



Institute of Law, Psychiatry,
and Public Policy

Annual Statistical Report
Adult Civil Commitment Proceedings in Virginia
FY 2018

AA Allen & KMF Gwinn

November, 2019

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

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and Public Policy

Annual Statistical Report Adult Civil Commitment Proceedings in Virginia FY 2018

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AA Allen and KM Faris

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Introduction

Informed oversight of the civil commitment process requires accurate data regarding the number, distribution, and characteristics of Emergency Custody Orders (ECOs), Temporary Detention Orders (TDOs), commitment hearings, and judicial dispositions. Under the auspices of the Commission on Mental Health Law Reform (2006-2011), the courts and mental health agencies collaborated to collect data needed for monitoring and informing policy. Annual statistical reports were published by the Commission through fiscal year 2011 (FY 2011). Upon expiration of the Commission, this responsibility was assumed by the Institute of Law, Psychiatry, and Public Policy (hereafter, the Institute) at the University of Virginia, under contract with the Virginia Department of Behavioral Health and Developmental Services (DBHDS). Current analyses are based on data provided by DBHDS from the Office of the Executive Secretary of the Supreme Court of Virginia pursuant to Va. Code § 37.2-308.01.

In this report, the Institute presents data for FY 2009 through FY 2018 regarding the numbers of ECOs, TDOs, commitment hearings, and commitment orders pertaining to non-forensic adults including geriatric patients (and juveniles when stated), and, to the extent possible, assesses whether commitment practices have changed over time. The report also includes data pertaining to judicial orders authorizing alternative transportation of adults involved in commitment proceedings. Tables and figures are generally arranged in descending increments of time for each series of data presented, with the first table and figure for each section displaying annual data, followed by quarterly data, and then monthly data.

Sources of Data

Court clerks at General District Courts maintain records of civil commitment cases concerning adults through use of the General District Court Case Management System (GDC-CMS).¹ GDC-CMS is maintained by the Office of the Executive Secretary of the Supreme Court and is used by each District Court to enter and track its cases. Data related to civil commitment hearings, ECOs, and TDOs in each district are entered into GDC-CMS by individual court clerks.

The eMagistrate system is used by magistrates in all thirty-two judicial districts to issue arrest processes, bail processes, and other orders including ECOs and TDOs. Each time an ECO or TDO is issued, the eMagistrate system is used to generate the order.

DBHDS maintains data pertaining to all ECOs, TDOs, and crisis evaluations in the Commonwealth. These data are reported by Health Planning Region managers and include all types of ECOs (described in detail below). All age groups are included in these data. As such, any analyses in this report comparing these with other data from the GDC-CMS or eMagistrate system were conducted using both juvenile and adult ECOs and/or TDOs. DBHDS began collecting these data in December of FY 2016 and thus figures related to these data will have a truncated time period. For a more detailed analysis of changes in TDO rates and possible contributing factors, see the ILPPP report entitled *Rise in Temporary Detention Orders in Virginia, 2013-2017: Possible Contributing Factors*.²

Magistrate-Issued Emergency Custody Orders

There are two types of emergency custody that may be used for individuals. The first is the “magistrate-issued ECO” (ECO) which is issued by a magistrate and therefore captured in the eMagistrate system. The second type is “orderless emergency custody” (OEC) described in Va. Code § 37.2-808 (G) and (H). OECs are initiated by a law enforcement officer and do not involve a magistrate. Because they do not involve a magistrate, instances of orderless emergency custody are not captured in the eMagistrate data. However, DBHDS collects data on both types of emergency custody and therefore it is possible to compare the totals from each data source to calculate the number of orderless emergency custody cases that occur.

eMagistrate data on ECOs issued for adults were extracted for FY 2010 through FY 2018. According to data extracted from the eMagistrate system, 8,623 ECOs were issued for adults in FY 2018. This is a 2.4% increase over the 8,419 ECOs that were issued for adults in FY 2017, and an 8.3% increase over the 7,963 ECOs that were issued for adults in FY 2016 (Table 1). The number of ECOs for adults decreased each year from FY 2010, when 6,402 were issued, to FY 2012, when 5,953 were issued, and then increased markedly from FY 2014 through FY 2016. The number has continued to increase, albeit less rapidly, through FY 2018 (Figure 1). The volume of ECOs issued began to rise markedly in the fourth quarter of FY14, and while there were seasonal changes such as the decrease between the first and second quarter of each fiscal year, over time, the number of ECOs generally increased when compared to corresponding quarters from previous years through the second quarter of FY17 when the increase in orders began to slow down (Figures 2-3).

According to data from the eMagistrate system, an average of 719 ECOs were issued for adults per month during FY18 (Table 2). The number of ECOs issued per month follows a roughly seasonal pattern (Figure 4). In general, more ECOs are issued during the late spring and summer months of May-August. The fewest monthly ECOs for FY18 were issued in February, with only 635 ECOs issued. Overall, quarterly trends show

¹Note that a small percentage (0.48%) of GDC-CMS cases were excluded from this report due to questions about coding; examples include cases for which the hearing date is incorrect by more than several months, the case number is incorrect and may represent a duplicate, and cases for which a disposition code has been mistyped and cannot be accurately interpreted. Additionally, the numbers may differ slightly from previous ILPPP reports on civil commitment. ILPPP reports prior to 2018 relied on data received on a monthly basis, whereas the reports since 2018 rely on data received annually. The annual reports may provide slightly different information from the monthly reports if cases have been transferred from other courts, or if cases held late in the month were entered into the system during the following month.

²Rise in Temporary Detention Orders in Virginia, 2013-2017: Possible Contributing Factors. S A Larocco, R J Bonnie, H Zelle. August 2017. Found here: <https://uvamentalhealthpolicy.org/s/RisingTDOs8.pdf>

that the fourth and first quarter of each fiscal year tend to have higher numbers of ECOs issued, while the second and third quarters tend to have fewer ECOs (Figure 2).

Table 1: Annual Frequency of ECOs Issued for Adults, FY10-FY18

Fiscal Year	# ECOs
2010	6402
2011	6356
2012	5953
2013	5995
2014	6429
2015	7189
2016	7963
2017	8419
2018	8623

Figure 1: Annual Frequency of ECOs Issued for Adults, FY10–FY18

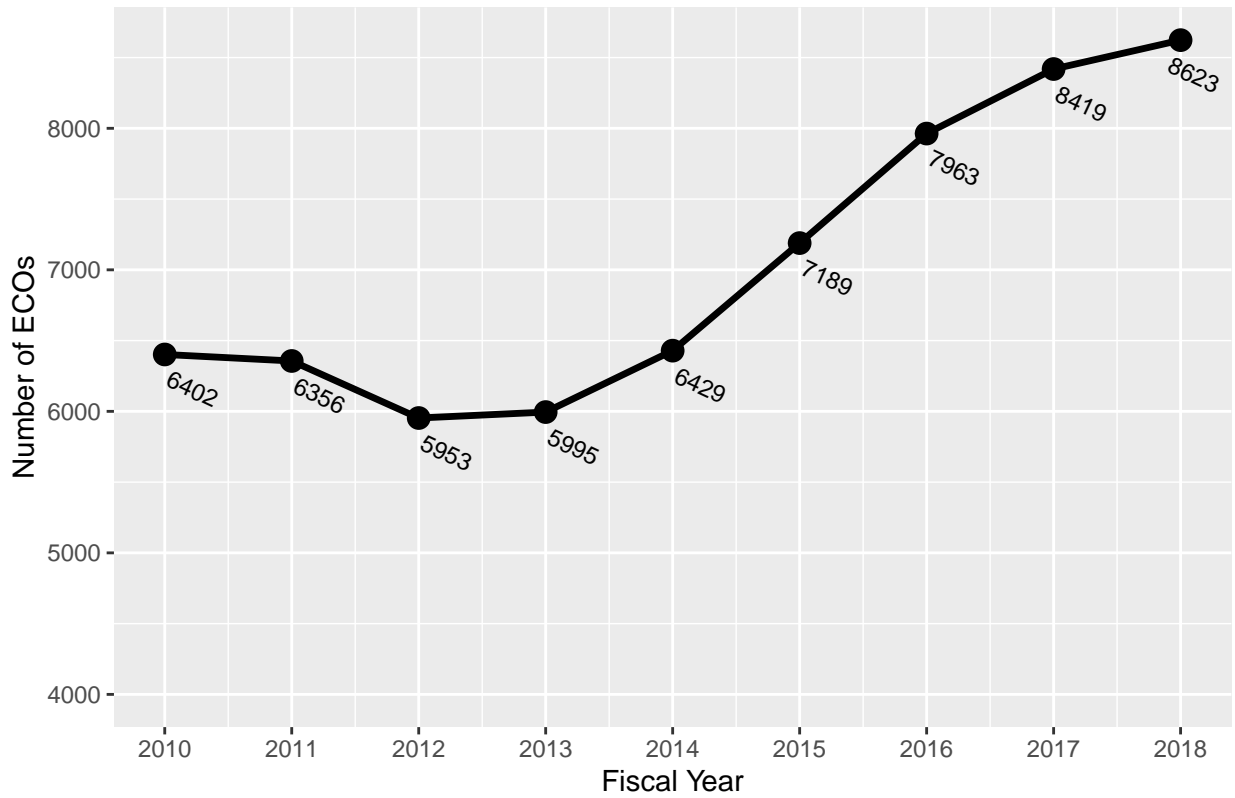


Figure 2: Quarterly Frequency of ECOs Issued for Adults, FY14–FY18

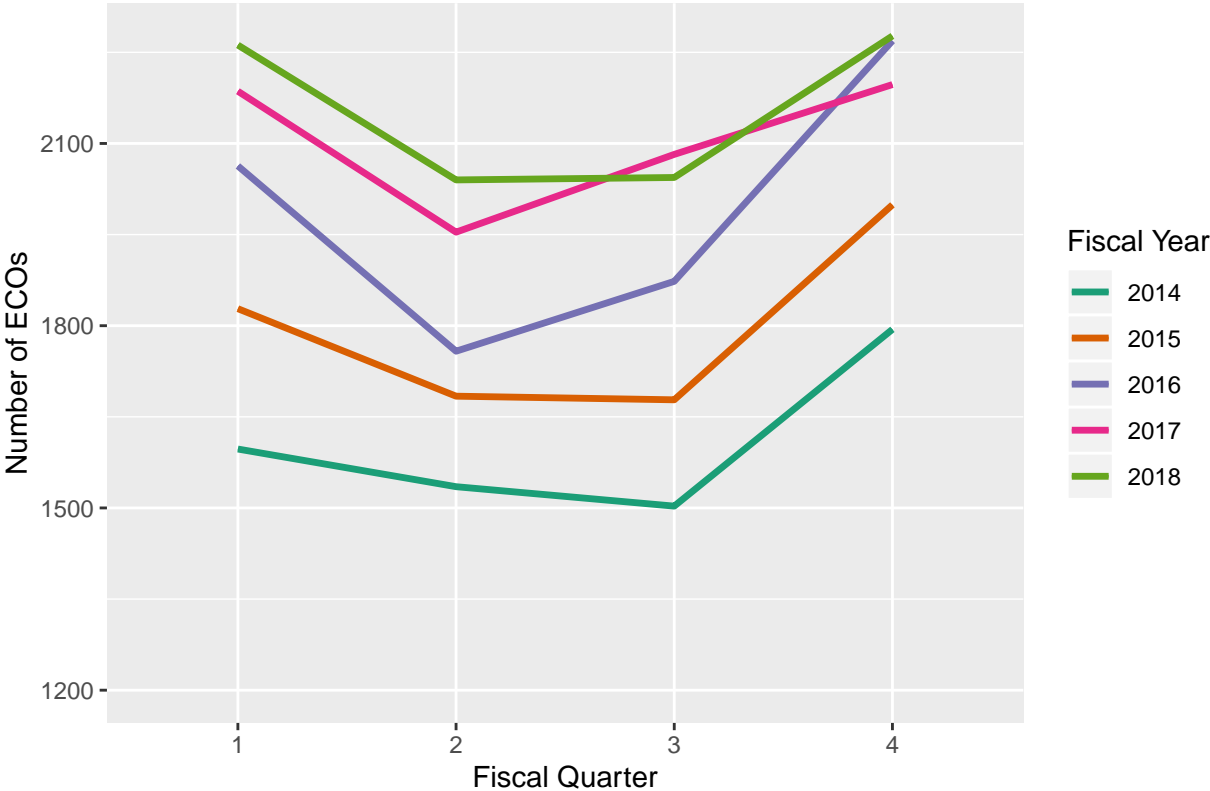


Figure 3: Quarterly ECO Trends (Adults Only), FY10–FY18

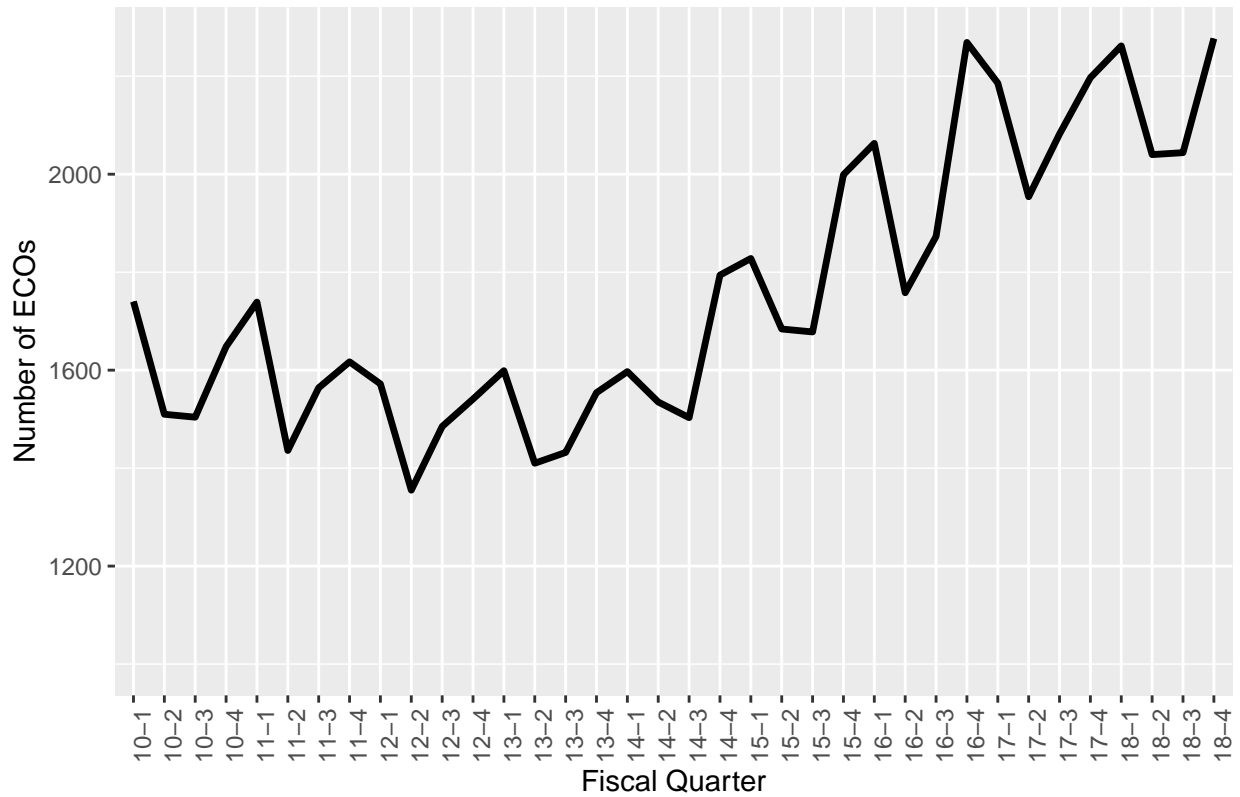
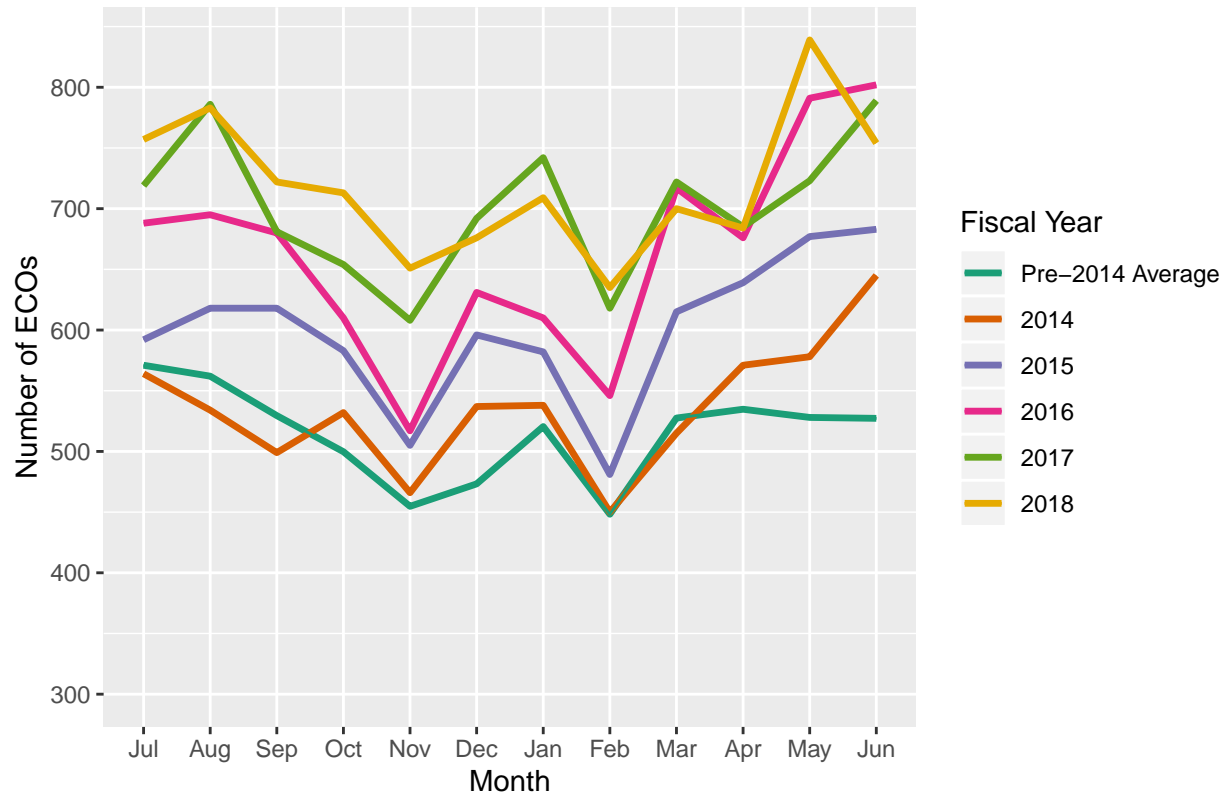


Table 2: Monthly Frequency of ECOs Issued for Adults, FY10-FY18

Month	2010	2011	2012	2013	2014	2015	2016	2017	2018
Jul	582	615	537	550	564	592	688	719	757
Aug	590	574	543	541	534	618	695	786	783
Sep	568	550	492	508	499	618	680	681	722
Oct	525	520	459	495	532	583	610	654	713
Nov	487	481	406	445	466	505	517	608	651
Dec	498	435	490	470	537	596	631	692	676
Jan	499	574	484	525	538	582	610	742	709
Feb	422	456	475	440	450	481	546	618	635
Mar	583	534	526	467	515	615	717	722	700
Apr	528	581	527	503	571	639	676	685	684
May	554	489	521	548	578	677	791	723	839
Jun	566	547	493	503	645	683	802	789	754
Total	6402	6356	5953	5995	6429	7189	7963	8419	8623

Figure 4: Monthly Frequency of ECOs Issued for Adults, FY10–FY18



Orderless Emergency Custody

In the following figures, frequency of instances of emergency custody is broken down by type of emergency custody (i.e., Magistrate-Issued or Orderless). These figures include emergency custody for both juveniles and adults, given that the data source for OECs did not provide sufficient data to distinguish between age groups. The data on total number of instances of emergency custody is also limited to a small range of time points beginning in the third quarter of FY16 through the fourth quarter of FY18.

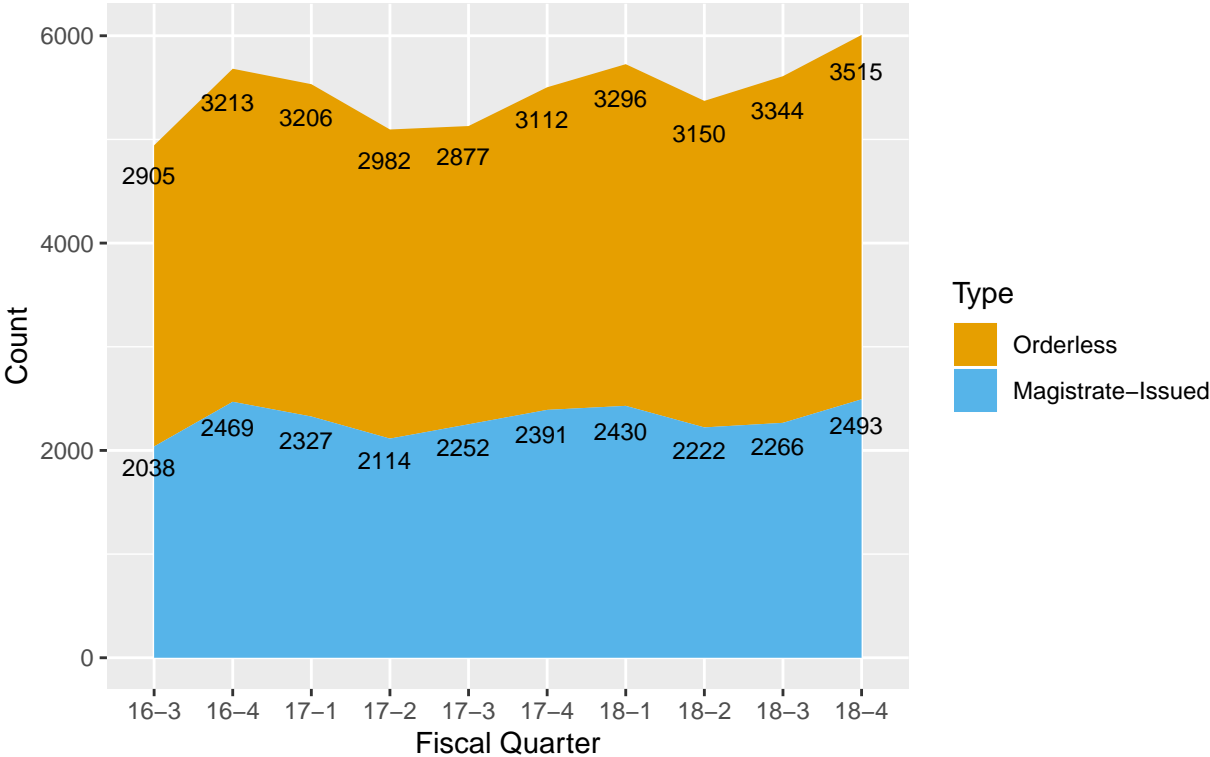
According to the data, OECs account for an average of 57.87% of all instances of emergency custody for juveniles and adults from the third quarter of FY16 to the fourth quarter of FY18 (Table 3). There were on average 3,160 OECs per quarter with the highest numbers in the third and fourth quarters of FY18. This seems to indicate a similar seasonal pattern as for ECOs described above. However, the data are too limited to draw strong conclusions at this time.

Figure 5 depicts how the proportion has remained fairly stable across fiscal quarters with the smallest difference between the two types occurring in the third quarter of FY17 and the largest in the third quarter of FY18.

Table 3: Quarterly Frequency of Emergency Custody by Type, FY16-FY18

Fiscal Quarter	Magistrate ECOs	OECs	Total # ECs
16- 3	2038	2905	4943
16- 4	2469	3213	5682
17- 1	2327	3206	5533
17- 2	2114	2982	5096
17- 3	2252	2877	5129
17- 4	2391	3112	5503
18- 1	2430	3296	5726
18- 2	2222	3150	5372
18- 3	2266	3344	5610
18- 4	2493	3515	6008
Total	23002	31600	54602

Figure 5: Quarterly Frequency of Emergency Custody for Juveniles and Adults by Type, FY16–FY18



Temporary Detention Orders

The eMagistrate system is used by magistrates to issue TDOs pursuant to Va. Code § 37.2-809; as a result, the eMagistrate system provides more accurate data regarding the number of TDOs issued each month than does GDC-CMS. GDC-CMS includes only those TDOs that law enforcement officers have attempted to serve and for which they have submitted the “return of service” copies to the district court clerks. Upon receipt of a “return of service” copy from the law enforcement officer tasked with service of process, the clerk enters the TDO into GDC-CMS.

The numbers of ECOs and TDOs issued have been increasing since the November 2013 tragedy involving State Senator Creigh Deeds and his son, Gus Deeds, and the subsequent reforms that went into effect July 1, 2014.³ After three years of steep growth, the growth rate of TDOs slowed between FY16 and FY17 (Table 4 and Figure 6). The number of TDOs issued then decreased by 1.9% from FY17 to FY18. Despite this decrease, the FY18 TDO count was still 15.6% higher than pre-2014 averages.

FY18 monthly TDO counts were lower than those in FY 2017 in every month except July, September, October, and February (Table 5 and Figure 9). However, the number of TDOs issued in the first quarter of FY18 was higher than the corresponding quarter of FY17, and for every year prior (Figure 7). The greatest proportional growth in counts (compared to corresponding quarters from the previous year) occurred in the fourth quarter of FY14 and the third quarter of FY15—the growth in these periods was 11.3% and 9.9%, respectively (Table 5). While data showing a plateau and possible decrease in TDOs are limited to two years, they suggest that TDO counts are now trending downward or remaining stable.

We are interested in knowing the number of TDOs that are ultimately served (executed) by law enforcement. After serving or attempting to serve a TDO, law enforcement are to give a return of service copy to general district court clerks for entry into GDC-CMS noting whether or not TDOs are served. However, these data are incomplete because law enforcement often do not submit a return of service copy to the courts. Because the data are incomplete, we can only produce a rough estimate of the total proportion of TDOs that are served. For FY 2018, we estimate⁴ that 22,541 TDOs for adults were served.

Table 4: Annual Frequency of TDOs Issued for Adults, FY10-FY18

Fiscal Year	# TDOs
2010	20860
2011	20350
2012	19983
2013	19952
2014	21029
2015	22771
2016	23724
2017	23889
2018	23446

³The Inspector General’s Report on this incident can be found at <https://rga.lis.virginia.gov/Published/2014/RD136/PDF>

⁴GDC-CMS includes whether the TDOs that were returned were executed (served) or not. By looking at this variable, we can determine, that of those returned, 96.1% were executed for adults. The eMagistrate system includes all TDOs issued (though not whether they are returned or if they are executed) therefore multiplying the total number of TDOs from the eMagistrate system (number TDOs issued) by the proportion of returned TDOs which were executed from GDC-CMS, we can estimate the number of total TDOs (including returned and non-returned) that were executed. However, this rests on the assumption that there is an equal proportion of TDOs executed in the returned and non-returned groups.

Figure 6: Annual Frequency of TDOs Issued for Adults, FY10–FY18

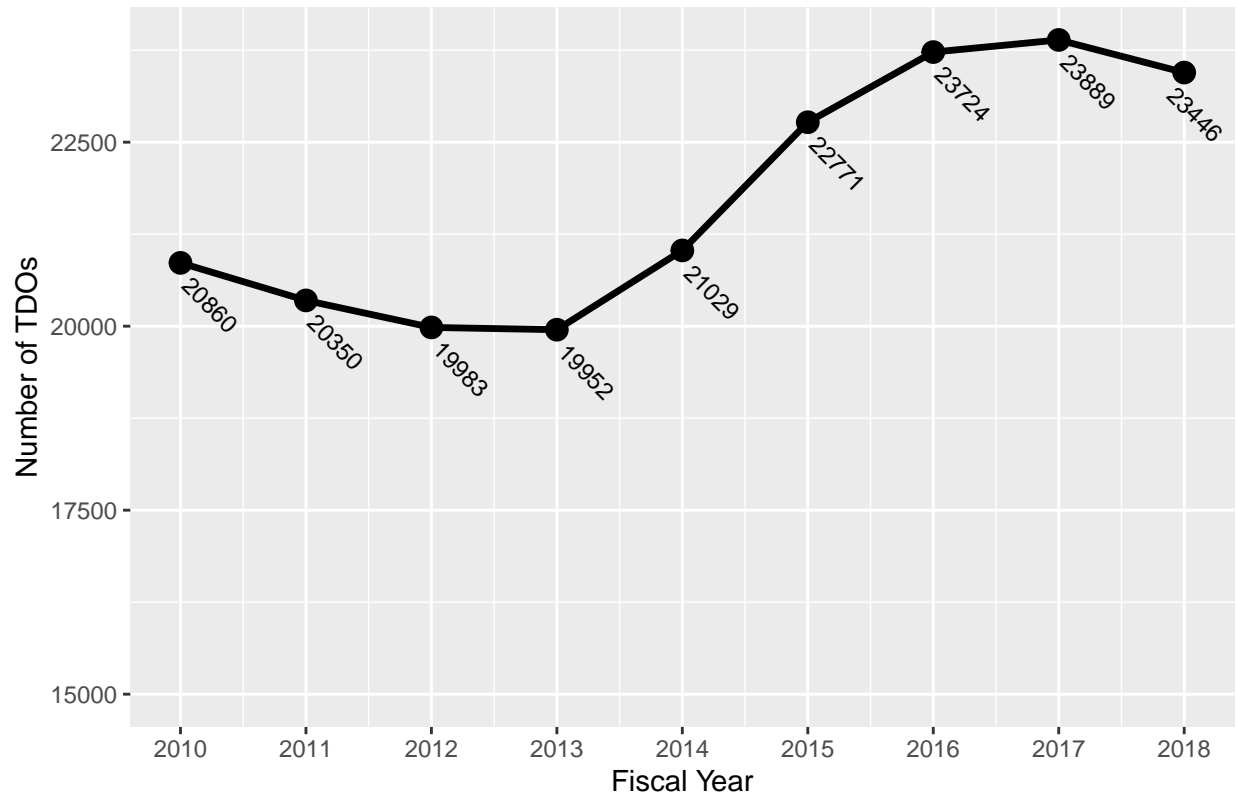


Figure 7: Quarterly Frequency of TDOs Issued for Adults, FY10–FY18

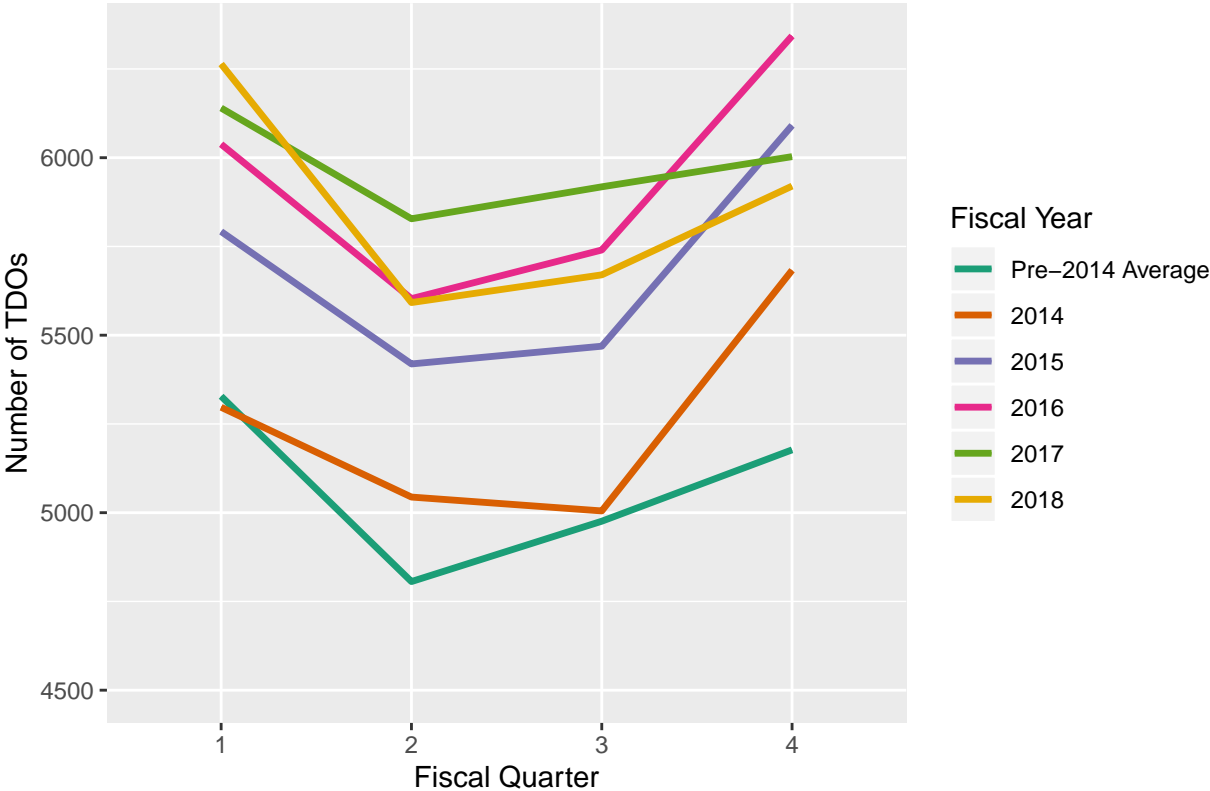


Figure 8: Quarterly TDO Trends (Adults Only), FY10–FY18

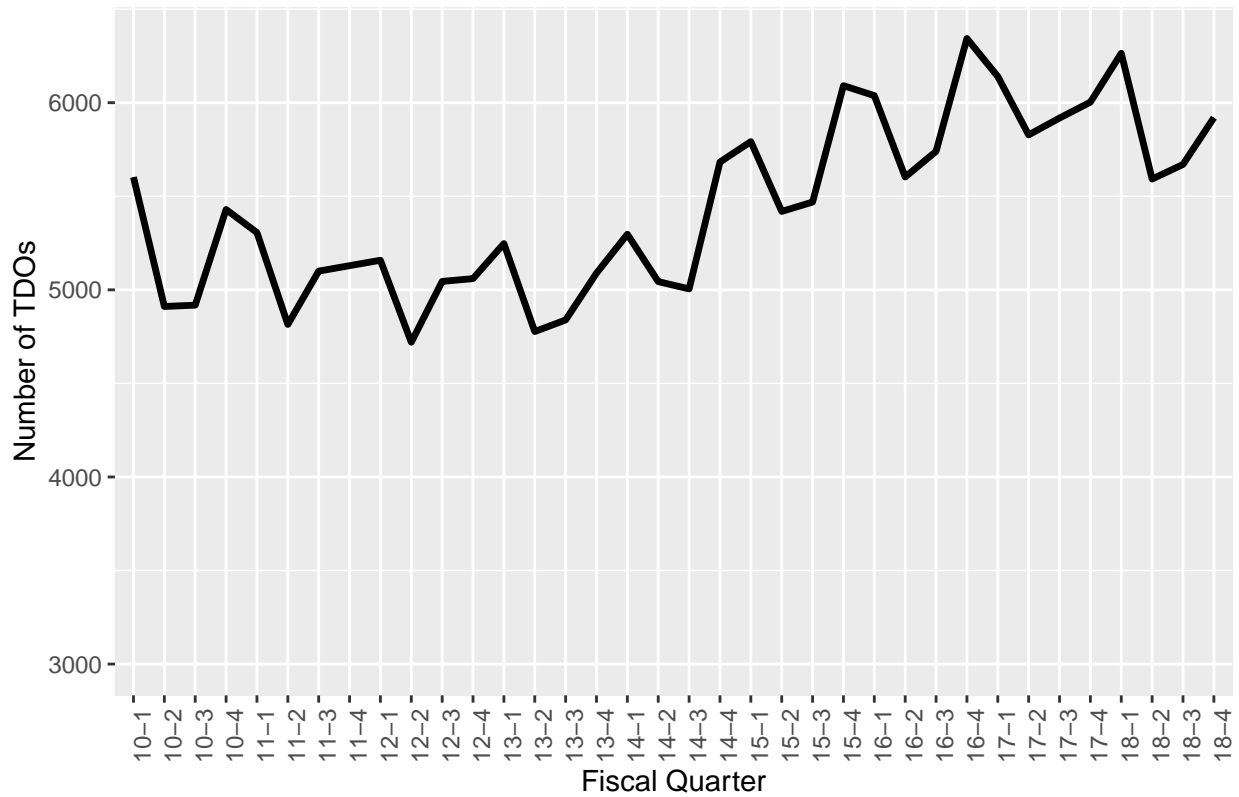
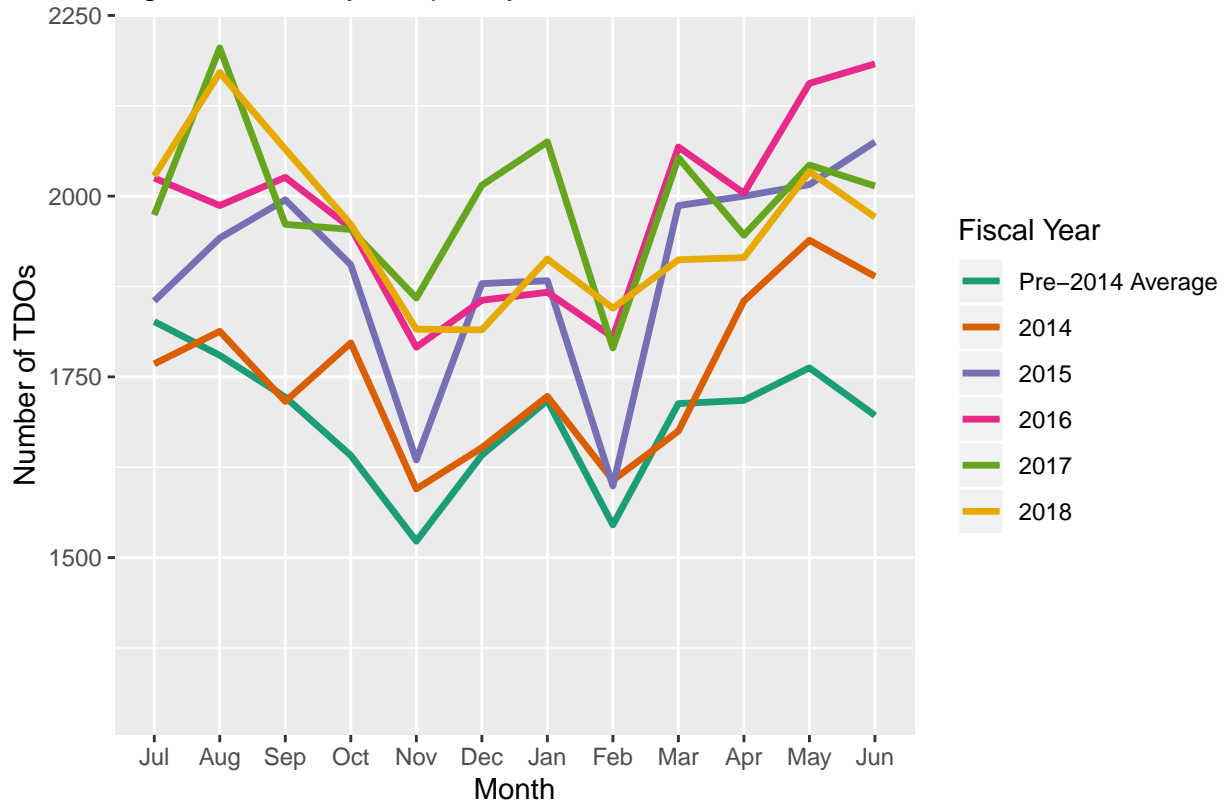


Table 5: Monthly Frequency of TDOs Issued for Adults, FY10-FY18

Month	2010	2011	2012	2013	2014	2015	2016	2017	2018
Jul	1878	1804	1801	1823	1768	1855	2025	1974	2028
Aug	1924	1781	1616	1798	1813	1942	1987	2205	2171
Sep	1800	1721	1741	1626	1716	1995	2026	1961	2065
Oct	1719	1654	1575	1617	1797	1905	1956	1954	1961
Nov	1553	1537	1498	1503	1595	1635	1791	1859	1816
Dec	1639	1624	1647	1657	1652	1879	1856	2015	1815
Jan	1745	1787	1578	1759	1723	1883	1867	2075	1913
Feb	1432	1571	1689	1489	1607	1599	1805	1790	1845
Mar	1741	1742	1778	1591	1675	1987	2068	2053	1912
Apr	1768	1760	1654	1688	1855	2000	2004	1946	1915
May	1840	1710	1732	1768	1939	2016	2156	2043	2034
Jun	1821	1659	1674	1633	1889	2075	2183	2014	1971
Total	20860	20350	19983	19952	21029	22771	23724	23889	23446

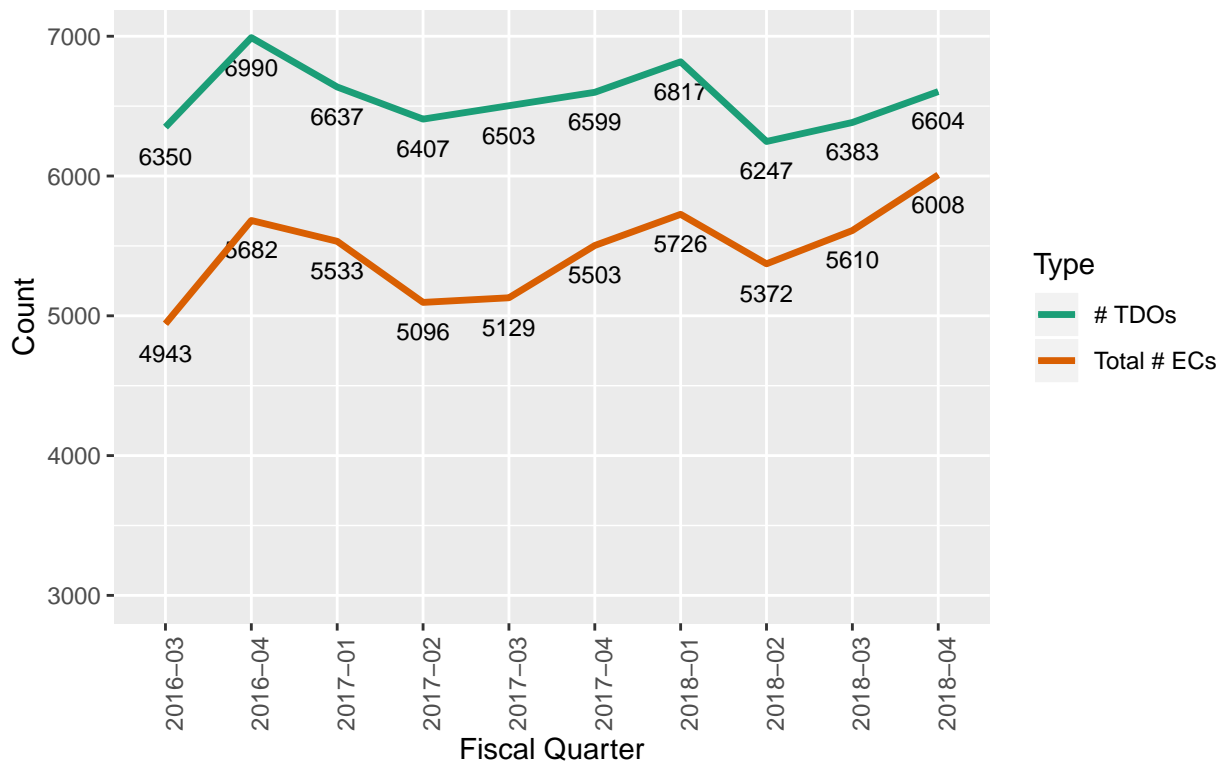
Figure 9: Monthly Frequency of TDOs Issued for Adults, FY10–FY18



Comparing TDOs and ECs

Between the third quarter of FY16 and fourth quarter of FY18, there were 20.0% more TDOs than ECs (including ECOs and OECs) for both juveniles and adults (Table 6).⁵ The largest difference between ECs and TDOs occurred in the third quarter of FY16 with 28.5% more TDOs than ECs (Figure 10 and Table 6). The smallest difference occurred in the fourth quarter of FY18 with 9.9% more TDOs than ECs.

Figure 10: Quarterly Frequencies of Emergency Custody and TDOs for Juveniles and Adults, FY16–FY18



⁵Note that there is no requirement that an ECO be issued before issuance of a TDO. Thus, it is possible that a TDO can be issued without a preceding ECO.

Table 6: Quarterly Frequency of ECs and TDOs Issued for Juveniles and Adults, FY16-FY18

Fiscal Quarter	# TDOs	Total # ECs
2016-03	6350	4943
2016-04	6990	5682
2017-01	6637	5533
2017-02	6407	5096
2017-03	6503	5129
2017-04	6599	5503
2018-01	6817	5726
2018-02	6247	5372
2018-03	6383	5610
2018-04	6604	6008
Total	65537	54602

Note: Figure 10 and Table 6 include both adult and juvenile data and thus should not be used to compare counts with previous figures which only include adult data.

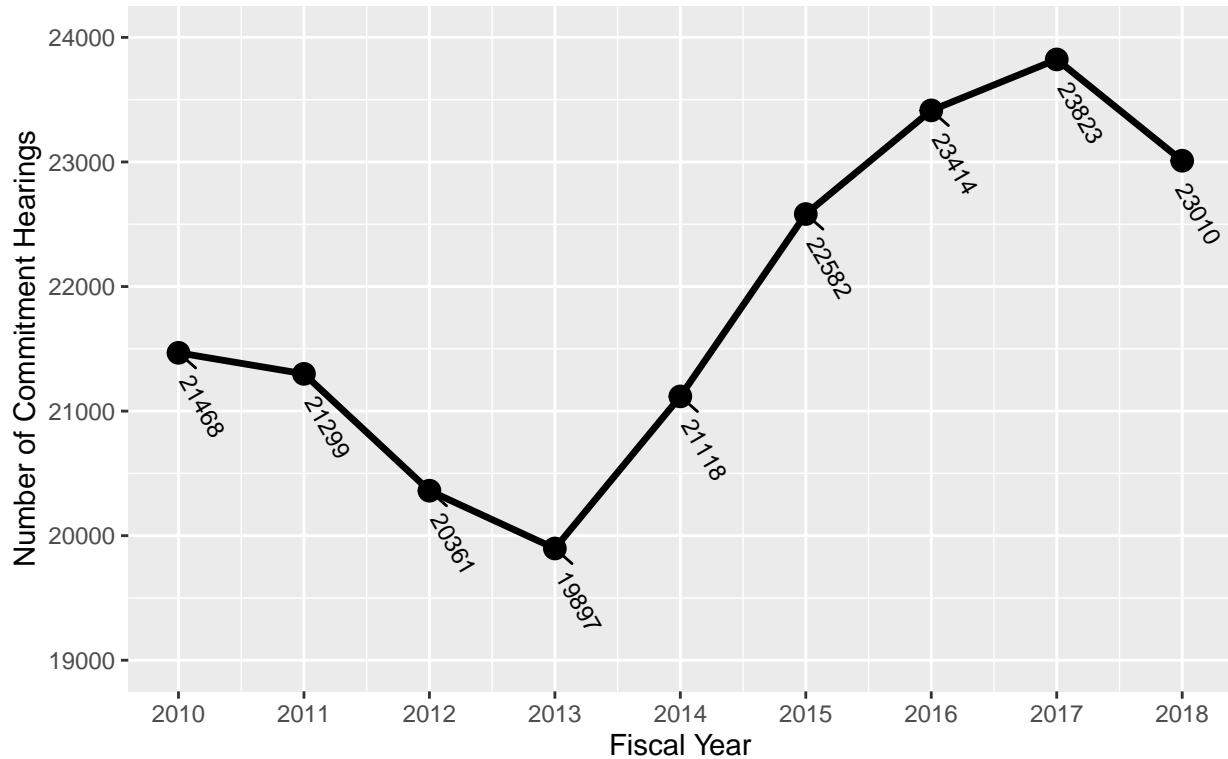
Initial Commitment Hearings

GDC-CMS is the sole source of data on the number of initial commitment hearings and the dispositions of these hearings. There were 23,010 initial adult commitment hearings in FY18 (Table 7 and Figure 11). This is a 3.4% decrease from the 23,823 initial adult commitment hearings that were held in FY17.⁶

Table 7: Annual Frequency of Initial Commitment Hearings Involving Adults, FY10-FY18

Fiscal Year	# Commitment Hearings
2010	21468
2011	21299
2012	20361
2013	19897
2014	21118
2015	22582
2016	23414
2017	23823
2018	23010

Figure 11: Annual Frequency of Initial Commitment Hearings Involving Adults, FY10–FY18



⁶The numbers may differ slightly from previous ILPPP reports on civil commitment. ILPPP reports prior to 2018 relied on data received on a monthly basis, whereas the reports since 2018 rely on data received annually. The annual reports may provide slightly different information from the monthly reports if cases have been transferred from other courts, or if cases held late in the month were entered into the system during the following month.

Figure 12: Quarterly Frequency of Initial Commitment Hearings Involving Adults, FY10–FY18

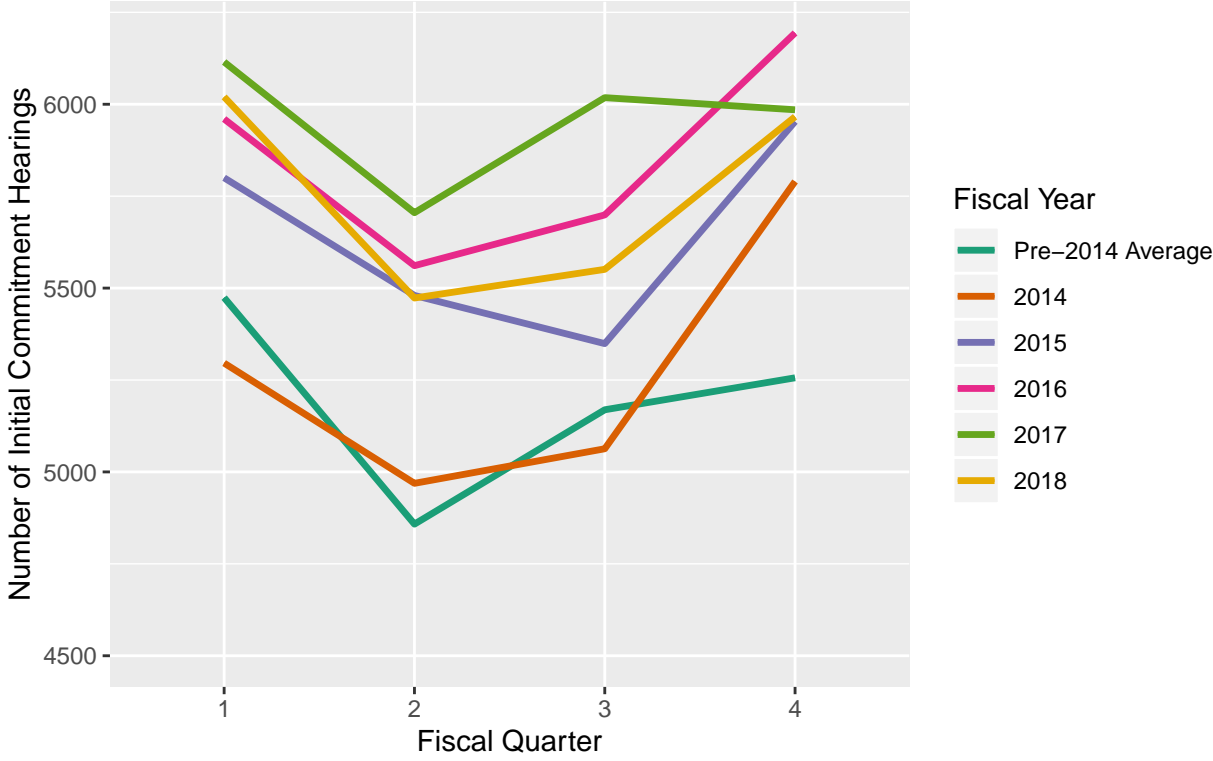


Figure 13: Quarterly Initial Commitment Hearing Trends (Adults Only), FY09–FY18

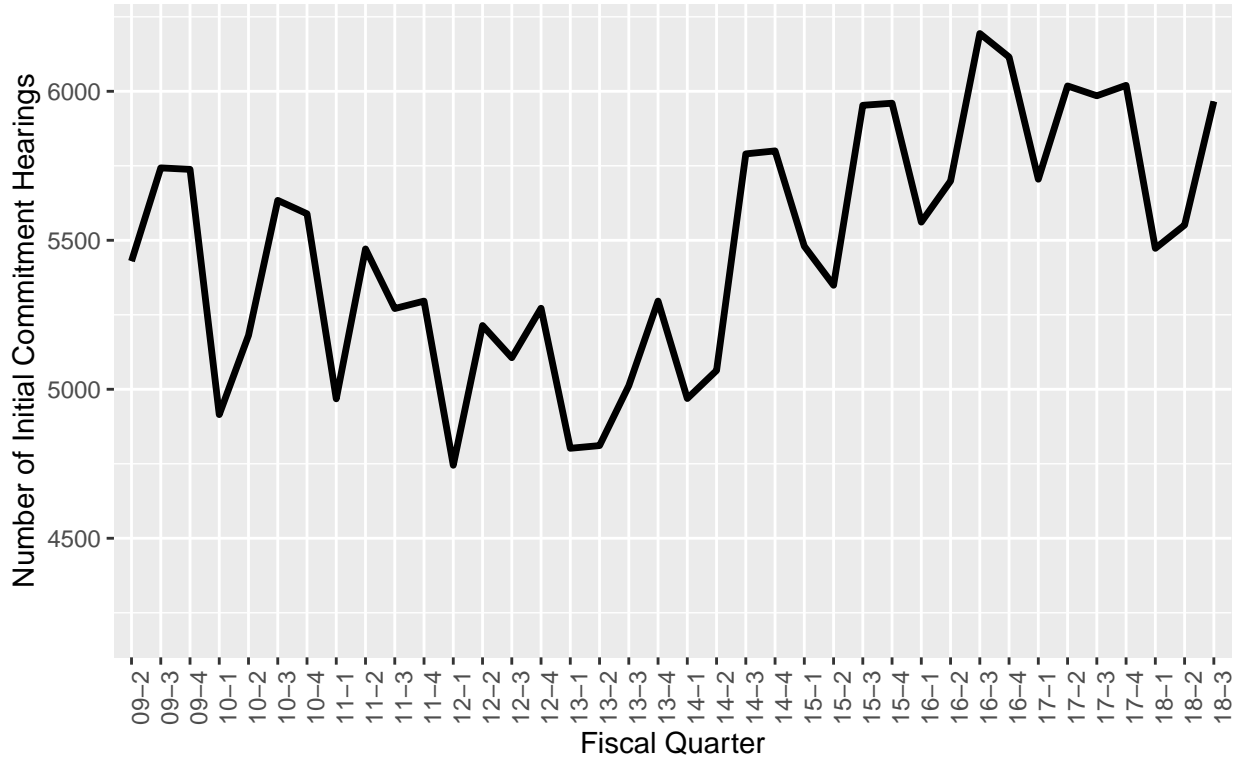
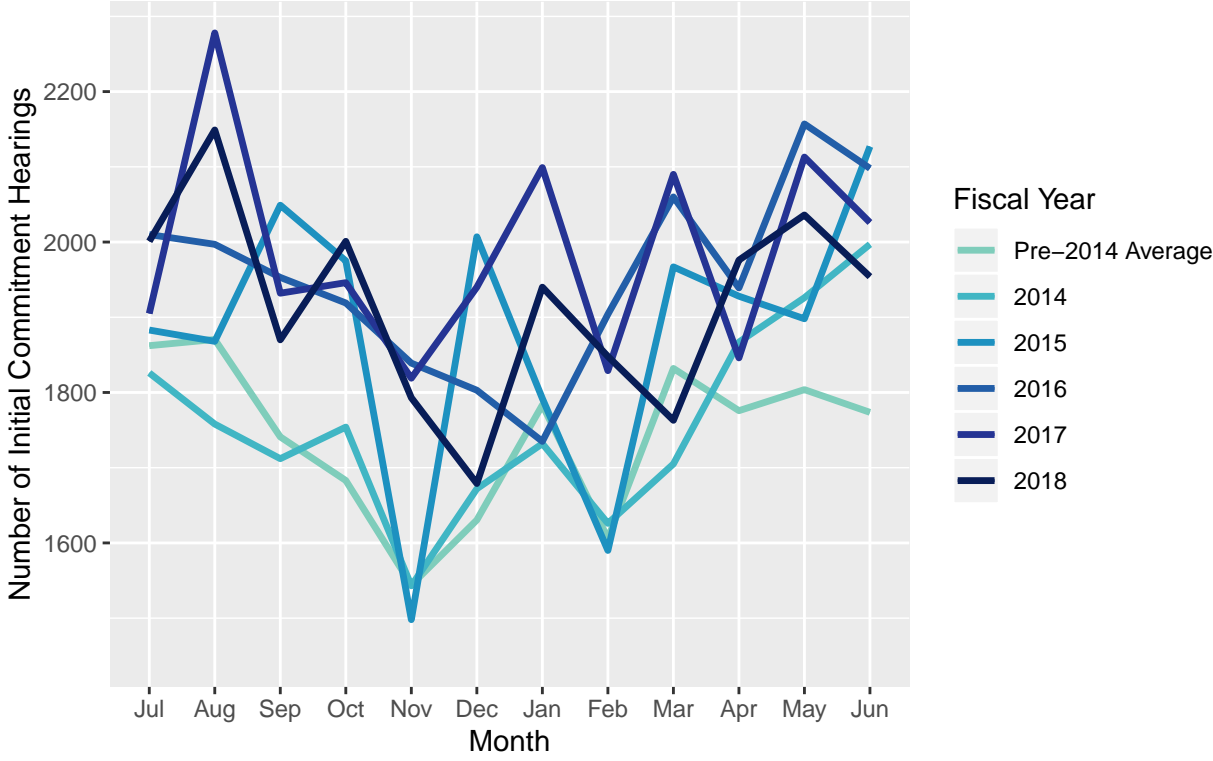


Table 8: Monthly Frequency of Initial Commitment Hearings Involving Adults, FY09-FY18

Month	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Jul	NA	1983	1859	1783	1824	1826	1883	2010	1905	2001
Aug	NA	1929	1901	1759	1893	1758	1868	1997	2278	2149
Sep	NA	1826	1829	1754	1555	1712	2049	1953	1932	1870
Oct	NA	1673	1686	1661	1712	1754	1975	1919	1946	2001
Nov	NA	1552	1593	1524	1507	1543	1498	1839	1819	1793
Dec	NA	1690	1689	1560	1583	1672	2007	1803	1940	1679
Jan	1762	1791	1952	1650	1762	1732	1792	1735	2099	1940
Feb	1653	1487	1640	1742	1508	1626	1590	1904	1829	1848
Mar	2015	1903	1879	1822	1541	1705	1967	2060	2090	1763
Apr	1859	1844	1779	1722	1675	1867	1928	1939	1846	1976
May	1895	1788	1824	1710	1802	1926	1898	2157	2113	2036
Jun	1989	2002	1668	1674	1535	1997	2127	2098	2026	1954
Total	NA	21468	21299	20361	19897	21118	22582	23414	23823	23010

Figure 14: Monthly Frequency of Initial Commitment Hearings Involving Adults, FY09–FY18

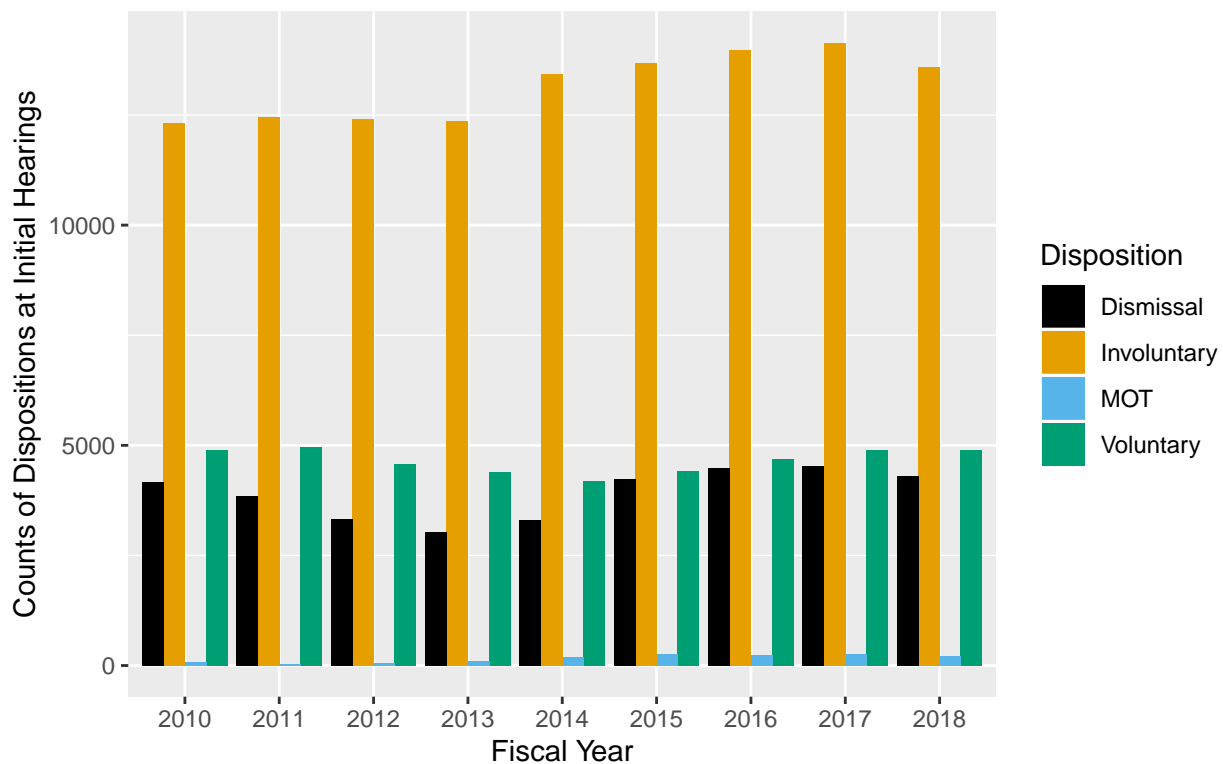


Outcomes of Initial Commitment Hearings

GDC-CMS also provides information on the dispositions of initial hearings held in FY18. As shown in Table 9, during FY18, 59.1% of the hearings resulted in involuntary admissions, 21.3% resulted in voluntary hospitalizations and 18.7% of the cases were dismissed. Only 0.9% of hearings resulted in mandatory outpatient treatment (MOT) orders.⁷ Compared to the data from FY17, the proportions of involuntary admissions, case dismissals, and MOT in FY18 were slightly lower and the proportion of voluntary hospitalizations was higher.

When compared to the data from FY14, the proportion of involuntary admissions in FY18 was lower, whereas the proportion of case dismissals and voluntary admissions were higher in FY18. Notably, despite the proportion of involuntary admissions in FY18 being lower than that of FY16 and FY15, the absolute frequency of involuntary admissions is roughly the same as those in FY15 (Figure 15).

Figure 15: Frequencies of Dispositions at Initial Commitment Hearings Involving Adults, FY10–FY18



⁷Note that this statistic only captures orders for “direct” MOT that were issued at initial commitment hearings. It does not capture orders for “step-down” MOT.

Table 9: Proportions of Dispositions at Initial Commitment Hearings Involving Adults, FY10-FY18

Fiscal Year	Dismissal	Involuntary	MOT	Voluntary
2010	19.4%	57.4%	0.4%	22.8%
2011	18.1%	58.5%	0.1%	23.3%
2012	16.4%	61%	0.3%	22.4%
2013	15.3%	62.1%	0.5%	22.1%
2014	15.6%	63.6%	0.9%	19.9%
2015	18.7%	60.6%	1.1%	19.6%
2016	19.2%	59.7%	1%	20.1%
2017	19%	59.4%	1%	20.5%
2018	18.7%	59.1%	0.9%	21.3%

Involuntary Commitment Orders

As illustrated in Figure 16 and Table 10, the numbers of involuntary commitment orders issued at initial hearings increased from FY13 to FY17, and then decreased by approximately 3.9% from FY17 to FY18 (from 14,142 to 13,595).⁸ The decrease between FY17 and FY18 is largely attributable to the decreases in involuntary commitment orders issued at initial commitment hearings in the second and third quarter of FY18 (see Figure 17).

Quarterly variations within years may be attributable to natural seasonal variation, which is not explored in this report.⁹ Quarterly commitment order counts for FY18 were lower than each of the corresponding quarters for FY17 (Figure 17). Notably, involuntary commitment orders issued at initial hearings were near an all-time high for FY17 but then decreased in FY18 to numbers below those in FY15 (Figure 16).

The proportion of initial commitment hearings that resulted in involuntary commitment orders has fluctuated slightly with the lowest proportion of 57.4% in FY10 and the highest of 63.6% in FY14 (Table 9, from previous section, and Figure 20). The proportion remained fairly stable from FY17 (59.4%) to FY18 (59.1%).

Table 10: Annual Frequency of Involuntary Commitment Orders for Adults (Initial Only), FY10-FY18

Fiscal Year	# Involuntary Commitment Orders
2010	12323
2011	12456
2012	12412
2013	12364
2014	13435
2015	13679
2016	13986
2017	14142
2018	13595

⁸The numbers may differ slightly from previous ILPPP reports on civil commitment. ILPPP reports prior to 2018 relied on data received on a monthly basis, whereas the reports since 2018 rely on data received annually. The annual reports may provide slightly different information from the monthly reports if cases have been transferred from other courts, or if cases held late in the month were entered into the system during the following month.

⁹For a discussion of natural seasonal variation and TDOs, please refer to the ILPPP report Rise in Temporary Detention Orders in Virginia, 2013-2017: Possible Contributing Factors. S A Larocco, R J Bonnie, H Zelle. August 2017. Found here: <https://uvamentalhealthpolicy.org/s/RisingTDOs8.pdf>

Figure 16: Annual Frequency of Involuntary Commitment Orders for Adults, FY10–FY18

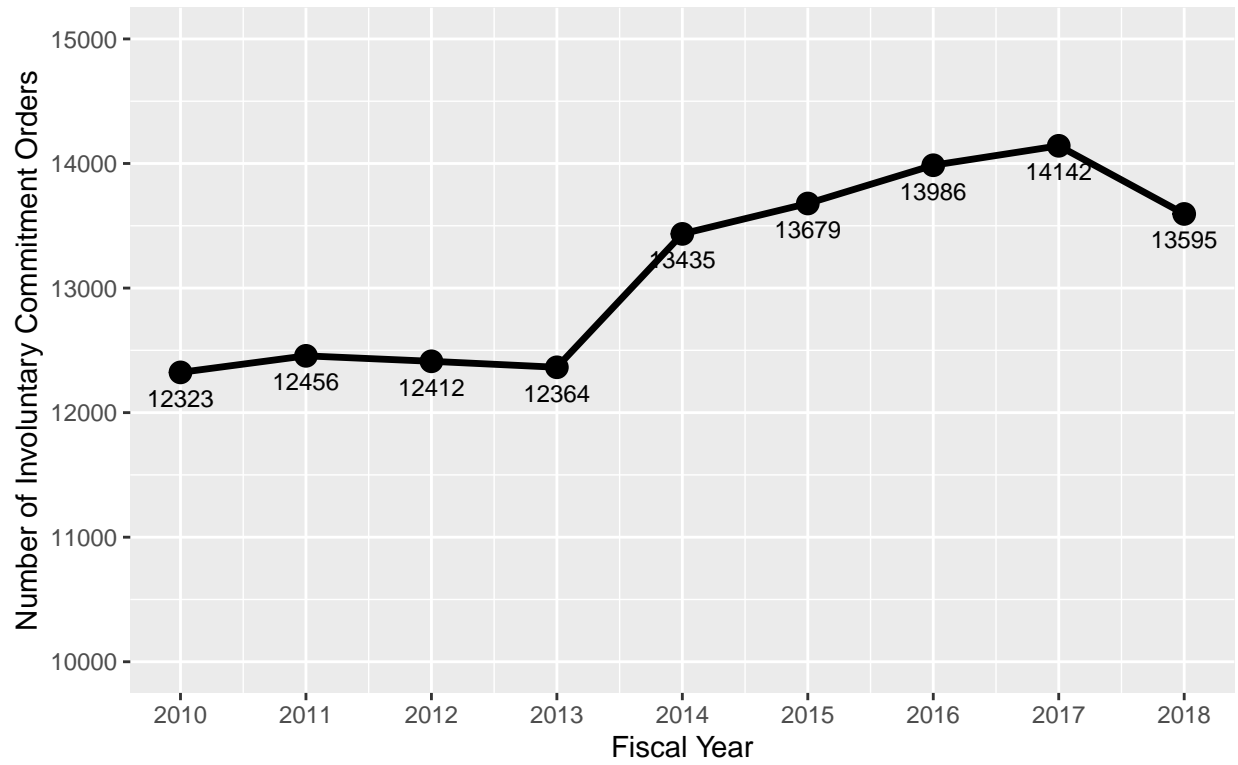


Figure 17: Quarterly Frequency of Involuntary Commitment Orders Issued for Adults, FY10–FY18

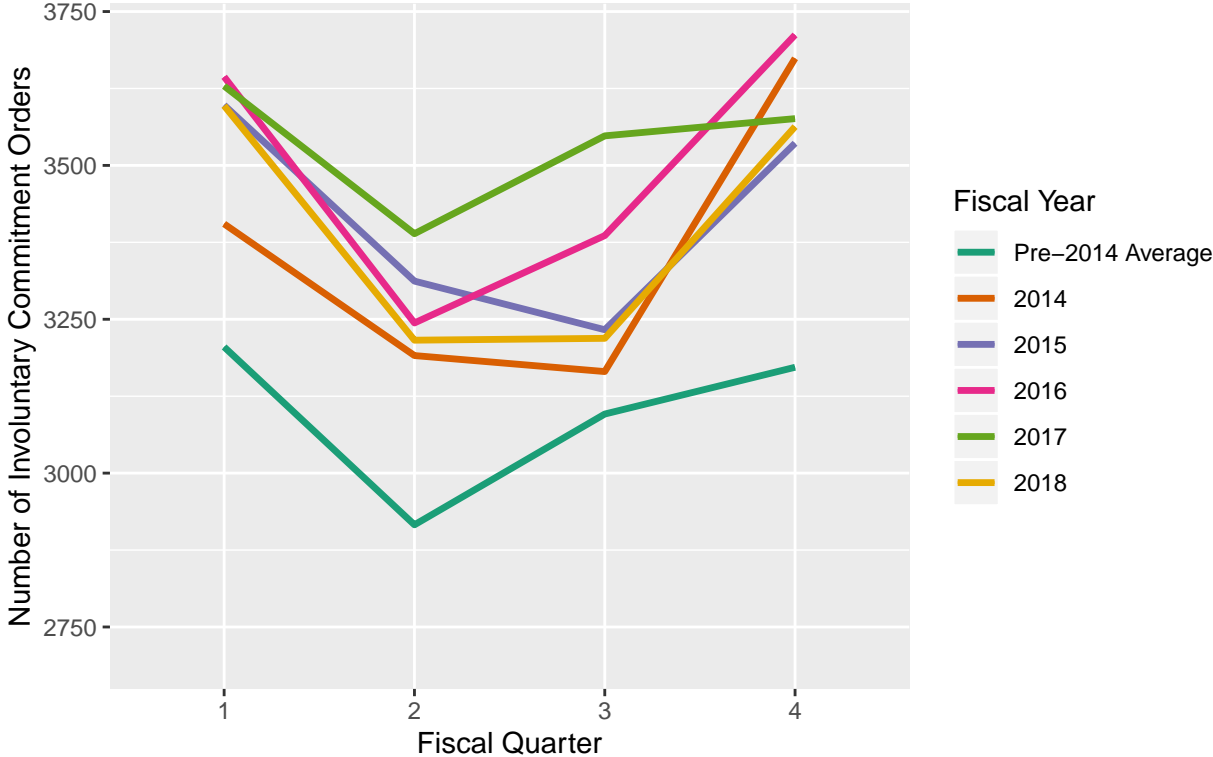


Figure 18: Quarterly Involuntary Commitment Order Trends (Adults Only), FY10–FY18

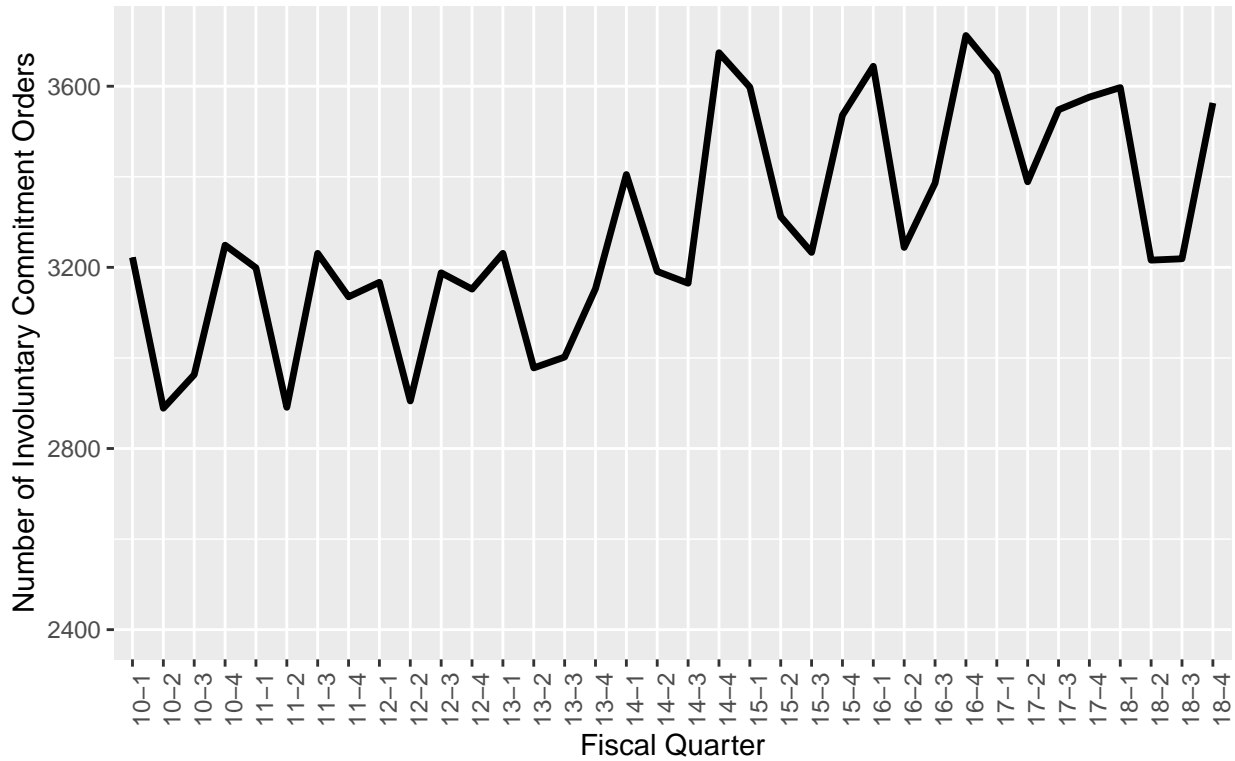


Table 11: Monthly Frequency of Involuntary Commitment Orders for Adults (Initial Only), FY09-FY18

Month	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Jul	NA	1125	1056	1046	1097	1177	1170	1243	1166	1202
Aug	NA	1082	1123	1091	1188	1156	1185	1224	1339	1276
Sep	NA	1015	1020	1030	946	1072	1243	1177	1124	1119
Oct	NA	979	983	1038	1058	1166	1230	1126	1176	1192
Nov	NA	911	893	913	941	985	873	1073	1046	1071
Dec	NA	999	1015	954	979	1040	1209	1045	1167	953
Jan	945	1014	1154	1010	1093	1086	1098	996	1244	1093
Feb	962	839	968	1046	953	1019	920	1138	1039	1082
Mar	1103	1110	1109	1132	956	1060	1215	1252	1265	1044
Apr	1080	1105	1032	1052	1027	1187	1167	1183	1085	1158
May	1078	1012	1078	1059	1079	1229	1117	1270	1230	1198
Jun	1102	1132	1025	1041	1047	1258	1252	1259	1261	1207
Total	NA	12323	12456	12412	12364	13435	13679	13986	14142	13595

Figure 19: Monthly Frequency of Involuntary Commitment Orders for Adults (Initial Only), FY09–FY18

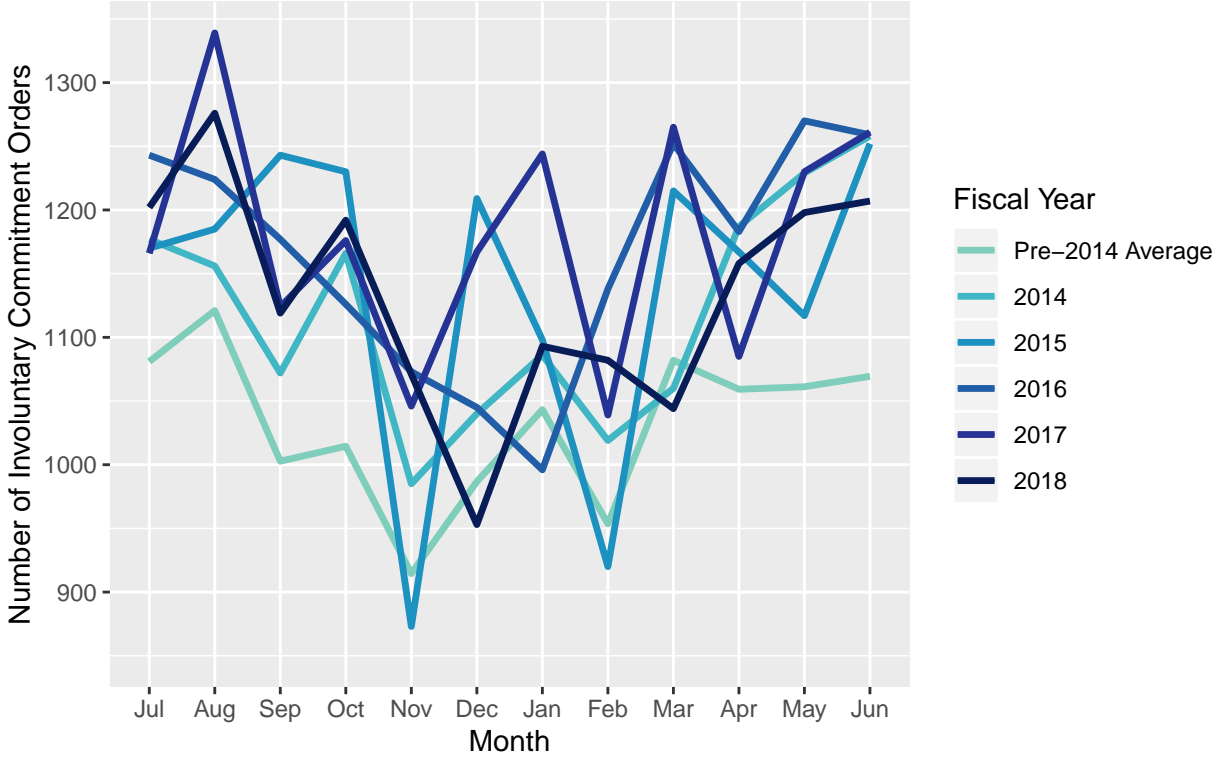
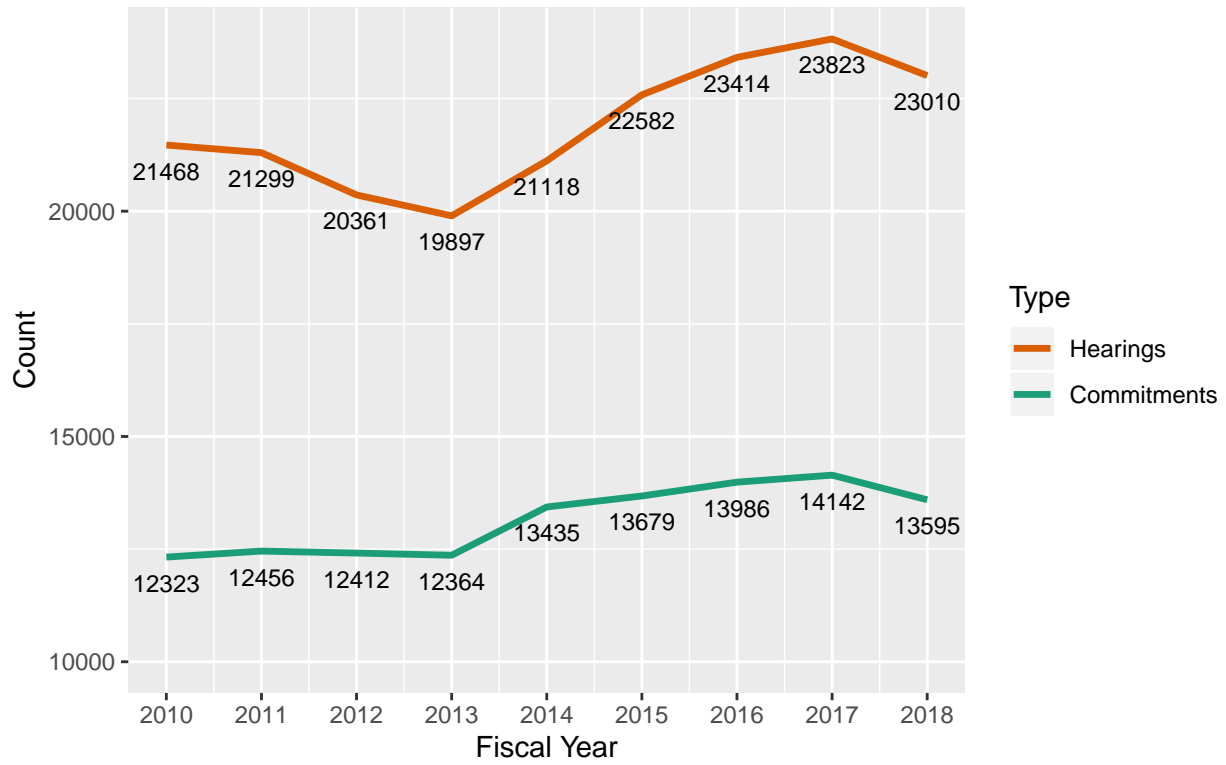


Figure 20: Annual Frequencies of Initial Commitment Hearings and Involuntary Commitment Orders for Adults, FY10–FY18



Recommitment Hearings

Table 12 and Figure 21 display the frequency of recommitment hearings for FY10-FY18. There was little change in the volume of recommitment hearings between FY11 and FY13, followed by a 21.5% increase in FY14 and another increase of 15.5% in FY15. The increase was particularly large beginning in the fourth quarter (April-June) of FY14 (Figure 22). The increasing trend during FY13-FY15 then changed direction in FY16 decreasing by 3.3% before continuing with a 1% increase in FY17 and remaining fairly stable into FY18 (Table 12 and Figure 21). Nearly all recommitment hearings held in FY18 resulted in continued hospitalization (96.4%), and a very large majority of these cases of continued hospitalization were involuntary hospitalizations (97.5%) (Table 14). While the number of recommitments has fluctuated from year to year, the number has generally increased overall from FY10 to FY18. However, the proportion of recommitment hearings resulting in involuntary hospitalizations has decreased slightly from FY10 to FY18 (Table 14 and Figure 23). The only exception is a small increase between FY15 and FY16, 94.4% and 95.0%, respectively (Table 14). The proportion of recommitments resulting in involuntary commitments was 97.3% in FY10 and had decreased to 94.0% in FY18.

Table 12: Annual Frequency of Recommitment Hearings Involving Adults, FY10-FY18

Fiscal Year	# Recommitment Hearings
2010	2315
2011	1915
2012	2092
2013	2055
2014	2496
2015	2882
2016	2787
2017	2817
2018	2825

Figure 21: Annual Frequency of Recombitment Hearings Involving Adults, FY10–FY18

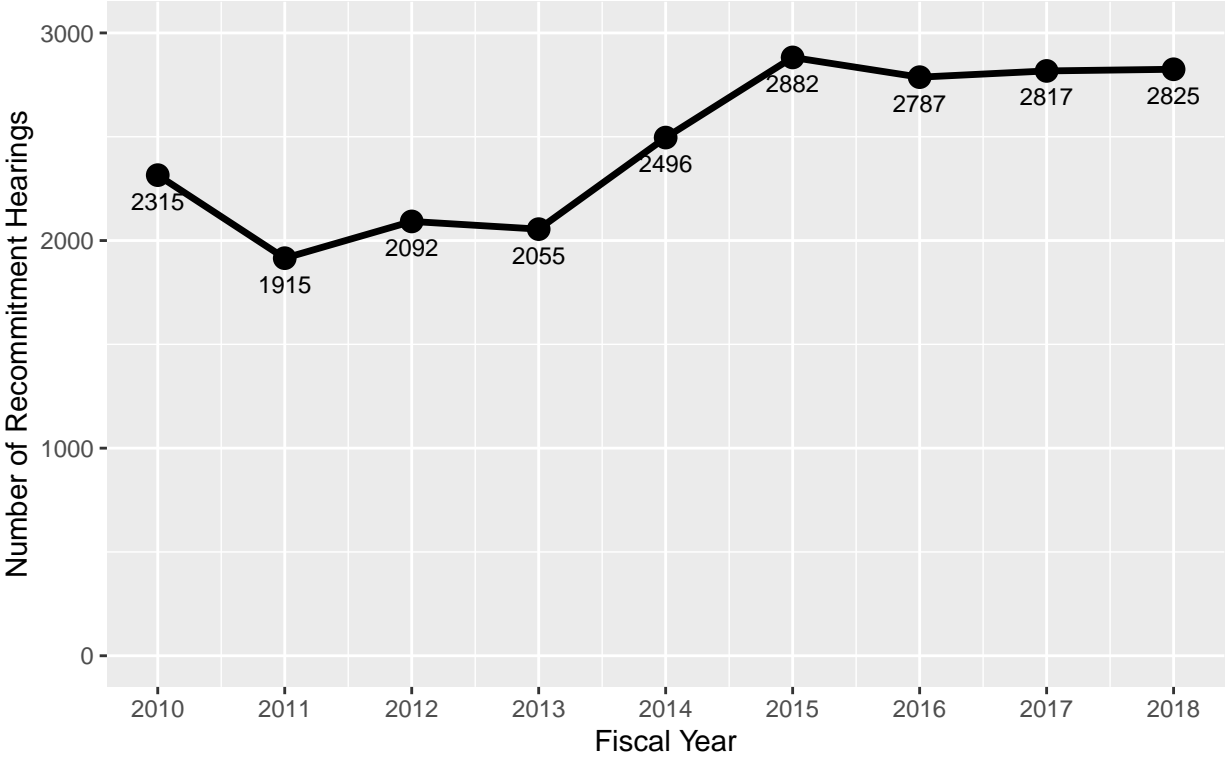


Figure 22: Quarterly Frequency of Recommitment Hearings Involving Adults, FY10–FY18

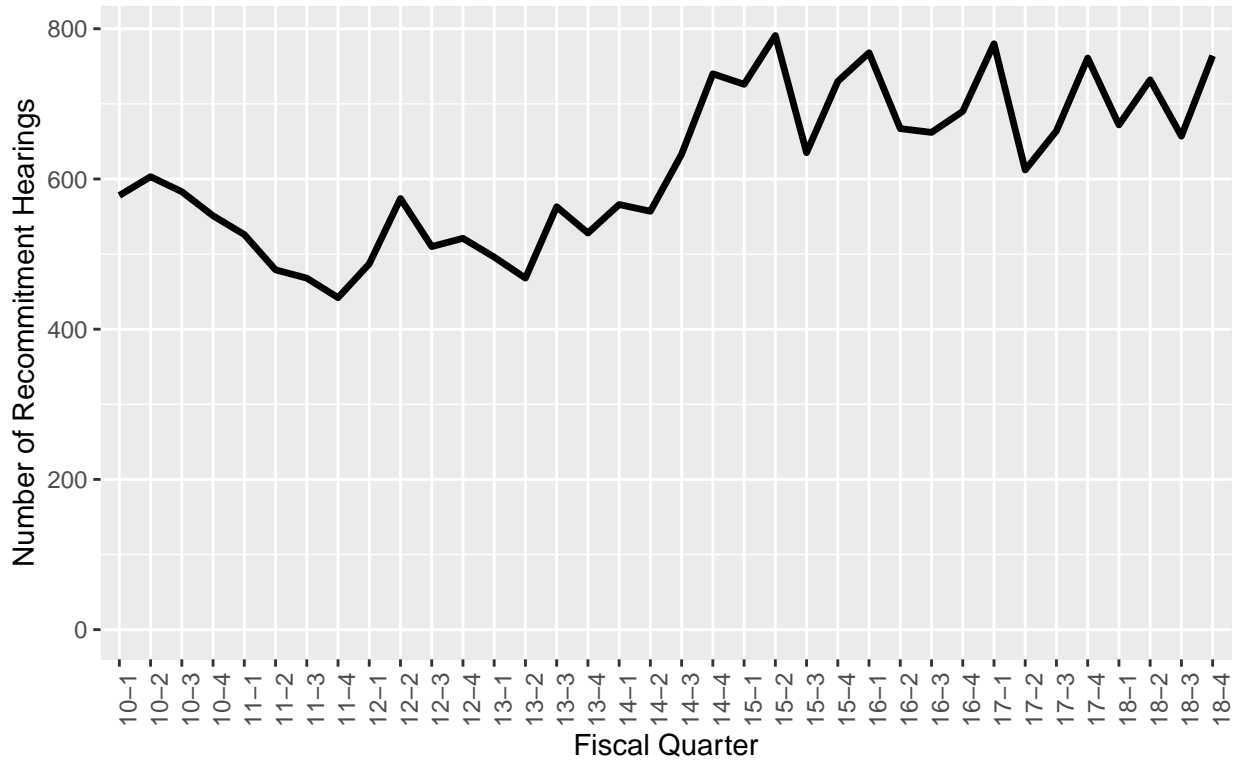


Table 13: Monthly Frequency of Recommitment Hearings Involving Adults, FY09-FY18

Month	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Jul	NA	219	221	123	161	205	236	261	243	211
Aug	NA	180	140	199	168	185	256	242	282	253
Sep	NA	179	165	165	167	176	234	265	255	208
Oct	NA	263	178	215	153	173	281	219	211	262
Nov	NA	145	135	181	160	192	235	205	218	250
Dec	NA	195	166	178	155	192	275	243	183	220
Jan	153	198	152	154	196	234	201	182	192	264
Feb	172	185	147	193	197	187	221	244	235	215
Mar	195	200	169	163	170	212	213	236	237	178
Apr	221	191	140	162	169	239	257	248	258	230
May	177	191	160	175	170	239	231	203	238	255
Jun	184	169	142	184	189	262	242	239	265	279
Total	NA	2315	1915	2092	2055	2496	2882	2787	2817	2825

Figure 23: Annual Frequencies of Recommitment Hearings and Involuntary Commitment Orders for Adults, FY10–FY18

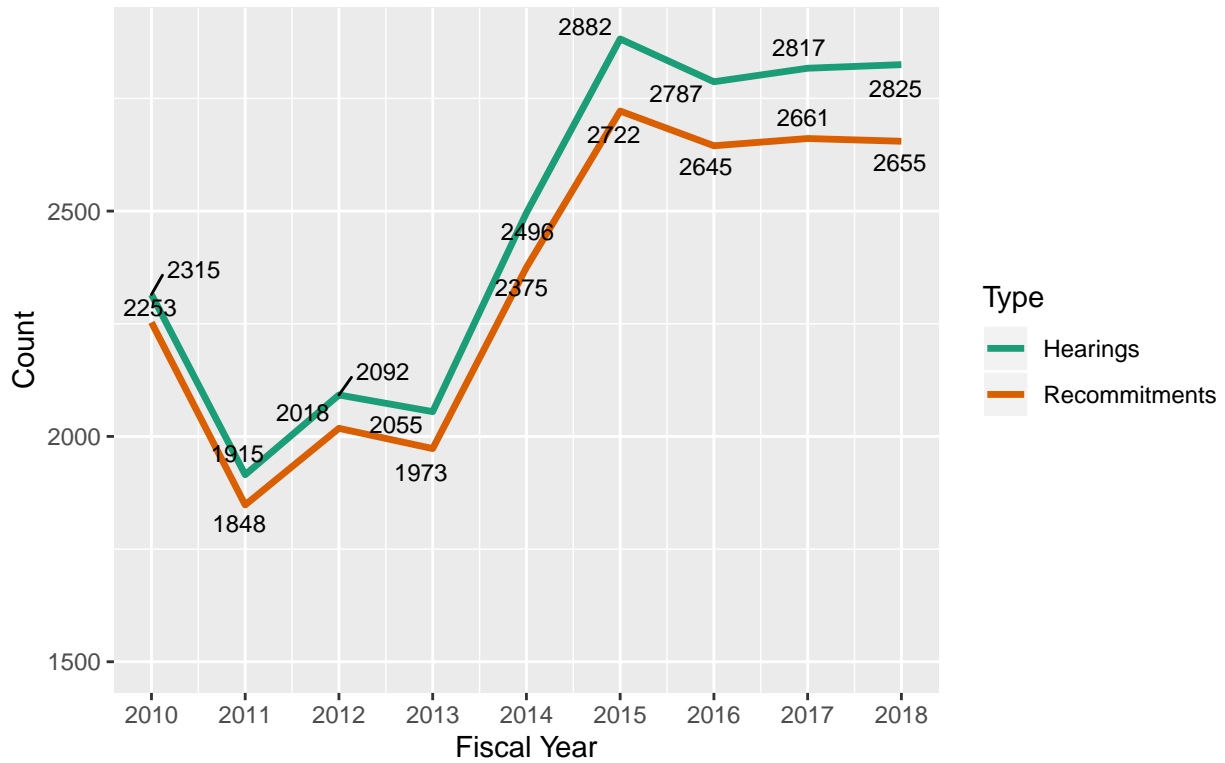


Table 14: Recommitment Hearing Results, FY10-FY18

Fiscal Year	Dismissal	Involuntary Commitment	MOT	Voluntary Commitment	FY Total
2010	8	2253	1	53	2315
2011	16	1848	6	45	1915
2012	21	2018	13	40	2092
2013	14	1973	24	44	2055
2014	24	2375	33	64	2496
2015	42	2722	46	72	2882
2016	44	2645	45	53	2787
2017	37	2661	55	64	2817
2018	34	2655	68	68	2825

Mandatory Outpatient Treatment

There are two types of mandatory outpatient treatment (MOT)¹⁰ authorized by the Virginia Code. The first type is a “direct” MOT order. This type of order is used for a person who is not under a commitment order at the time of the hearing and the MOT order is issued as a “less restrictive alternative” when the person is found to meet the criteria for involuntary admission at the time of the hearing (Va. Code § 37.2-817(D)). No prior hospitalization is necessary to issue a “direct” MOT order. Although these “direct” MOT orders have been authorized since 1976, detailed procedures for implementing MOT were not adopted until 2008.

The second general type of MOT order is a “step-down” MOT order. This type of procedure, which became available in FY 2011, is used to allow a person to “step down” from an inpatient hospitalization order to an order for MOT. This means that after a person has been hospitalized for a predetermined period, they can be discharged on the condition that they adhere to mandatory outpatient treatment. This type of MOT requires at least two previous hospitalizations following a TDO within the last 36 months.

A “step-down” MOT order may be initiated either at discharge or as the result of a new hearing. In this report, these types of orders are referred to as a discharge “step-down” MOT order and a new hearing “step-down” MOT order, respectively.

A discharge “step-down” MOT order is accomplished procedurally by entry of a dual order (at the time of the involuntary commitment hearing) whereby the judge or special justice (i) enters an order for involuntary admission and (ii) simultaneously authorizes the physician in charge of the person’s treatment at the inpatient facility to discharge the individual for monitoring by the responsible community services board (CSB) under a MOT discharge plan (Va. Code § 37.2-817(C)(1)). The step-down can be accomplished without an additional judicial hearing if the physician concludes that the prescribed criteria have been met. Authority for a physician to enact step-down MOT can be conferred at the time of an initial commitment hearing (in an initial commitment order) or at the time of a recommitment hearing.

In some cases, a new hearing “step-down” MOT is ordered at a hearing not associated with the initial commitment hearing or recommitment hearing. Upon motion of the treating physician, a family member, or the community services board, a hearing can be held at any point prior to the discharge of an individual from involuntary commitment (Va. Code § 37.2-817(C)) or a voluntary admission following a TDO (Va. Code § 37.2-805) to determine whether the individual should be ordered to MOT upon discharge.

Summary of MOT Types

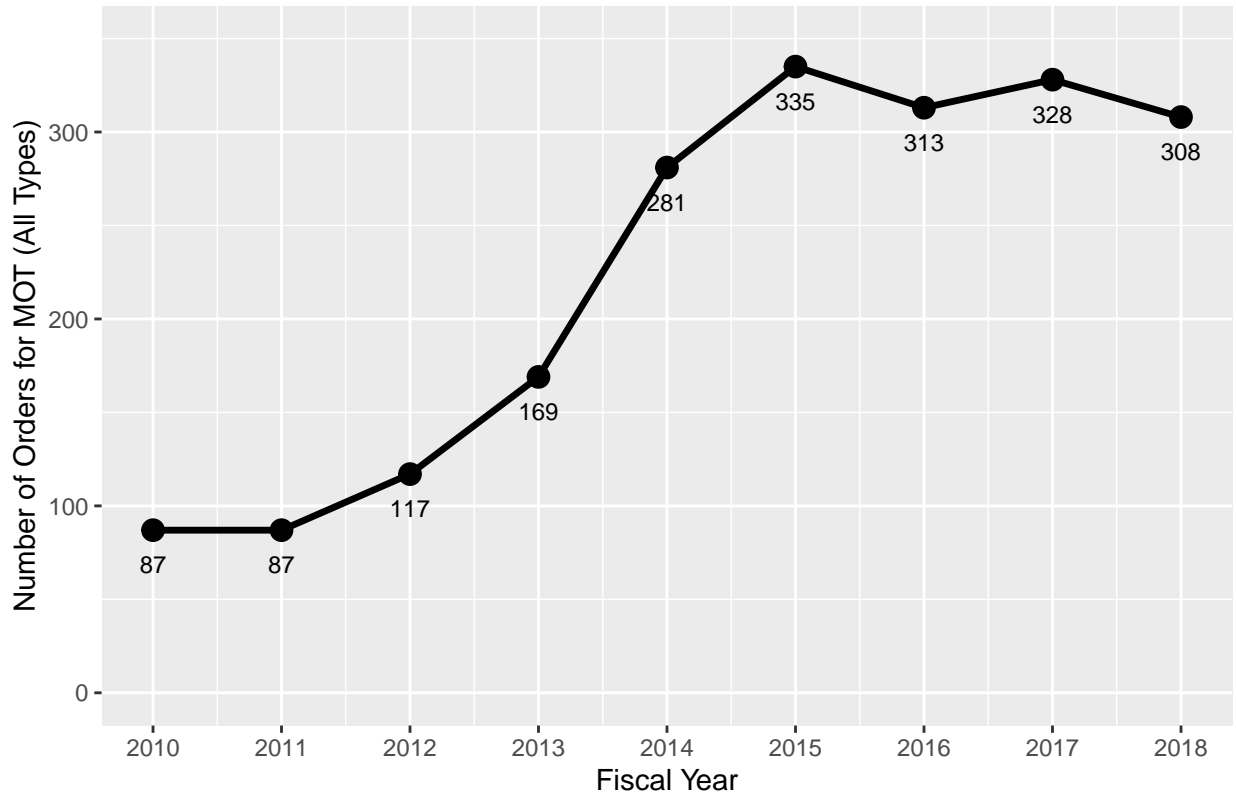
1. **Direct:** Issued to an individual not currently under a commitment order, at the time of the commitment hearing
2. **Step-Down:** Issued in order to allow an individual to “step down” from an inpatient hospitalization order to an order for MOT
 - **Discharge – Initial:** Issued concurrently with a commitment order at the time of an initial commitment hearing
 - **Discharge – Recommitment:** Issued concurrently with a recommitment order at the time of a recommitment hearing
 - **New Hearing:** Issued at a standalone hearing motioned for by a treating physician, family member, or CSB

Due to concerns about the inability to identify new hearing MOTs, given limitations in data that are available, this report will not include analyses on the different types of MOT. The total number of all types of MOT orders decreased by 6.1% from FY17 to FY18, continuing the slow decrease in the number of MOTs that occurred after FY15 (Figure 24). The number of orders for MOT issued in FY18 is high relative to FY12. As reported in the FY 2017 Annual Statistical Report, the general increase in MOT orders over the past several years may be attributable to two MOT implementation workshops that were sponsored and

¹⁰Data on MOTs are derived from dispositions of initial and recommitment hearings which are recorded in GDC-CMS.

conducted by DBHDS and the Office of the Attorney General in December 2012 and October 2013. Nineteen interested CSBs sent teams comprised of CSB representatives, court officials, parents, and others interested in MOT implementation to one of these one-day workshops in Henrico and Roanoke. Participants learned Virginia law governing the use of MOT, reviewed national best practices related to MOT implementation, and studied operational procedures from two CSBs (Valley and Prince William) that had historical success operationalizing MOT orders in their communities. Teams also worked with consultants to develop agency- and community-specific MOT implementation plans.

Figure 24: Annual Frequency of MOT Orders for Adults (All Types), FY09–FY18



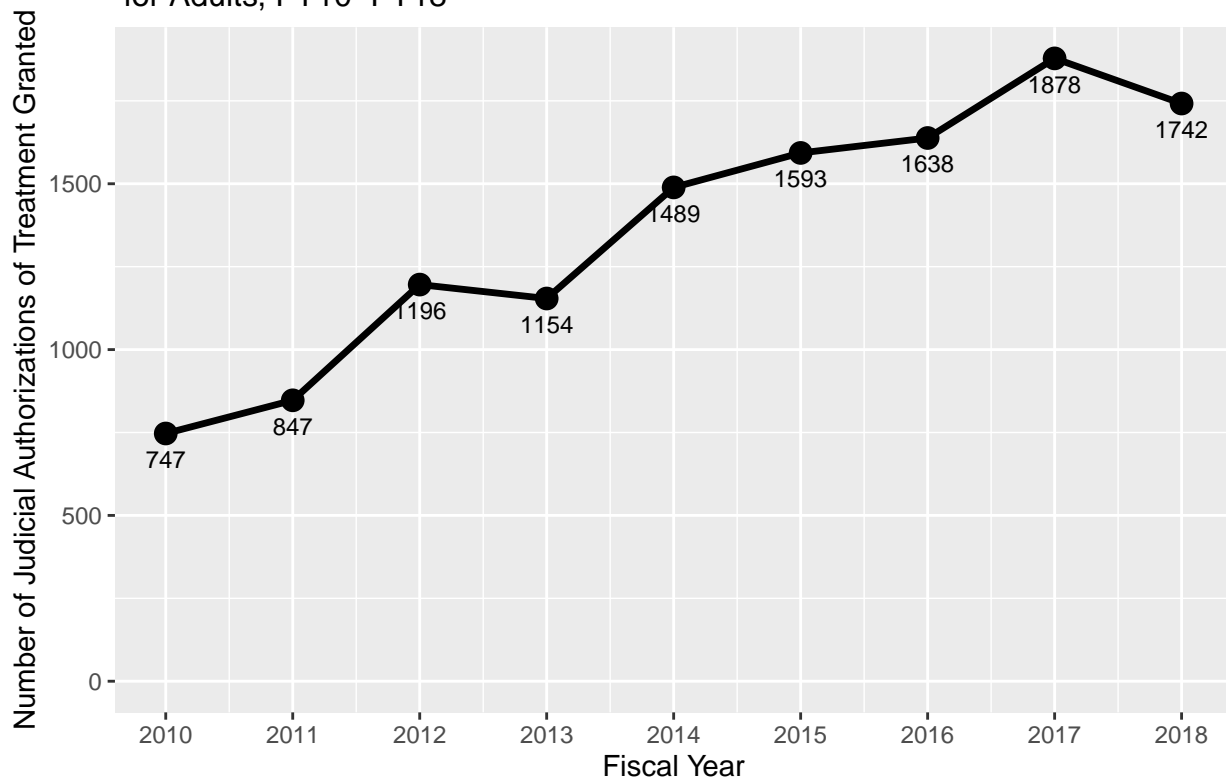
Judicial Authorizations of Treatment

Court clerks also enter information about petitions for judicial authorizations of treatment into GDC-CMS. The purpose of judicial authorizations of treatment is to authorize treatment of an adult person who is either incapable of making an informed decision on his own behalf, or is incapable of communicating decisions about care due to a mental or physical disorder; these authorizations can only be granted if the proposed treatment is also found to be in the best interest of the person (Va. Code § 37.2-1101).¹¹

A total of 1,811 petitions for judicial authorizations of treatment were filed in FY18, a 7.2% decrease from FY17 (Table 15). The number of judicial authorizations granted decreased compared to FY17, from 1,878 to 1,742 mirroring the 7.2% decrease in authorizations requested (Figure 25).

In accordance with past trends, nearly all (96.2%) petitions for the judicial authorizations of treatment were granted in FY18. Overall, the number of judicial authorizations of treatment petitions that were granted in FY18 is over twice that of FY10 (Figure 25).

Figure 25: Annual Frequency of Judicial Authorizations of Treatment Granted for Adults, FY10–FY18



¹¹Note that the data do not provide information to determine if the authorization of treatment was granted due to a mental or physical disorder.

Table 15: All Judicial Authorizations of Treatment Requested

FYear	count
2009	340
2010	784
2011	898
2012	1256
2013	1190
2014	1532
2015	1644
2016	1725
2017	1951
2018	1811

Alternative Transportation Orders

In most cases, the magistrate issuing an ECO or TDO will specify that the law-enforcement agency of the jurisdiction in which the person resides or is located is responsible for executing the order and providing transportation to the appropriate ECO or TDO facility. In some cases, after issuing an ECO or TDO, the magistrate will issue an alternative transportation order (ATO), allowing an alternative transportation provider, such as a medical transport provider or a family member, to provide transportation to the appropriate facility (Va. Code § 37.2-810). Each time an ATO is issued, it is entered into the eMagistrate system. ATOs are recorded by the eMagistrate system regardless of whether they are successfully executed.

The number of ATOs issued per year has increased dramatically since FY10, when ATO legislation first went into effect. Magistrates issued 142 ATOs in FY10, 759 ATOs in FY17, and significantly fewer in FY18 (493) when an alternative transportation pilot, described below, ended (Table 17). The increase between FY10 and FY17 can be attributed to the start of two programs providing alternative transportation for people under a TDO. The first program was the Alternative Transportation Pilot, which was sponsored by DBHDS and began in the Mount Rogers Community Services Board area in November 2015. The pilot created another alternative transportation resource that could be used instead of law enforcement, when appropriate; DBHDS contracted with Steadfast Investigations and Security, LLC, to provide “secure cabs” to transport detained individuals in accordance with § 37.2-810. DBHDS officials indicated that the drivers were well-trained to provide safe transportation without the use of restraints. Note, though, that the pilot could not and was not intended to replace all transportation by law enforcement. This pilot ended in March of 2017 which explains the decrease in alternative transportation seen around that time. With the second program, Valley CSB implemented an alternative transport program in October 2015 that utilizes off duty officers from the Middle River Regional Jail (MRRJ) to transport individuals for whom the magistrate has issued a TDO and a transportation order to another mental health facility. The transporting MRRJ officers have received CIT certification, and drive unmarked MRRJ vehicles equipped with safety panels. All jail officers participating in this program have also received training concerning the TDO process and associated paperwork.

Table 16 displays the number of ATOs issued for adults under ECOs and TDOs from FY10-FY18. Few ATOs were issued in order to transport an individual under an ECO, with about 97.3% of ATOs in FY18 issued for an individual under a TDO (Table 16). Across FY10-FY12, the most common alternative transportation was family while from FY13 to FY15, the most common alternative transportation provider was medical transport (Table 17).¹² Beginning in November 2015, the most common alternative transportation provider was a certified driver labeled here as “Alternative Transport”. Note that the “certified driver” variable code was created in FY16 in order to accommodate the new alternative transportation programs. It is possible that some ATOs that should have been coded as certified driver were coded as “unknown” during FY10-FY15. The number of Law Enforcement transport providers increased from 63 in FY17 to 142 in FY18. Upon further investigation, the witness to the transportation order as described in the dataset is largely composed of jail personnel and these cases are largely from one court. It is possible this area has begun performing more prescreening and evaluations in local jails in FY18 leading to more alternative transportation by jail personnel.

Table 16: Annual Frequency of ATOs Issued for Adults, by Order Type, FY10-FY18

Type	FY10	FY11	FY12	FY13	FY14	FY15	FY16	FY17	FY18
ECO	7	6	3	4	11	9	8	10	13
TDO	135	135	100	116	102	99	479	749	480
Total	142	141	103	120	113	108	487	759	493

¹²Provider types were defined as follows: Alternative Transport - includes certified drivers and contracted alternative transportation providers such as Steadfast Investigations & Security or other secure transport; Family - includes 1st degree family such as parents or children, etc.; Friend - includes 2nd degree family members such as cousins and/or non-related friends; Healthcare Provider - includes CSB clinician or other medical provider; Law Enforcement - includes law enforcement officers and other criminal justice personnel; and Medical Transport - includes EMS, etc.

Figure 26: Quarterly ATO Trends (Adults Only), FY10–FY18

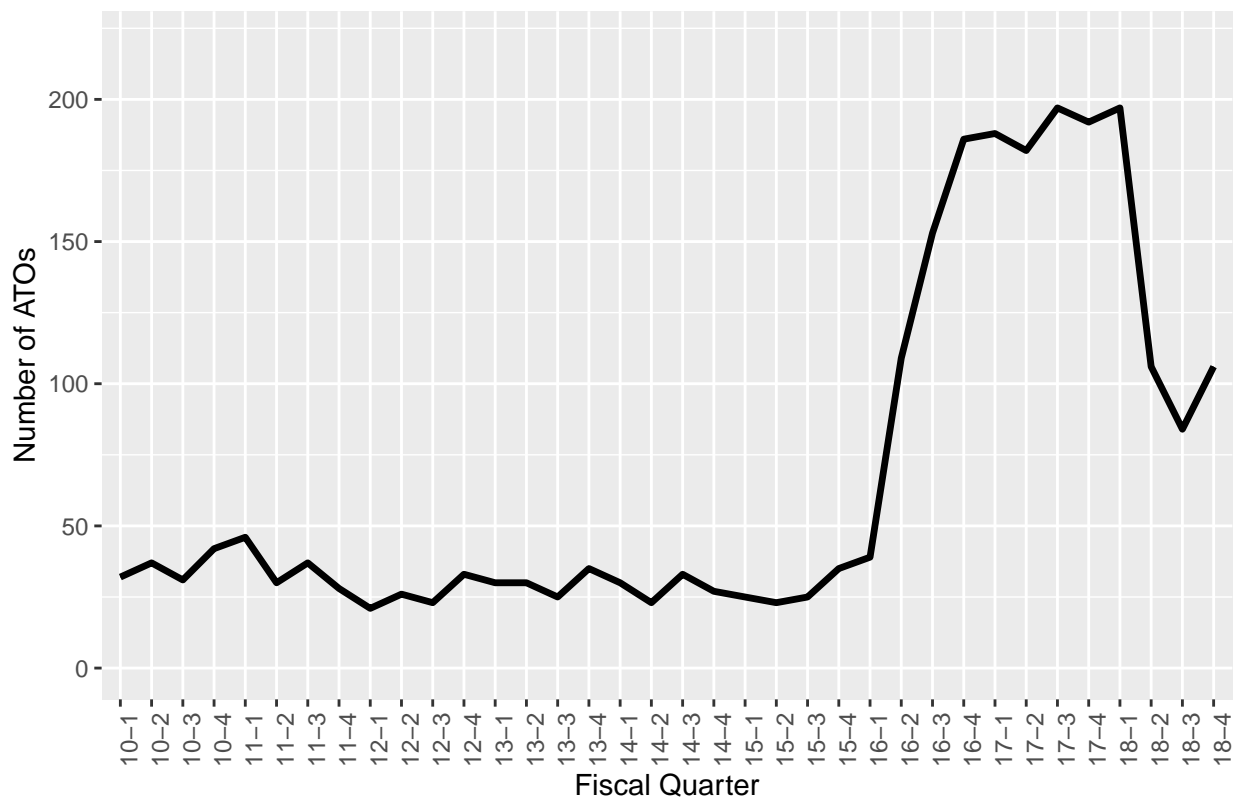


Table 17: Annual Frequency of ATOs Issued for Adults, by Transportation Provider, FY10-FY18

Transportation Provider	FY10	FY11	FY12	FY13	FY14	FY15	FY16	FY17	FY18
Alternative Transport	4	10	10	10	14	15	328	535	228
Family Friend	64	66	32	26	24	15	27	22	26
Health Care Provider	13	7	7	6	7	0	2	1	2
Medical Transport	16	9	5	8	5	8	7	11	6
Officer/CJS	24	29	25	40	39	46	58	61	55
Unknown	6	8	7	7	6	7	36	63	142
Total	15	12	17	23	18	17	29	66	34
Total	142	141	103	120	113	108	487	759	493

Acknowledgements

We thank JK Bonnie and TM Ko for their assistance in writing the core R Markdown code used to generate this report.

Appendix

The following figures elaborate on previous figures in this report that included “Pre-2014 Averages” by showing all years from FY2010-FY2018 rather than condensing years before 2014 into a single category.

Figure 2a: Quarterly Frequency of ECOs Issued for Adults, FY10–FY18

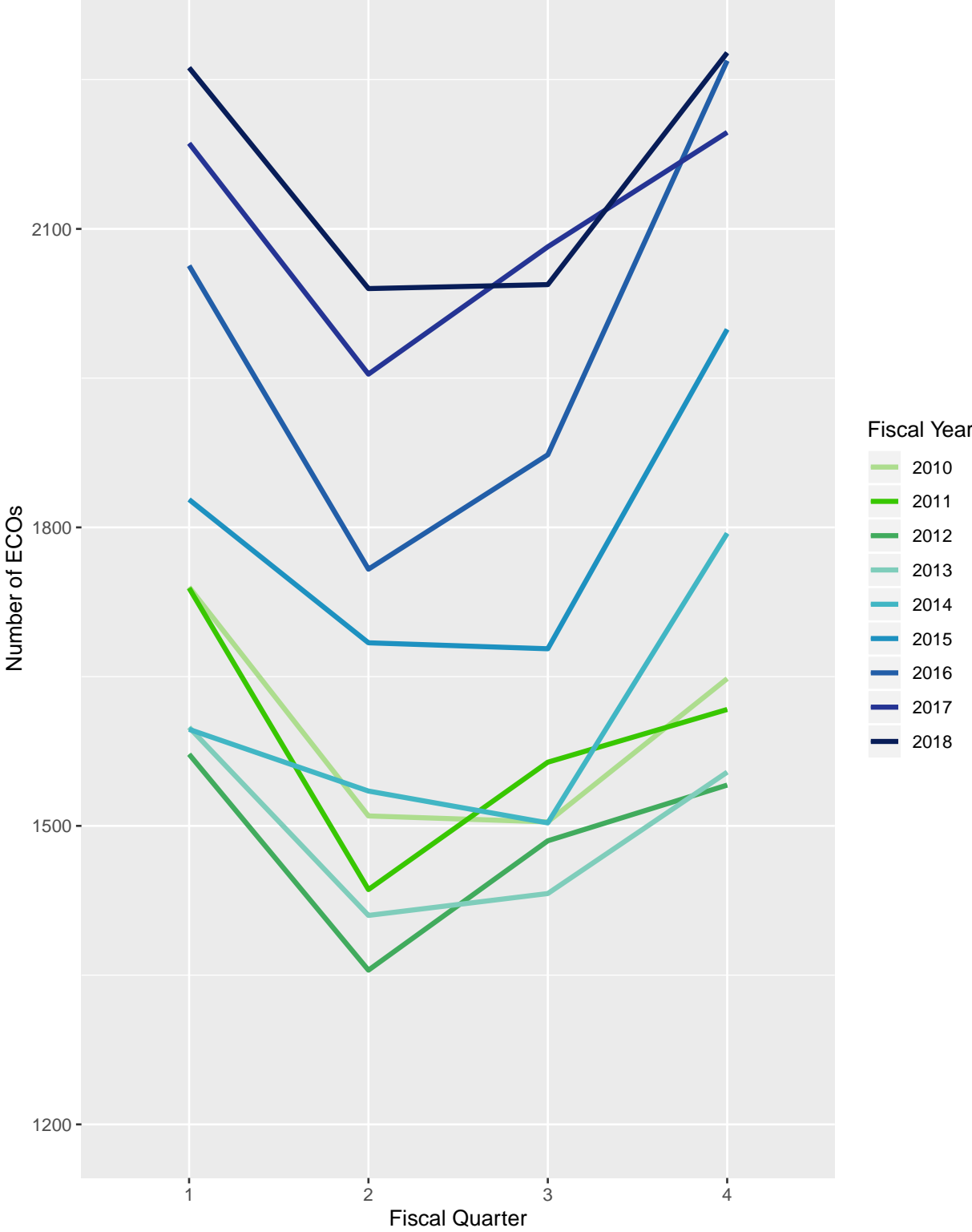


Figure 4a: Monthly Frequency of ECOs Issued for Adults, FY10–FY18

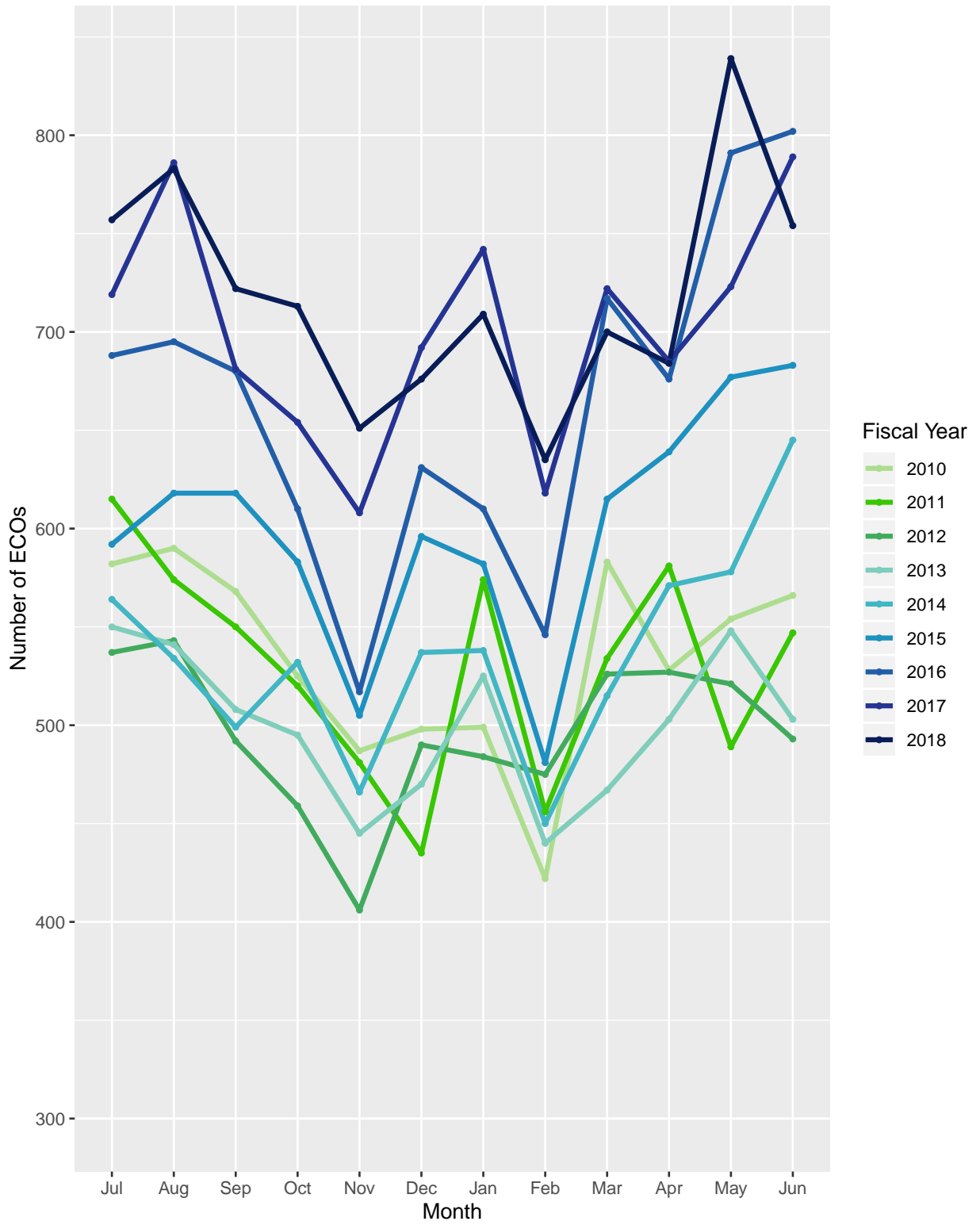


Figure 7a: Quarterly Frequency of TDOs Issued for Adults, FY10–FY18

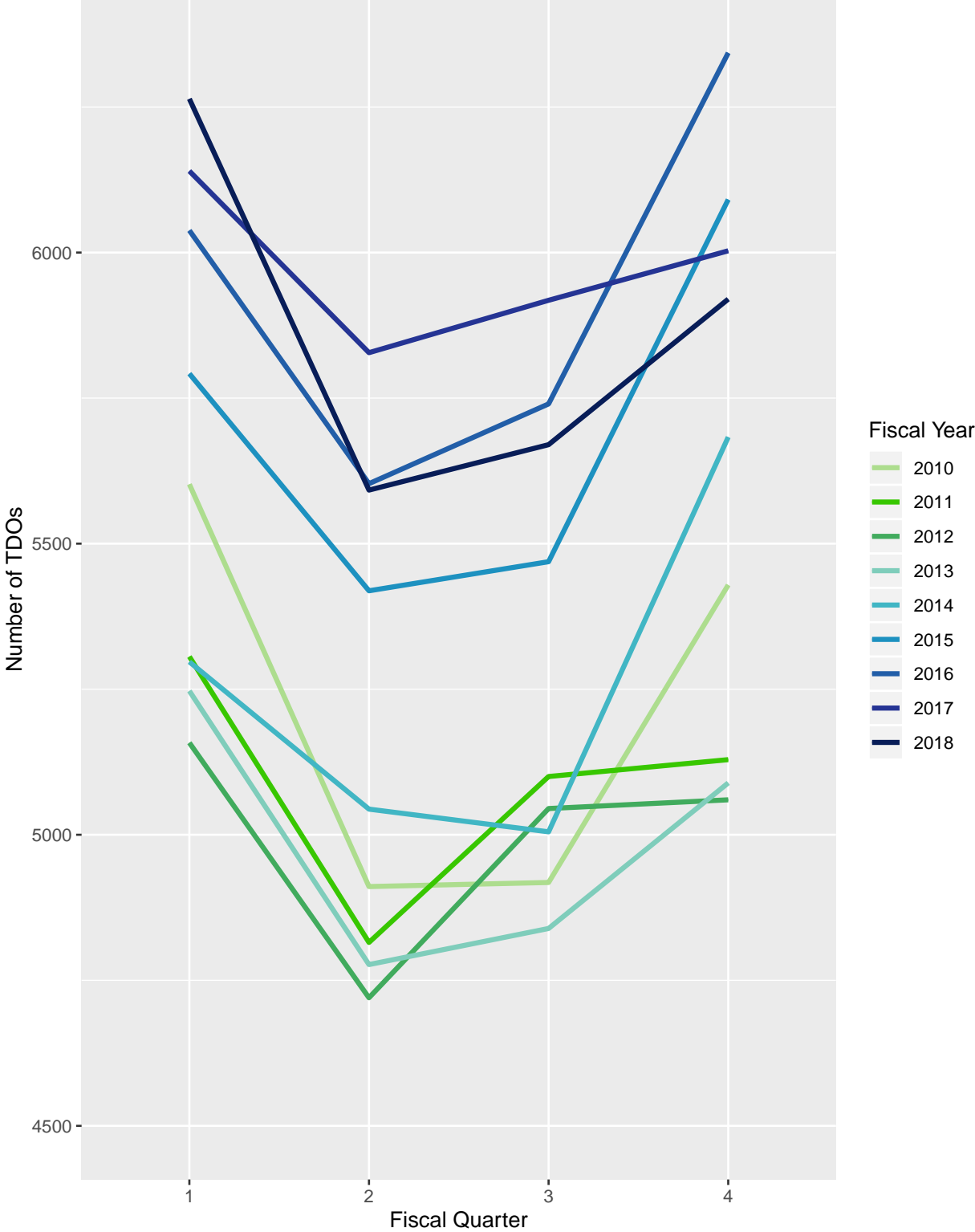


Figure 9a: Monthly Frequency of TDOs Issued for Adults, FY10–FY18



Figure 12a: Quarterly Frequency of Initial Commitment Hearings Involving Adults, FY10–FY18

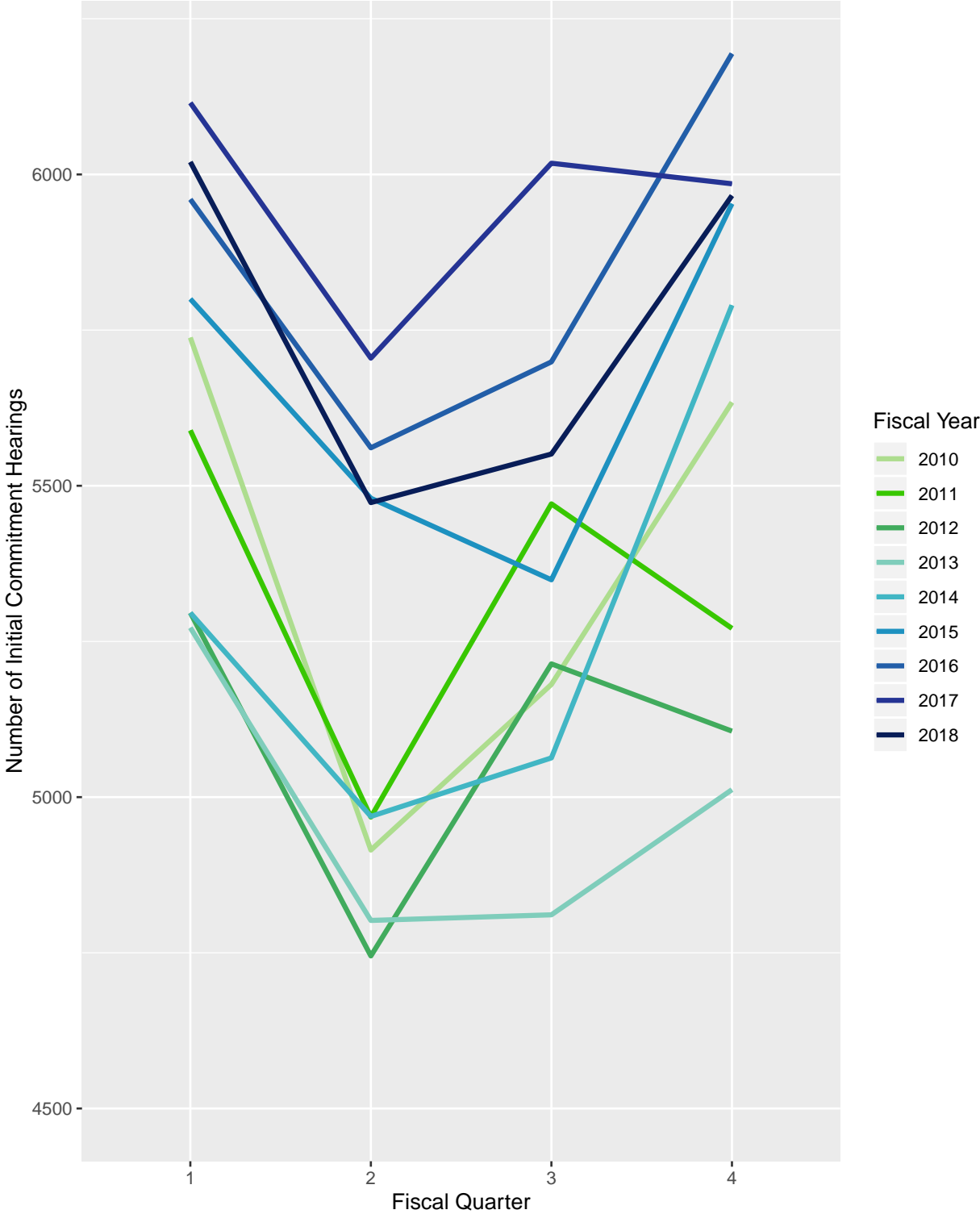


Figure 14a: Monthly Frequency of Initial Commitment Hearings Involving Adults, FY10–FY18

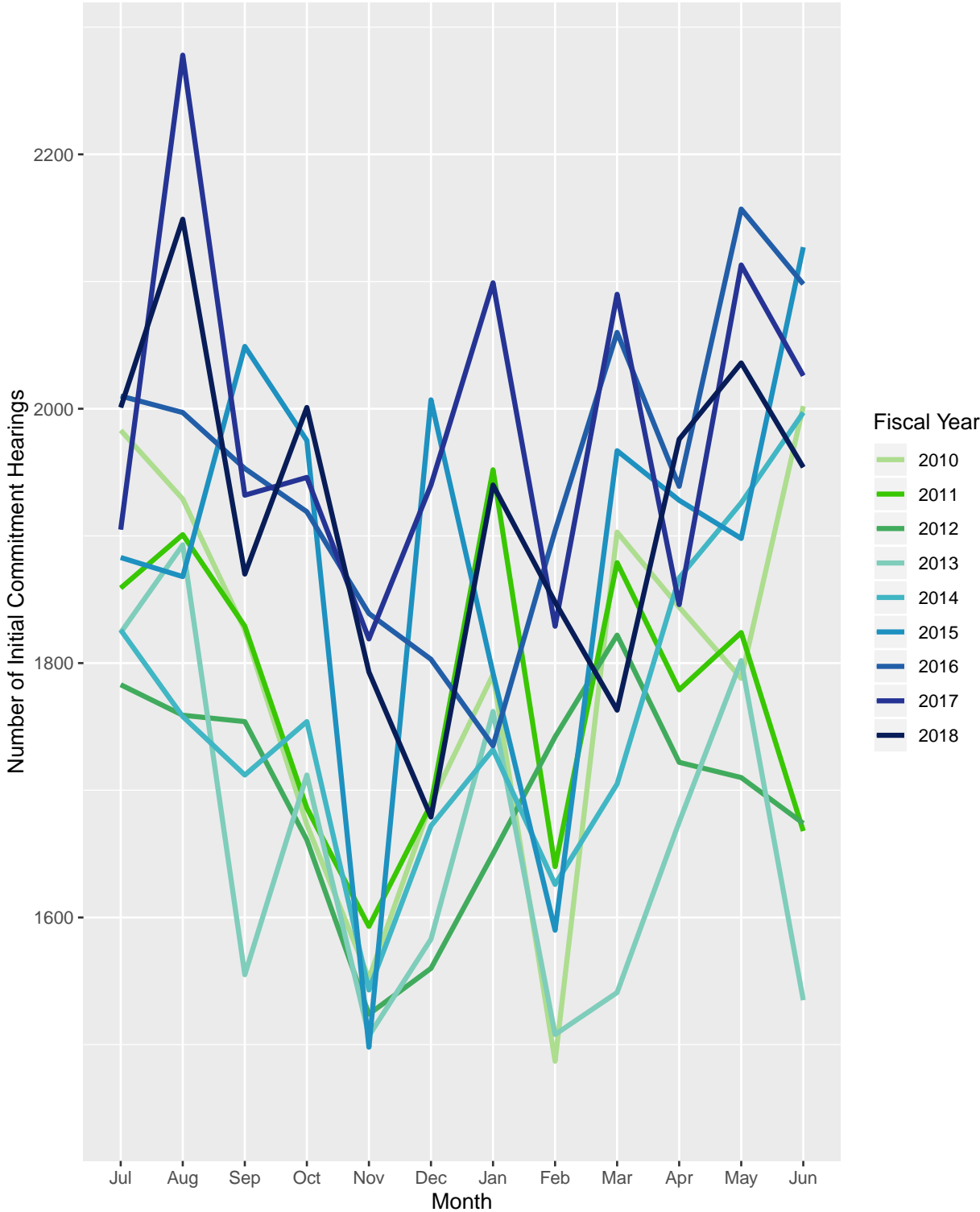


Figure 17a: Quarterly Frequency of Commitment Orders Issued for Adults, FY10–FY18

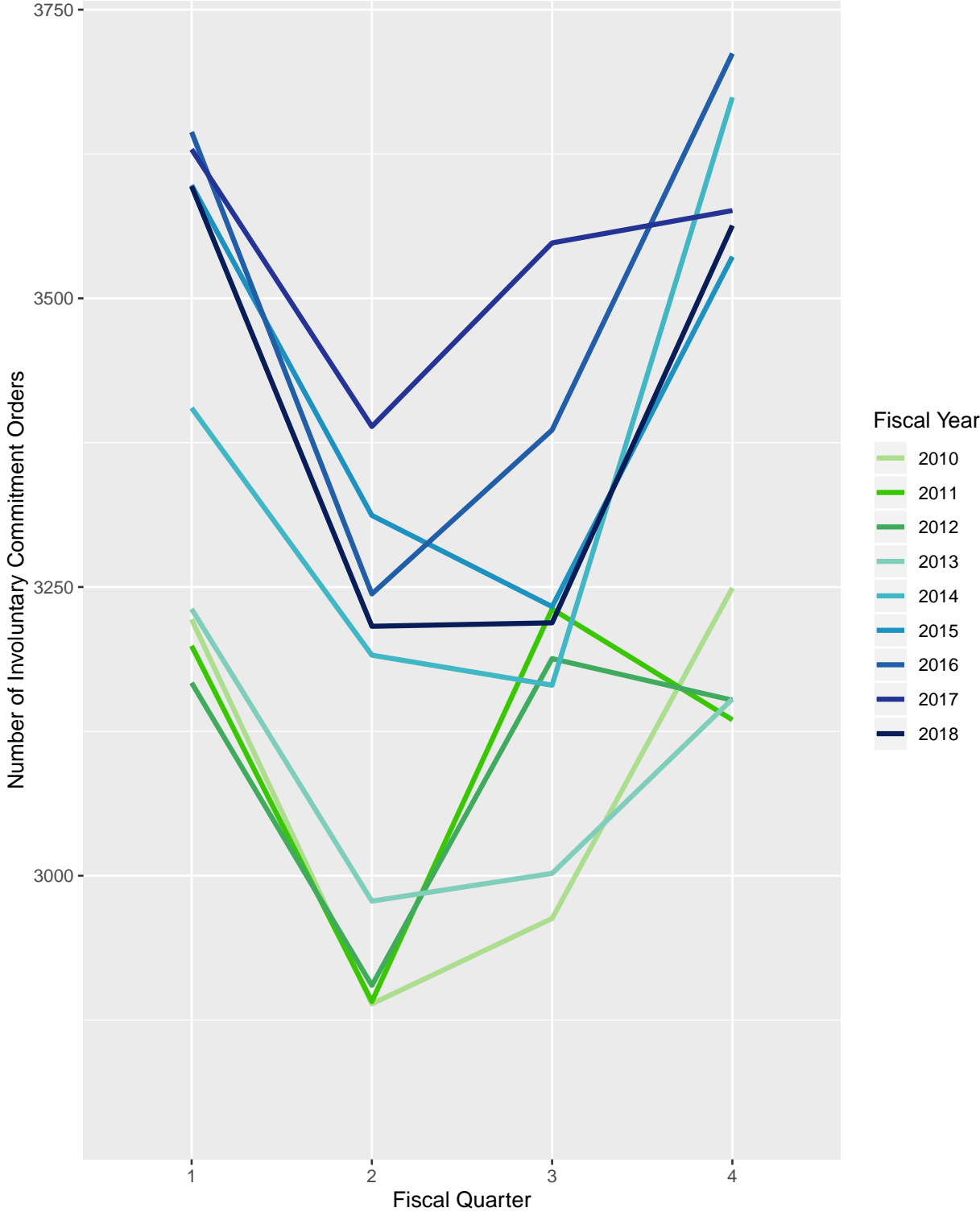


Figure 19a: Monthly Frequency of Involuntary Commitment Orders for Adults (Initial Only), FY10–FY18

