patients in forensic beds removes those beds for use by Class Members for far more time than if the beds are used only by Class Members because Civil Conversion patients stay in hospital beds 4-5

times longer than Class Members. As such, DSHS does have control, in part, over the number of competency orders. Assistant Secretary Bovenkamp's December 2022 memo expressly acknowledged that an "increase in wait times for inpatient beds . . . leads to more dismissals and an increase in civil conversion patients." (Tr. Ex. 7.) By denying Class Members timely access to competency services, DSHS directly impacted the rising rates of Civil Conversion orders. Even if DSHS could not have forecast when the backlog would start to run through the system and drive competency orders, it had sufficient historical data to make well-reasoned forecasts on overall demand. Had DSHS looked at historical data, it could have reasonably predicted demand in 2022. The Court saw no evidence of any such planning. Additionally, DSHS did not take swift action when it saw the rise in demand. The response to the sharp increase in Civil Conversion patients at WSH was lethargic and weak. Concerted action did not occur for months after it should have. And it was unjustifiable.

22. Second, DSHS failed to present evidence that Omicron was to blame for the wait times and bed shortage. DSHS did not distinguish the impact of Omicron wave from prior COVID-19 outbreaks which did not lead to a similar bed shortage and increase in wait times or to an increase in Civil Conversion orders. DSHS did not identify anything unique to the Omicron wave that would have otherwise created the bed shortage. Indeed, the data presented on Civil Conversion patients at the start of the pandemic show that the number of Civil Conversion patients increased in the first half of 2020, but that the numbers stabilized thereafter. The primary difference between the earlier COVID-19 outbreaks and the Omicron wave insofar as bed capacity at WSH for Class Members was the closure of 150 beds.

23. Third, DSHS was unable to show any increase in shortages that might explain the recent lack of bed space and increased wait times. As the Court Monitor confirmed, staffing

shortages remain a significant problem but the staff vacancy rates are consistent with nationwide data. And the vacancy rates have not changed in any meaningful way from 2022 through 2023. See Monitor Report at 17 (noting that staffing "rates haven't changed"); id. at 19 (noting that "Staffing has remained stable although staffing for behavioral health services across the state remains challenging."); Id. at 20 ("Staffing has been remarkably stable"—in reference to clinical and non-clinical staff at Maple Lane and Fort Steilacoom.) The vacancy rates presented by the Parties in their most recent Status Report show relatively stable staffing vacancies. (See Dkt. No. 990-1 at 8.) The stability in the vacancy rates undermines DSHS's argument and the Court rejects it.

D. DSHS Continues to be in Contempt of the Permanent Injunction

24. The Court also finds by clear and convincing evidence that DSHS has again violated the Permanent Injunction, as modified.

25. While the Court allowed DSHS to continue to be in contempt, the length of time it has taken and recent spike in constitutional violations are unacceptable. The closest DSHS has ever come to compliance for jail-based competency was in August 2018. Since then, DSHS has regressed and shown uneven signs of achieving compliance. As DSHS highlighted, it needs an additional 213 beds to clear the Class Member waitlist in twelve months. This shows that DSHS is far from compliance. And it shows that DSHS is not planning to come timely into compliance—using a twelve-month period to measure bed demand offends the Permanent Injunction's requirement that these services be provided within one to two weeks of an order.

26. The nine-month period in which Civil Conversion patients stripped forensic bed space from Class Members showcases a particularly egregious violation of the Permanent Injunction. One need look no further than Assistant Secretary Bovenkamp's September 2022

memo to see that DSHS chose knowingly to violate the rights of Class Members. While the Court accepts that DSHS was attempting to serve both populations, DSHS actively chose the option that violated the Permanent Injunction and violated the rights of Class Members by prioritizing bed space to Civil Conversion patients. Doing so also exacerbated wait times for Class Members because Civil Conversion patients occupy forensic beds for four-to-five times longer than Class Members. And it led to the rise in Civil Conversion patients. This created further harm to the Class Members.

27. DSHS's decisions concerning Civil Conversion patients led to a clear increase in violations of the time limits for competency treatment as required by the Permanent Injunction.

28. For these and all of the reasons set forth in Conclusions of Law Section C, the Court finds that DSHS's actions and inactions show clear and unjustifiable violation of the Court's Permanent Injunction. This supports a conclusion that DSHS was in further contempt from September 2022 through May 2023.

29. Additionally, DSHS's approach to determining the admission of Civil Conversion patients appears to be structurally and substantively defective. The Admission Group lacks an adequate representative voice for forensic and Civil Conversion patients, and it suffers from an apparent structural bias that is likely to lead to biased and improper decisions. Moreover, the criteria being used lack any statutory basis, and the materials being considered are not standardized and do not include information presented by the individual or any person representing the person's interests. While this issue falls outside of the Court's Permanent Injunction, the Court makes these observations because the process stood in the way of Class Members receiving timely competency services.

E. Remedy

30. The Court agrees with a portion of the relief requested by Plaintiffs, as outlined in closing arguments, and set forth below. This relief is aimed to redress the harms created by the lack of bed space and increased wait times for Class Members. The Court has also tailored the relief to help increase forensic bed capacity for Class Members.

31. In issuing this relief, the Court does not find it proper or necessary to terminate the Settlement Agreement. Not only has DSHS cured the breach, but the Parties agree that the work DSHS is performing within the Settlement Agreement is ultimately providing benefits to the Class Members and should continue. Terminating the Settlement Agreement would therefore be counterproductive and unnecessary. But the Court does find that payment of the fines held in abeyance are a proper remedy from DSHS's material breach of the Settlement Agreement. This relief is expressly provided for and countenance in the terms of the Settlement Agreement itself. (See Settlement Agreement § V(A) (Dkt. No. 599-1).)

32. The other relief the Court orders below flows from its power to hold DSHS in further contempt of the Permanent Injunction. The contempt finding and other relief do not require termination or alteration of the Settlement Agreement, which expressly preserves the Court's "contempt powers or any other powers possessed by the Court." (Settlement Agreement § V(A)(1) (Dkt. No. 599-1 at 48); See also id. § VI(A).) The Court's relief is tailored to ensure that Civil Conversion patients no longer deprive Class Members of timely competency services and that DSHS more swiftly reaches compliance with the Permanent Injunction. This includes further fines, limitations on new Civil Conversion patient admissions, discharge of Civil Conversion patients, and reporting on how much bed space is needed to comply with the Permanent Injunction.

33. The Court ORDERS as follows:

a. Defendants shall immediately cease admitting Civil Conversion patients to the state hospitals for ordered civil commitment treatment, except for patients for whom the commitment court has made a special finding of violent felony pursuant to RCW § 71.05.280(3)(b) (which the Parties refer to as "HB1114 patients").

b. Within 30 days, Defendants shall identify all civil patients at the state hospitals who are not HB1114 patients. For all such non-HB1114 patients, Defendants shall, within 45 days, provide to the Court Monitor and to Plaintiffs the patient's name and a description of the patient's discharge plan and anticipated living arrangement upon discharge, or transfer plan to another treatment facility.

c. Within 60 days, Defendants shall discharge or transfer all non-HB1114 patients out of the state hospitals. If discharge or transfer of a non-HB1114 patient is not possible within 60 days, Defendants shall provide the Court Monitor with a report explaining why discharge of the patient is impossible and a date certain for discharge or transfer. Any report proposing discharge or transfer more than 90 days of this Order must also be presented to the Court for review and approval.

d. Defendants shall ensure that all vacated forensic beds at the state hospitals are made available to and immediately filled with Class Members.

e. The Court imposes a fine per Civil Conversion patient held in a forensic bed at the state hospitals on a per day basis. Defendants shall pay a fine for

each day spent in a state hospital forensic bed beyond 21 days after dismissal of the patient's underlying criminal case. For each Civil Conversion patient held in a forensic bed for more than 21 days after dismissal of the underlying criminal charge, but less than 28 days, the daily fine shall be $1,000 per day. For each Civil Conversion patient who is held in a forensic bed 28 days or more, the daily fine shall be $2,000 per day. The existing in-jail and inpatient fines shall remain in place.

f. Within 30 days of entry of this Order, DSHS must prepare and file a report outlining how many additional beds are needed to clear the waitlist for competency services owed to Class Members to come into compliance with the Permanent Injunction in four months of the report's due date to the Court. The Court warns DSHS that it may order DSHS to use civil beds at WSH and ESH in order to clear the waitlist and achieve compliance with the Permanent Injunction.

g. Defendants shall pay all fines held in abeyance from September 2022 through May 2023, which totals $100,318,000.00. This must be remitted to the Court's registry within 30 days of this Order. Pursuant to Section V(A)(4) of the Settlement Agreement, DSHS may move the Court for a reasonable schedule for payment of the amount due on an installment basis.

h. Defendants and Plaintiffs to meet and confer within 14 days of this Court's Order and to submit a written plan to implement this Court's Order which may include a joint proposal to amend the Order upon Court

approval, so long as the implementation plan accomplishes substantial compliance with this Order.

i. Defendants to consult with the Court Monitor within 14 days of this Court's Order in order to identify an expert to evaluate the State's current Civil Conversion practices and identify improvements. After consultation with Defendants, the Court Monitor shall select the evaluator and determine the scope and purpose of the evaluation. Defendants are responsible for the costs of this evaluation.

j. The Court Monitor shall convene a working group to prepare a plan to distribute the fines held in abeyance that are now being collected. This plan should be prepared and submitted to the Court within 45 days of entry of this Order. Further time may be requested.

34. The Court will not require an investigation into the evaluators given a lack of any evidence that they are improperly increasing the rates of incompetency findings.

35. Contempt fines paid pursuant to this Order shall be deposited into the Registry of the Court after they are reduced to judgment and shall remain in the Court's Registry until further order from the Court. The fines shall be reduced to judgment once per month, or more frequently if the Court in its discretion so orders. The judgments shall bear interest at the federal statutory rate until satisfied.

36. Consistent with the Court's previous reporting requirement, Defendants shall submit to the Court a proposed calculation of contempt fines along with the wait time data. This shall be submitted to the Court by the fifteenth day of every month. The proposed calculation shall specify the amount of the fine to be imposed and shall contain all calculations performed by

Defendants in order to reach the proposed number. As with the monetary sanctions, this monthly reporting requirement shall terminate upon Defendants' achievement of substantial compliance with the constitutional standards for inpatient evaluations and restorations. These contempt fines and other remedial orders will continue until Defendants demonstrate substantial compliance with the Courts orders or unless the Court otherwise orders.

The clerk is ordered to provide copies of this order to all counsel.

Dated July 7, 2023.

Marsha J. Pechman
United States Senior District Judge

Substance Abuse Block Grant 2023-24 UPDATE

Summary of Changes

Introduction

Below is an overview of the proposed changes for the 2023-2024 North Sound Behavioral Health Administrative Services Organization (North Sound BH-ASO) *Substance Abuse Block Grant (SABG) Plan*. These changes are due to Health Care Authority (HCA) being directed by the Legislature to make FY24 SABG cuts. The required cuts are $1,440,283 across all ten (10) ASOs for FY24. Based upon population, North Sound BH-ASO's cut is $260,439.98.

Summary of Changes

Category	Subcategory	2023-2024 Original	2023 –2024 Updated	Overview
Prevention & Wellness	Outreach to Individuals Using Intravenous Drugs (IUID)	$816,632	$816,632	▪ No change in amount
Engagement Services	Engagement & Referral	$668,806	$668,806	▪ No change in amount
Outpatient Services	Medication Assisted (MAT) – Opioid Substitution Treatment	$200,000	$200,000	▪ No change in amount
Community Support (Rehabilitative)	Case Management	$200,000	$200,000	▪ No change in amount
Community Support (Rehabilitative)	Recovery Housing	$229,000	$0	▪ Decrease of $229,000 ▪ SABG ARPA has $500,000 allocated for Recovery House services
Other Support (Habilitative)	PPW Housing Support Services	$400,000	$400,000	▪ No change in amount
Out of Home Residential Services	Crisis Services Residential/Stabilization	$400,000	$368,439.98	▪ Decrease of $31,439.98 ▪ This is a capacity payment we provide to all crisis triage centers and there will be no change in level of support
Co-Responder	N/A	$400,000	$400,000	▪ No change in amount
Total		$3,314,438	$3,053,998.02	

From:	Stephanie J. Lewis
To:	Margaret Rojas, M Ed.; Michael Reading (mreading@kingcounty.gov); Flatley, Amanda; Mark Freedman (mark.freedman@tmbho.org); joe avalos (joe.avalos@tmbho.org); Trinidad Medina; Liu, Inna; Tiffany Villines (Tiffany.Villines@beaconhealthoptions.com); Becknell, Leah; Sindi Saunders; Karen Richardson; Johnson, Justin D.; Jolene Kron
Cc:	Brad Banks; Glenn Lippman
Subject:	Urgent conversation regarding SABG Funding Reductions
Date:	Thursday, July 13, 2023 9:50:39 AM
Importance:	High

Good Morning All,

I just got off the phone with Danny Highley. He reached out to me to share some unfortunate news. HCA has been directed by the Legislature to make FY24 SABG cuts. These cuts are across multiple HCA programs, however, ASOs are getting "hit pretty hard". The required cuts are $1,550,283 million across all 10 ASOs for Fiscal Year 2024.

The explanation given is that HCA over "obligated SABG based upon investments from the state budget."

Danny is giving ASOs the opportunity to consult with each other to make a recommendation about how this cut is allocated across all 10 ASOs. He plans to attend our July 26th ASO Administrator's Meeting to hear our recommendation.

One option put on the table was cutting each ASO's allocation by 150,000. However, my concern is that some ASOs are actually spending upwards of 90% of their allocation, and this cut could actually be impactful. Some ASOs are spending far less of their allocation, and the cut won't be as impactful to their community.

My suggested starting point is this:

1. Review FY23 spending to identify any patterns of underspending
2. Review FY24 budgets and funds already allocated to contracts

I'm hoping each ASO can come prepared with a number that they could offer up to see if we can collectively make it to 1.5 million.

Thanks,

Stephanie Lewis, LMFT
Administrator
Salish Behavioral Health Administrative Services Organization
Mailing Address: 614 Division St, MS-23
Port Orchard, WA 98366-4676
Phone: (360) 337-4422

Email Address: Please note my new email address effective 4/4/2022: sjlewis@kitsap.gov

Behavioral Health Data Focus Group (Western WA)
7.25.2023
Break-Out Group

Question 1

1. Keeping track of wait times for initial appointment (i.e., intake assessment)
    - How do providers currently collect/measure wait times for new clients to access routine care?

One provider indicated a transition from appointments to walk-in (open Access), reduce No show rate. 1st Psychiatric Appointment can be a challenge and looking at structure to address streamlining.

SUD appointments are Open Access. On the Mental Health side, there are no same day appointments.

One provider indicated that their EHR has fields for capturing request for services, 1st appointment offered and can track times between appointments.

One provider has built in fields to capture request for services, first appointment and ongoing.

One provider who has a broad range of BH Services, wait times can be long, depending on requested service, largest barriers is staff turn-over which impacts wait times.

One provider does not track wait times for initial intake or appointments.

        i. Tracking availability of same-day appointments
        ii. Capturing when appointment times were available, but clients were not available.
        iii. For SUD providers, tracking the availability of Interim Services

    - Do providers have collection methods they would suggest the state utilize?

King County has implemented a system that tracks detailed wait times, HCA has requirements, but varied interpretation and reporting from providers – Provider reporting typically aligned with 1st offered and 1st accepted – in King County, built this into their system to track.

    - What are some of the barriers to ensuring current data is submitted?

Open Access providers – is this captured as a same day appointment and not captured through the request for service and 1st appointment accepted. One Open access provider captures walk in as a request for service and 1st appointment offered would be same day.

    - Are there specific issues surrounding EHR systems?

Providers not indicating specific barriers.

    - Have any providers found a "secret sauce" they contribute to their data collection success?

King County system, open access structure with fever no shows, for psychiatric appointments – reminder calls. Provider being able to shift interim services to address immediate needs if more intensive care is further scheduled out. CMCS Model (UofW). Have internal provider expertise to focus resources to achieve access goals – where you can drive performance improvements and quality of care. For SUD provider Ideally, immediately following the intake, offer a therapeutic appointment same day – but provider indicated barriers to bill services same day.

    - How many providers currently offer walk-in and next day appointments?
        i. If your agency does not currently offer these appointments, what are the administrative barriers to doing so?

Yes, several providers offer open access style walk in for SUD, more limited capacity for MH. Differing locations sites may have different capacity, but sounds like providers overall, attempt to offer same-day or next day appointments.

Barriers: Workforce. Often Intake can be completed, but the ongoing therapeutic services can be delayed. Providers try to offer telehealth or interim services; Staffing is the biggest issue – the new ACC-C credential may help with the front door.

- What are the administrative challenges?

Question 2

2. Reporting wait times
3. Are you currently reporting wait time information to the MCOs or HCA? If so, what information are you reporting and how?

King County – Collects the data (request for services to the time services are provided).

4. In the Service Encounter Reporting Instructions (SERI) guide, request for service encounter data is required. How are providers ensuring this is documented and encountered? What are the challenges/barriers to ensuring this is submitted?
5. If you are currently not accepting new clients, do you track and report their requests for services?

One provider – No, we would not collect request for services if we do not have capacity to serve the individual.
HCA – We do not have an internal way to capture the request for services if not services could be offered by the provider. What structural or technical solutions could capture the data.

Question 3

3. Supports Needed
    - What supports or technical assistance is needed to collect this data set and encounter data more holistically (e.g., open beds or other technology platforms that could be utilized?)

Providers – Not sure I want to know the number of folks we can't serve; HCA – capturing the need is critical for increasing capacity, advocacy, and funding for the provider network. King County – requires providers to report the availability of intake appointments, but provider is not sure the value or the use of this data. Is this data used to support referrals to agencies or programs, but not clear how this is used. What questions are trying to be answered with some of the data collection. Recognition that the administrative costs to data capture to the value add in improving access to care would need to be evaluated. There is administrative expertise needed to support a robust database management and data collection with an aim to improve access to care. Significant resources (administrative, clinical) are needed to ensure data completion for all services take considerable time and effort.

        i. Are providers struggling with requests for service and intake assessment encounters being rejected at the ASO or MCO level?
    - Are there ways that would help incentivize data completion?
    - Do you have suggestions on how to improve collecting data on timeliness and/or mechanisms for reporting that to the MCOs or the state?

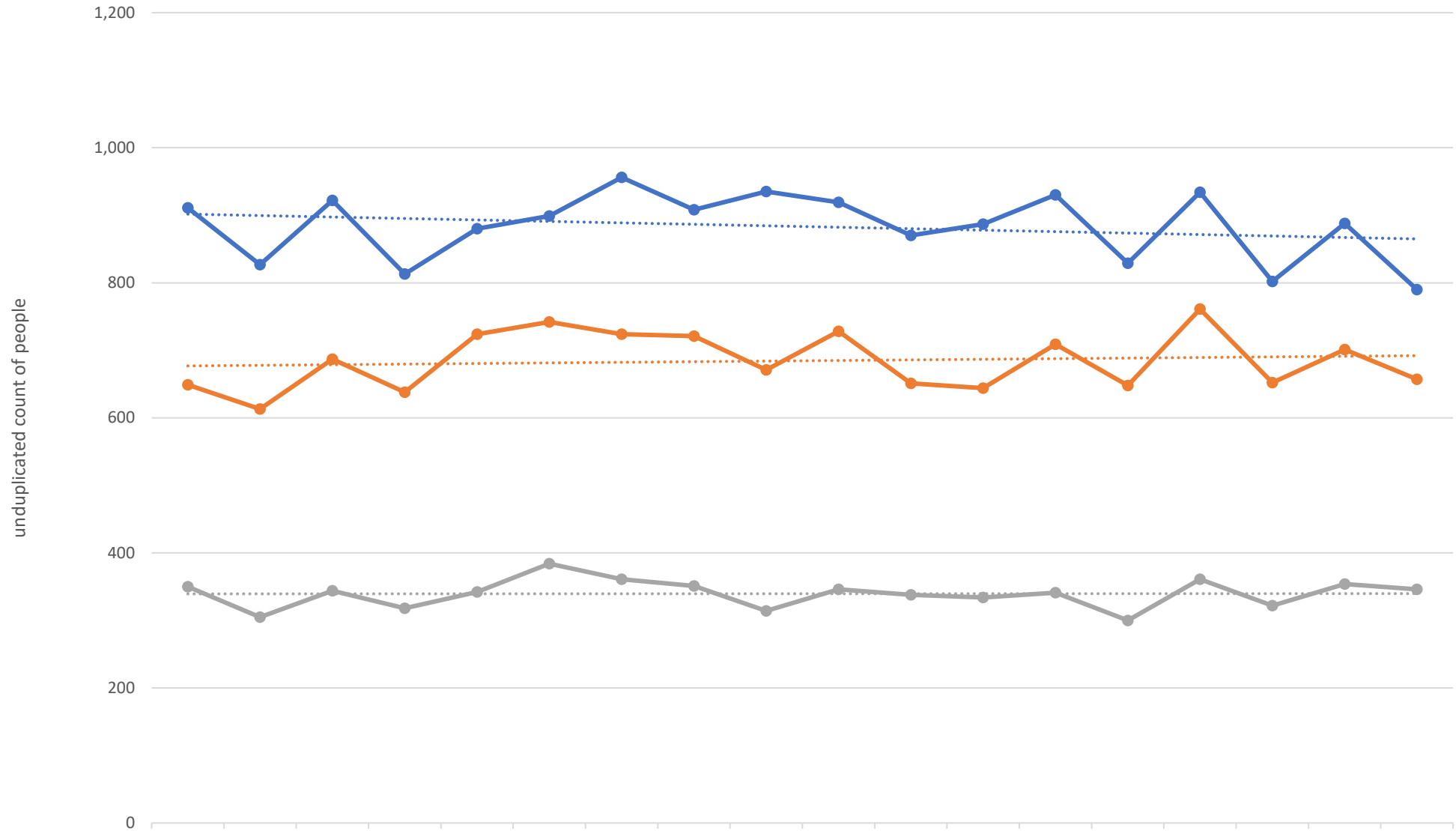
Incentivizing – provider payments for administrative, database and data management/reporting. One provider reporting that they run reports on the declines (individual completed intake, but provider not able to offer services (?) or individual declines ongoing services, reasons why, etc.).

Capturing client experience– reasons why services were declined or provider capacity limitations.

King County - there are provider incentives – dashboard of performance measures – does this drive provider behavior? Yes, sometimes it can, especially when it's shared across the network and motivates provides to improve outcomes. Some issues are there are known wholes in data collection.

North Sound Crisis System Dashboard

Unduplicated People receiving a crisis system service



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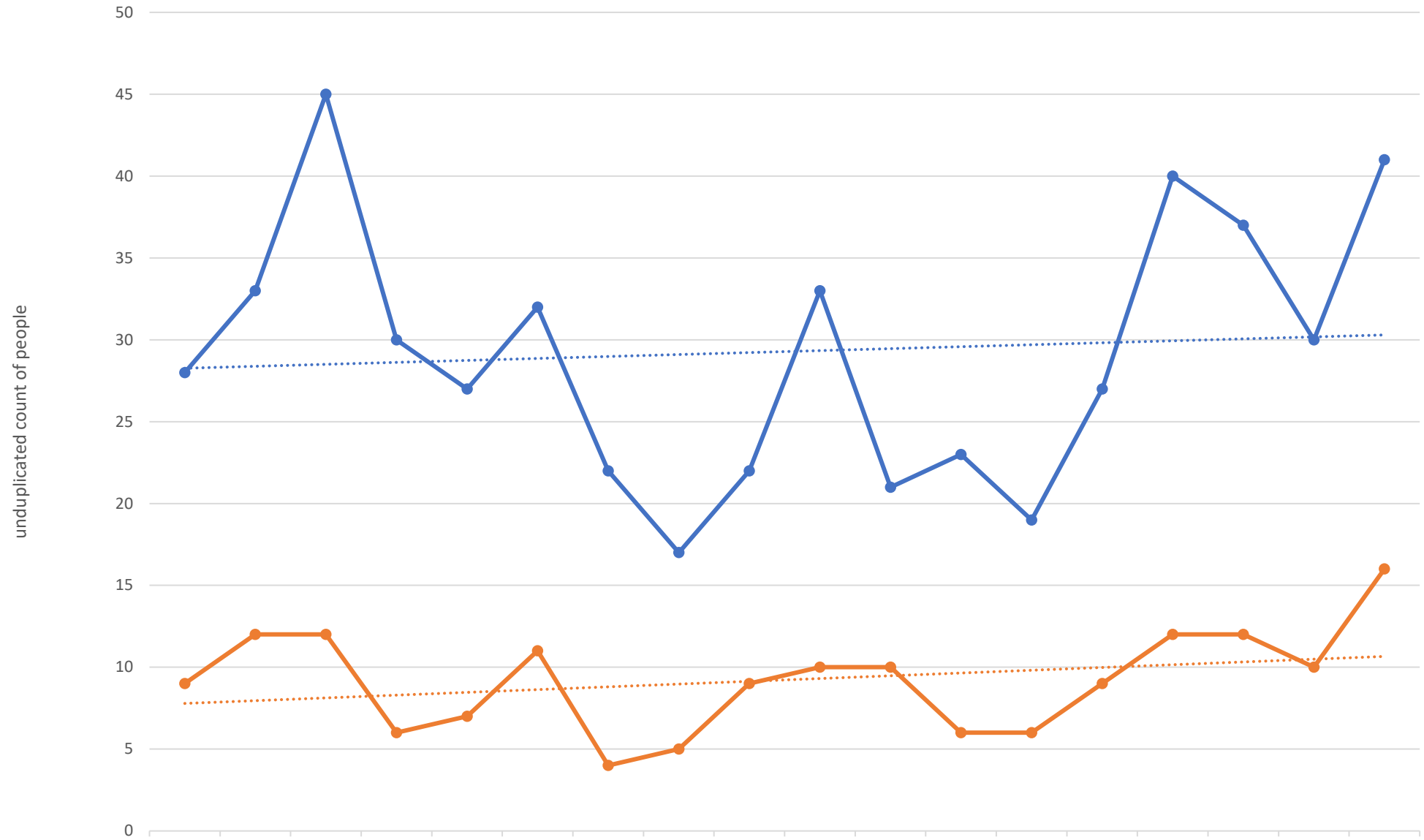
Crisis Call	911	827	922	813	880	899	956	908	935	919	870	887	930	829	934	802	888	790
Crisis Service	649	613	687	638	724	742	724	721	671	728	651	644	709	648	761	652	701	657
Investigation	350	305	344	318	342	384	361	351	314	346	338	334	341	300	361	322	354	346

Island - Unduplicated People receiving a crisis system service



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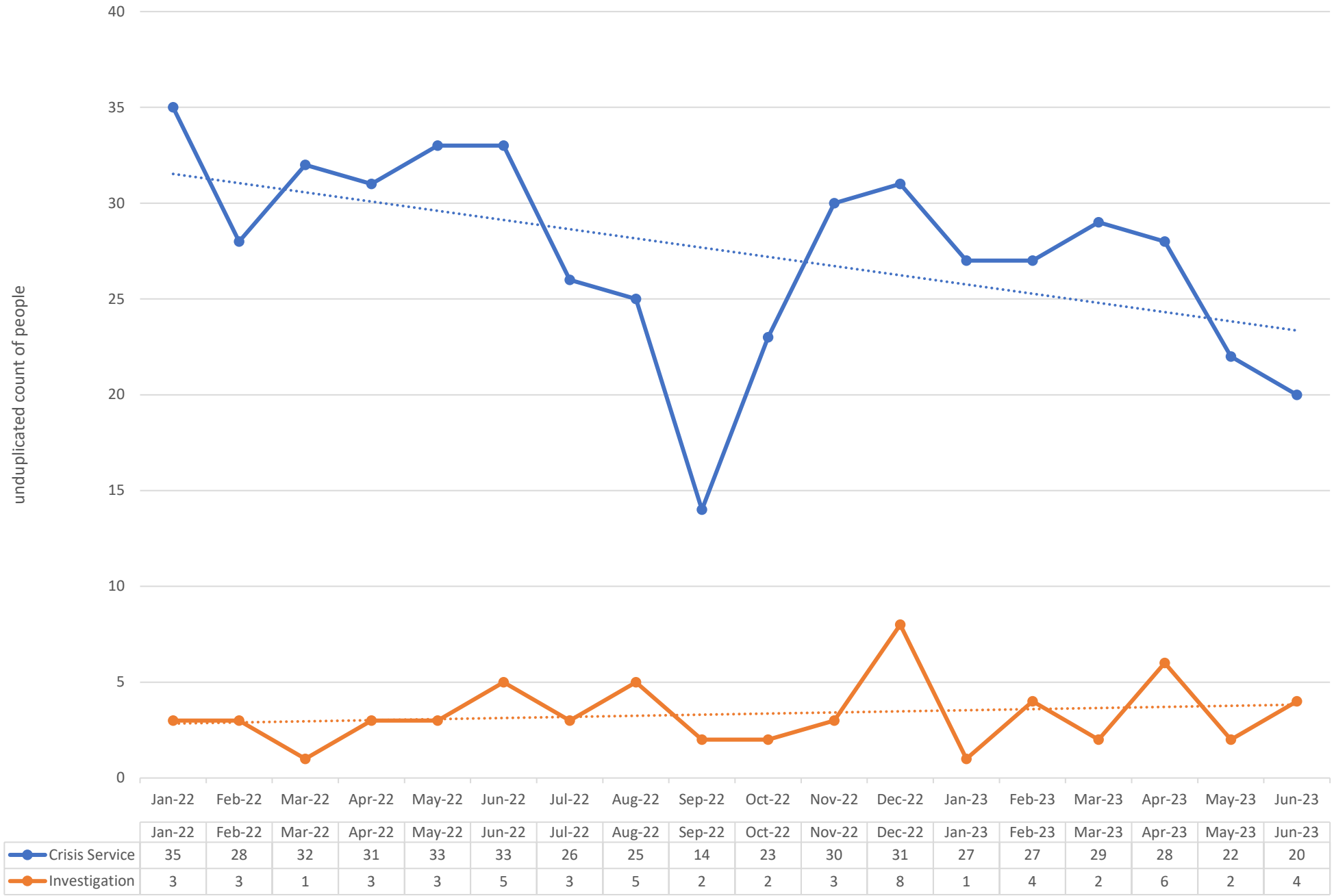
Crisis Service	28	33	45	30	27	32	22	17	22	33	21	23	19	27	40	37	30	41
Investigation	9	12	12	6	7	11	4	5	9	10	10	6	6	9	12	12	10	16

San Juan - Unduplicated People receiving a crisis system service



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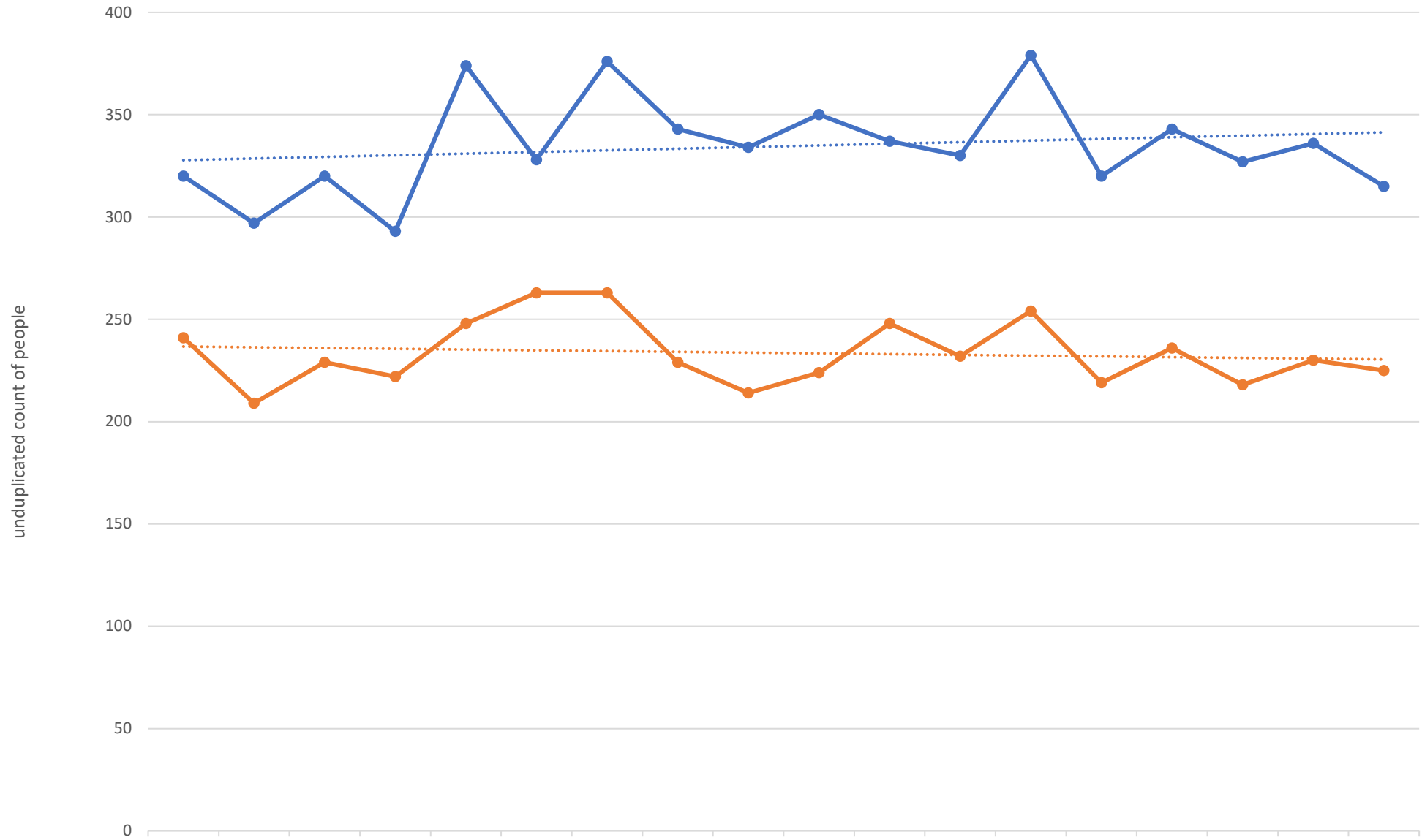
Crisis Service	35	28	32	31	33	33	26	25	14	23	30	31	27	27	29	28	22	20
Investigation	3	3	1	3	3	5	3	5	2	2	3	8	1	4	2	6	2	4

	Jan-22	Feb-22	Mar-22	Apr-22	May-22	Jun-22	Jul-22	Aug-22	Sep-22	Oct-22	Nov-22	Dec-22	Jan-23	Feb-23	Mar-23	Apr-23	May-23	Jun-23
Crisis Service	105	89	116	105	105	108	85	110	87	99	64	92	70	85	103	89	92	96
Investigation	38	32	38	26	39	39	39	57	33	44	28	38	31	22	49	46	34	46

Snohomish - Unduplicated People receiving a crisis system service



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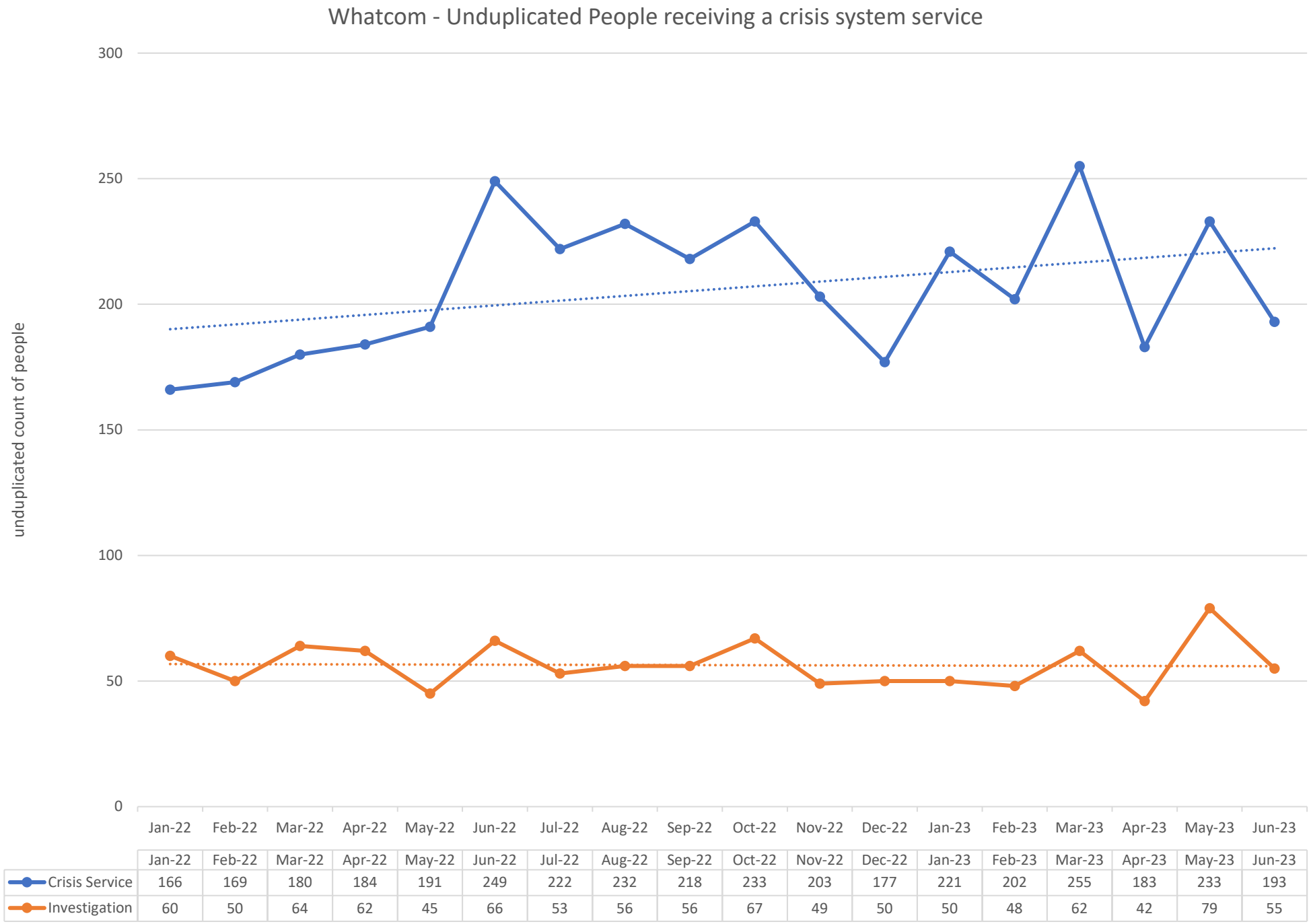
Crisis Service	320	297	320	293	374	328	376	343	334	350	337	330	379	320	343	327	336	315
Investigation	241	209	229	222	248	263	263	229	214	224	248	232	254	219	236	218	230	225



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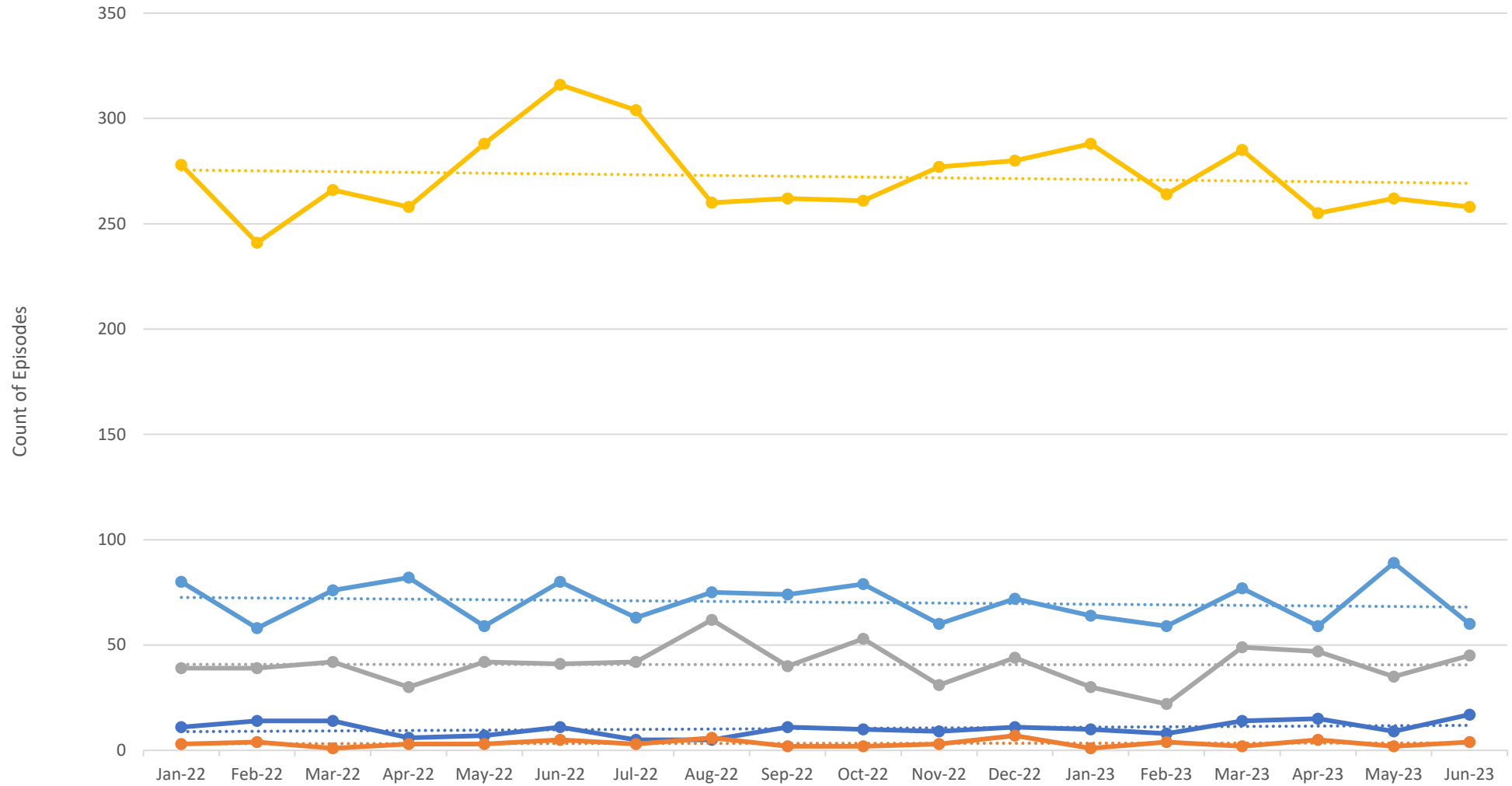
Crisis Service	166	169	180	184	191	249	222	232	218	233	203	177	221	202	255	183	233	193
Investigation	60	50	64	62	45	66	53	56	56	67	49	50	50	48	62	42	79	55

Region Designated Crisis Responder (DCR) Investigations



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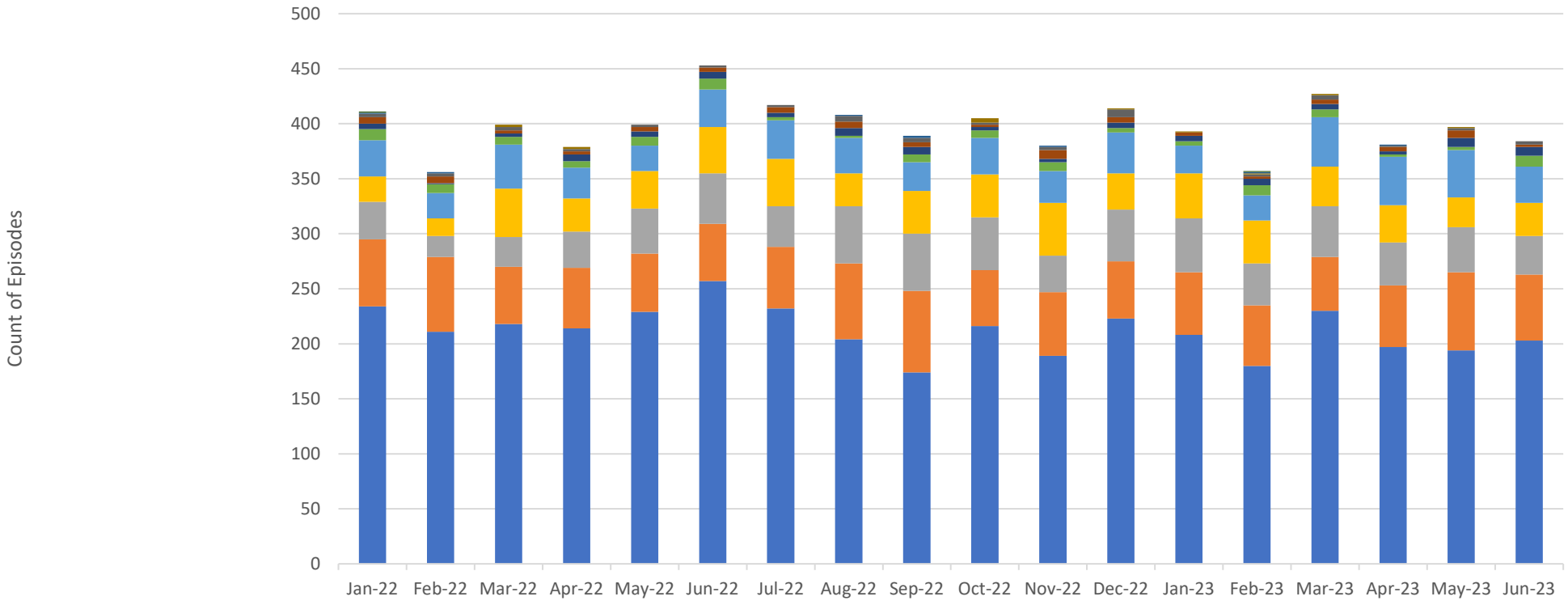
Island	11	14	14	6	7	11	5	5	11	10	9	11	10	8	14	15	9	17
San Juan	3	4	1	3	3	5	3	6	2	2	3	7	1	4	2	5	2	4
Skagit	39	39	42	30	42	41	42	62	40	53	31	44	30	22	49	47	35	45
Snohomish	278	241	266	258	288	316	304	260	262	261	277	280	288	264	285	255	262	258
Whatcom	80	58	76	82	59	80	63	75	74	79	60	72	64	59	77	59	89	60

Region DCR Investigation Referral Sources



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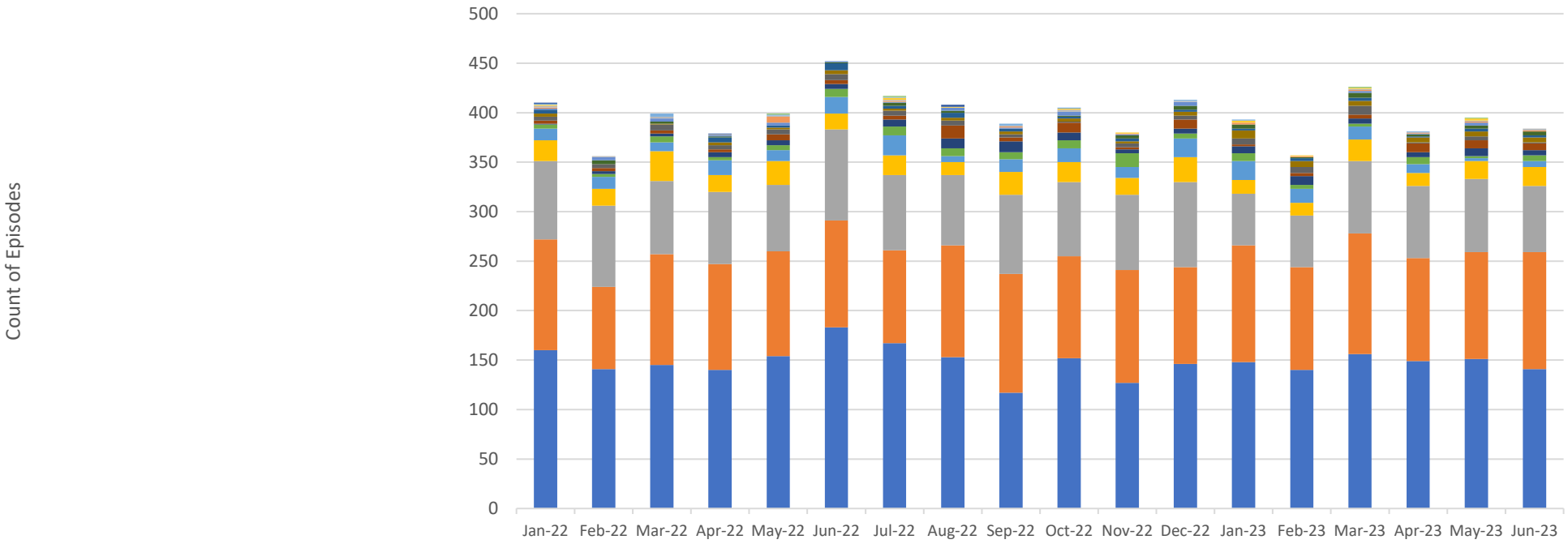
Impact Team Law Enforcement Referral	1	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0
Referral from MCR to DCR	1	1	0	0	0	0	0	1	2	0	1	0	0	1	0	1	0	0
School	0	0	2	2	0	0	0	0	0	4	0	1	1	1	1	0	1	0
Community	3	3	3	2	2	2	2	5	4	2	3	7	0	2	4	1	2	3
Social Service Provider	6	6	3	3	4	4	5	6	4	2	8	5	3	2	4	4	7	2
Care Facility	5	1	3	6	5	6	4	7	7	3	3	5	5	6	5	3	8	8
Legal Representative	10	8	7	6	8	10	3	2	7	7	8	4	4	9	7	2	3	10
Law Enforcement	33	23	40	28	23	34	35	32	26	33	29	37	25	23	45	44	43	33
Professional	23	16	44	30	34	42	43	30	39	39	48	33	41	39	36	34	27	30
Other	34	19	27	33	41	46	37	52	52	48	33	47	49	38	46	39	41	35
Family	61	68	52	55	53	52	56	69	74	51	58	52	57	55	49	56	71	60
Hospital	234	211	218	214	229	257	232	204	174	216	189	223	208	180	230	197	194	203

Month of Dispatch

Region DCR Investigation Outcomes



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Petition filed for outpatient evaluation	1	0	0	1	0	0	0	2	0	0	0	0	0	0	0	0	0	0
No detention – Secure Detox provisional acceptance did not occur within statutory timeframes	0	0	0	0	1	0	1	0	0	0	0	0	0	0	1	0	1	0
Referred to chemical dependency intensive outpatient program	1	0	3	0	1	0	1	0	2	1	0	1	1	0	0	1	0	0
Referred to chemical dependency inpatient program	1	0	0	0	0	0	2	1	0	1	1	0	2	1	1	0	2	0
Referred to sub acute detox	2	1	2	1	1	0	1	0	1	2	0	1	0	0	1	0	1	2
Referred to acute detox	1	0	0	0	6	0	1	0	1	0	1	0	2	1	1	1	1	1
No detention - E&T provisional acceptance did not occur within statutory timeframes	1	3	3	1	3	1	1	3	1	4	1	4	0	0	2	1	3	0
Detention to Secure Detox facility (72 hours as identified under 71.05)	0	4	2	1	0	1	3	2	0	1	3	4	4	1	5	2	3	4
No detention - Unresolved medical issues	4	0	0	5	2	7	3	5	3	2	3	2	2	3	3	1	3	2
Filed petition - recommending LRA extension.	3	0	1	3	2	4	2	3	3	3	2	4	8	6	5	5	5	5
Referred to crisis triage	4	4	6	4	5	6	5	5	3	1	4	4	6	6	9	1	4	1
Referred to non-mental health community resources.	3	3	3	3	6	4	4	13	4	10	2	9	2	3	4	9	8	7
Non-emergent detention petition filed	1	3	3	5	5	5	7	10	11	8	4	5	7	9	5	5	8	5
Returned to inpatient facility/filed revocation petition.	4	3	6	3	5	8	9	8	7	8	14	5	8	4	3	7	2	6
Did not require MH or CD services	12	12	9	15	11	17	20	6	13	14	11	19	19	14	13	9	3	6
Referred to voluntary inpatient mental health services.	21	17	30	17	24	16	20	13	23	20	17	25	14	13	22	13	18	19
Other	79	82	74	73	67	92	76	71	80	75	76	86	52	52	73	73	74	67
Referred to voluntary outpatient mental health services.	112	83	112	107	106	108	94	113	120	103	114	98	118	104	122	104	108	118
Detention (72 hours as identified under the Involuntary Treatment Act, RCW 71.05).	160	141	145	140	154	183	167	153	117	152	127	146	148	140	156	149	151	141

Month of Dispatch