

# DSH Overview

## Felony Incompetent to Stand Trial Challenges, Data, and Efforts

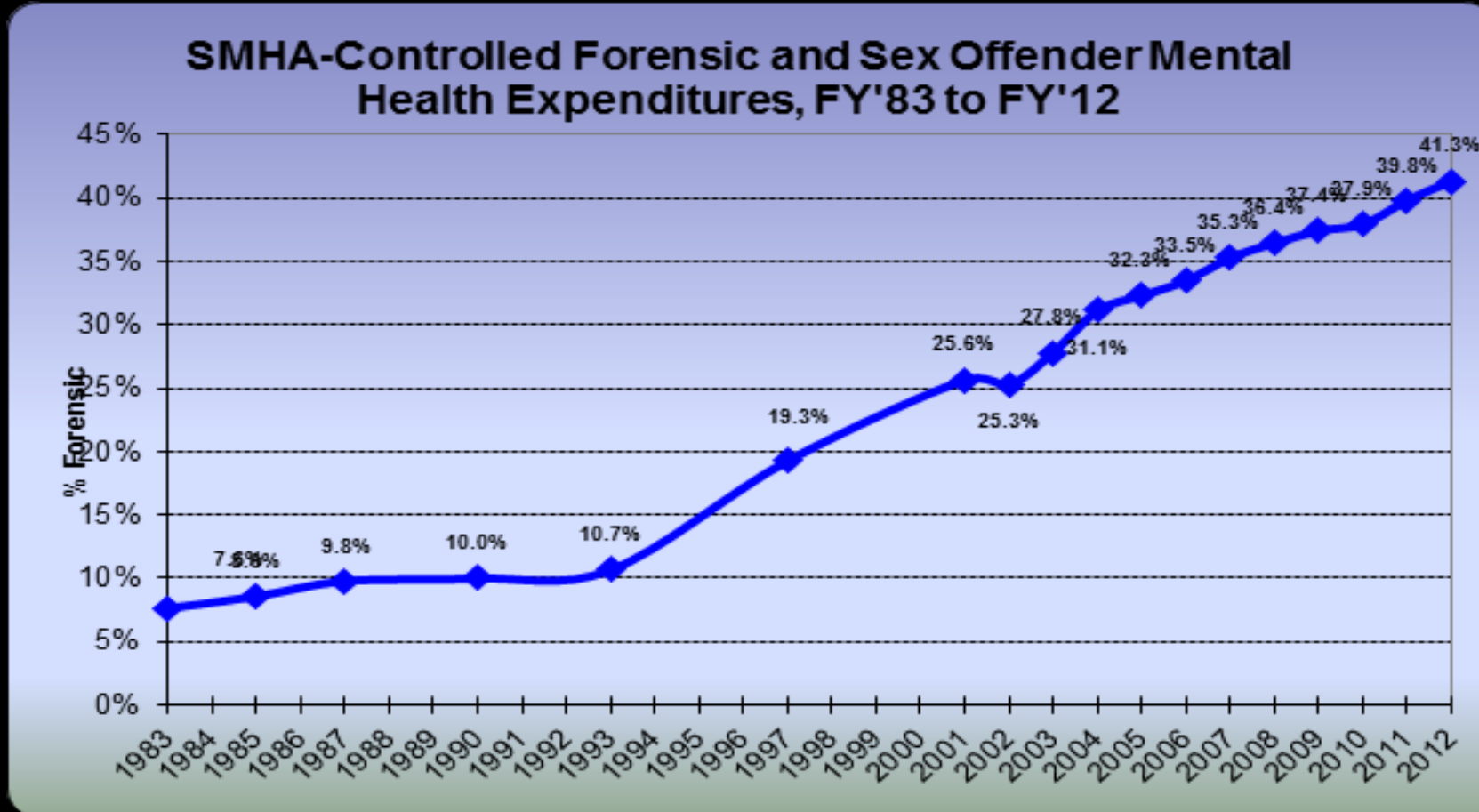


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# National % Forensic Spending



# NASMHPD Forensic Survey

- **75%** demand for forensic services has increased (a lot 54%, moderately 21%)
- **78%** of states responding report that increased demand for forensic services has required that they maintain **waiting lists for admission**
- **Half** of states responding report that they have been **threatened with or found in contempt of court** for failing to admit court ordered patients in a timely manner



# A National Problem

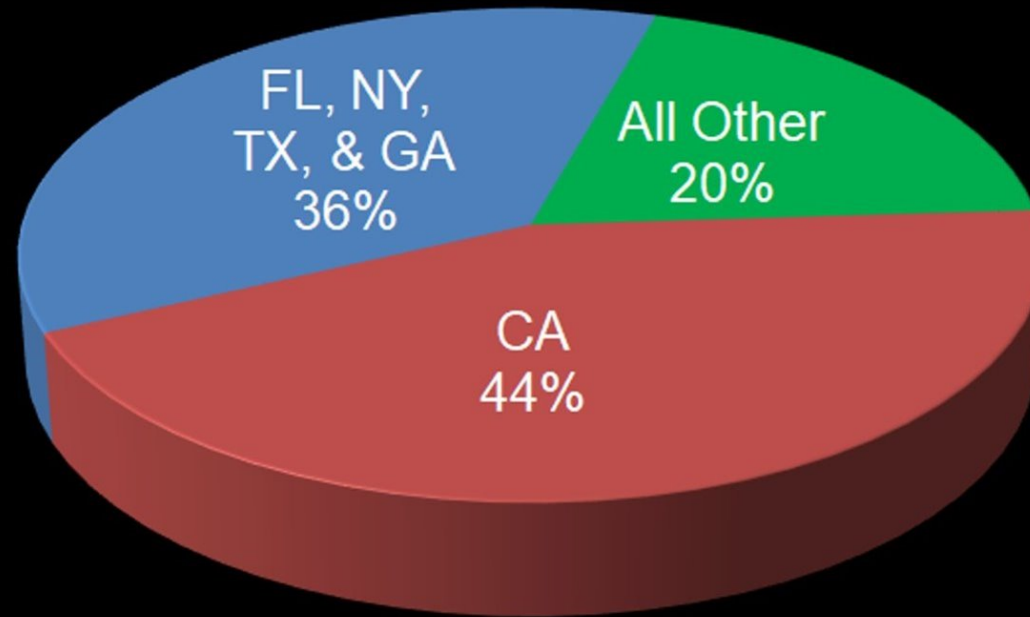
- Colorado to hire consultant to ensure speedy competency ...[Colorado Springs Gazette](#)-Aug 2, 2016
- With state hospitals packed, mentally ill inmates wait in county jails ...[Dallas Morning News \(blog\)](#)-Apr 21, 2016
- Jail wait times are inhumane for the mentally ill The [Delaware County Daily Times](#)-Jul 18, 2016
- Federal trial to tackle Washington's mental competency wait lists. The [Seattle Times](#). March 14, 2015.
- Jails are becoming 'new psych hospitals' Jackson Hole ([Wyoming](#)) News & Guide-Aug 10, 2016
- ACLU revives lawsuit against Pa. over 'off the charts' delays to treat mentally ill defendants. [Pennlive.com](#) May 11, 2017
- Lawsuit alleges Utah agencies 'unconstitutionally delay' mentally ill inmates' treatment. [Deseret News Utah](#) September 9, 2015
- Long, Dangerous Wait for Hospital Beds for Those Incompetent to Stand Trial KQED [California](#) October 20, 2015
- New York plan aims to divert mentally ill people from jail's revolving door. The [New York Times](#). December 2, 2014.

# Forensic Patients in State Hospitals

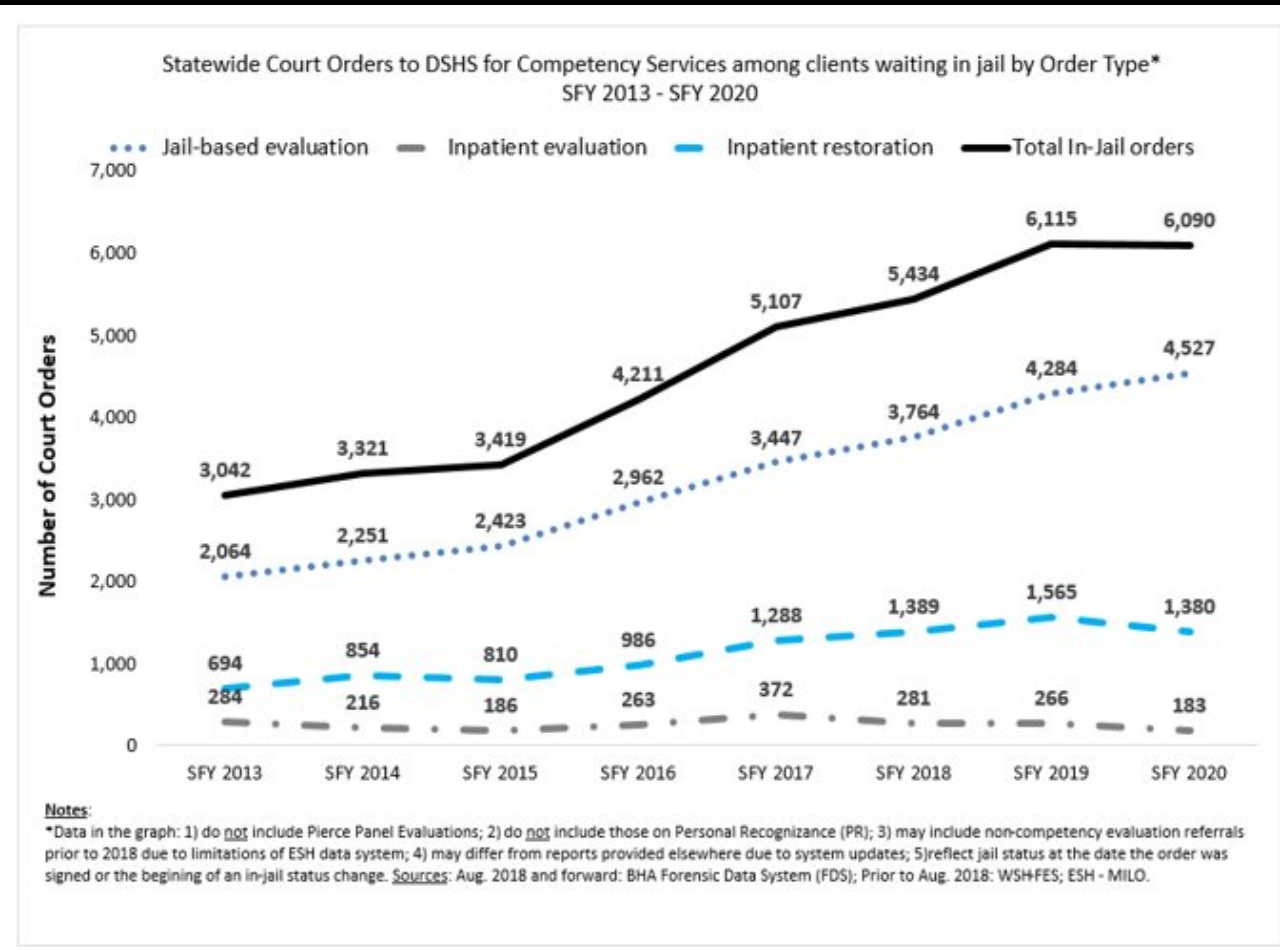


- 74%↑ in the number of forensic patients in state hospitals from 1999 to 2014
- 72%↑ the number of **IST** patients from 1999 to 2014

# California's Forensic Population



# Trueblood v. Washington (2015)



# Trueblood v. Washington (2015)

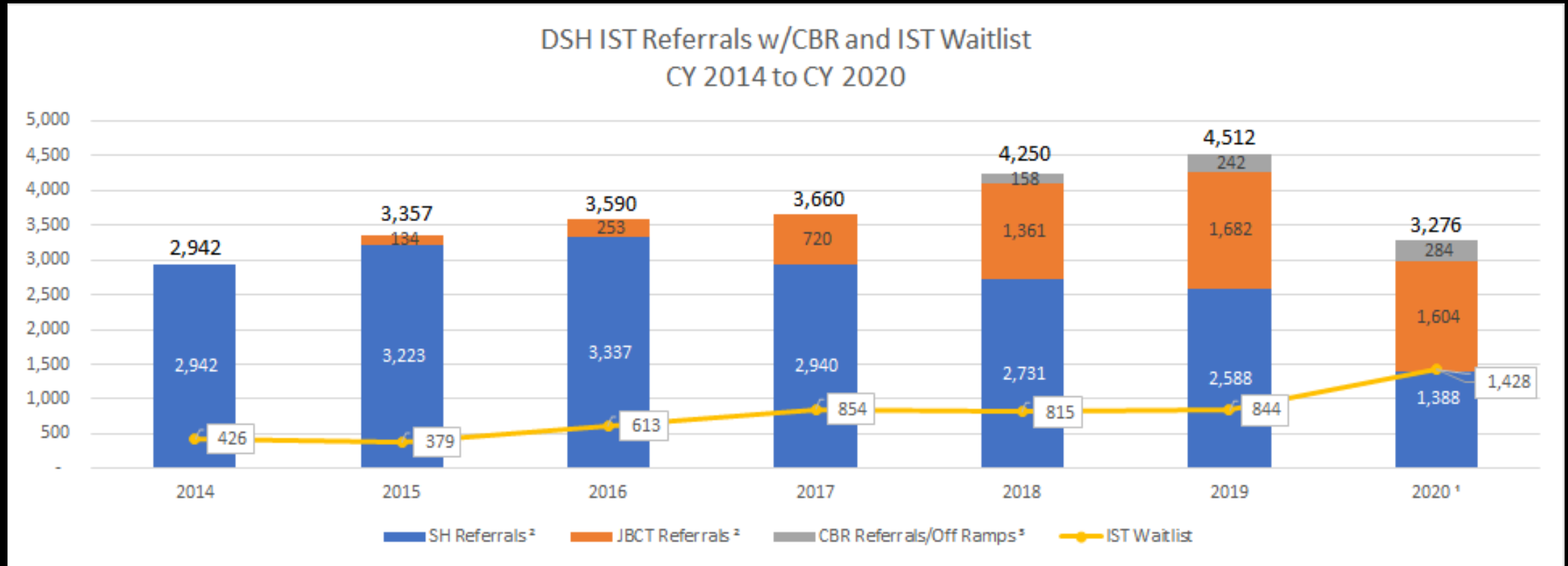
- Over \$100,000,000 in contempt fines
- New settlement structure: Contempt Settlement Agreement.
  - Supports improved access to appropriate behavioral health services that are designed to dramatically reduce the number of people entering the criminal court system
  - “How we care for those with behavioral health disorders is a measure our humanity as a state. Our work with our state, county and local partners is never done.”

» former Washington DSHS Secretary Cheryl Strange





# DSH Referrals & Waitlist



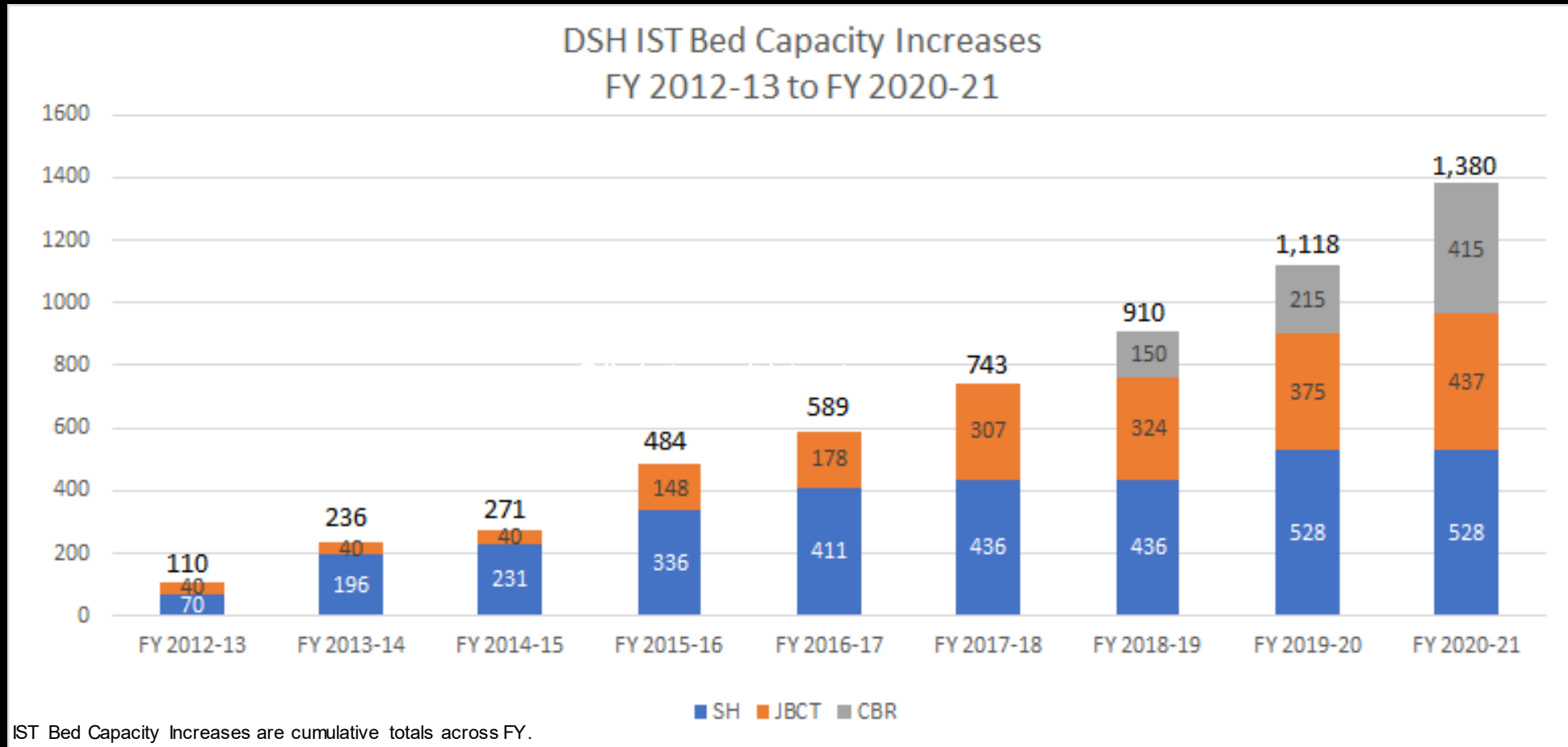
<sup>1</sup> Referral decreases in the 2020 calendar year represent the impact of the COVID-19 pandemic.

<sup>2</sup> IST Referrals exclude SH/JBCT Transfers and Court Returns.

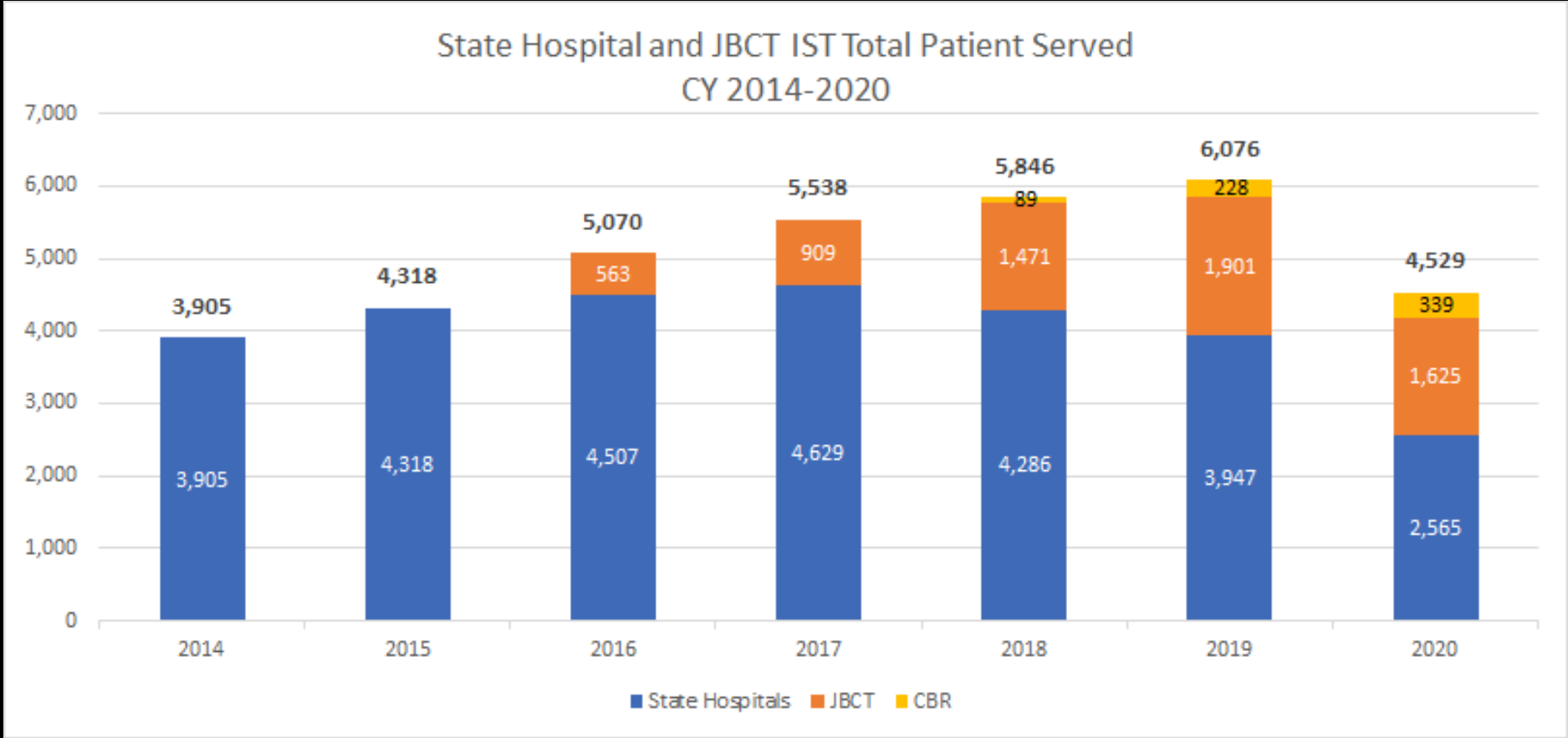
<sup>3</sup> CBR/Off Ramp tracking began in 2018.



# DSH Capacity Increases



# DSH IST Patient Served



# WHY ?



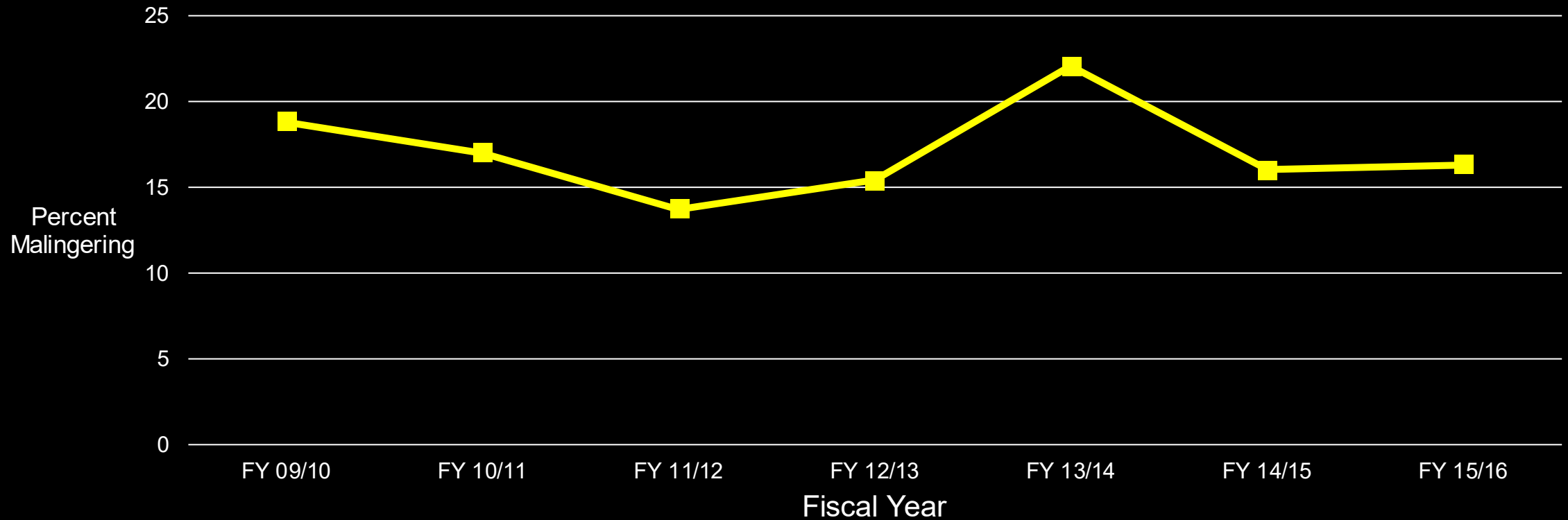
# UC Davis Napa Research

- Started in 2008
- Dr. Barbara McDermott
- Large sample
- Initially Napa specific
- Expanded into statewide protocol



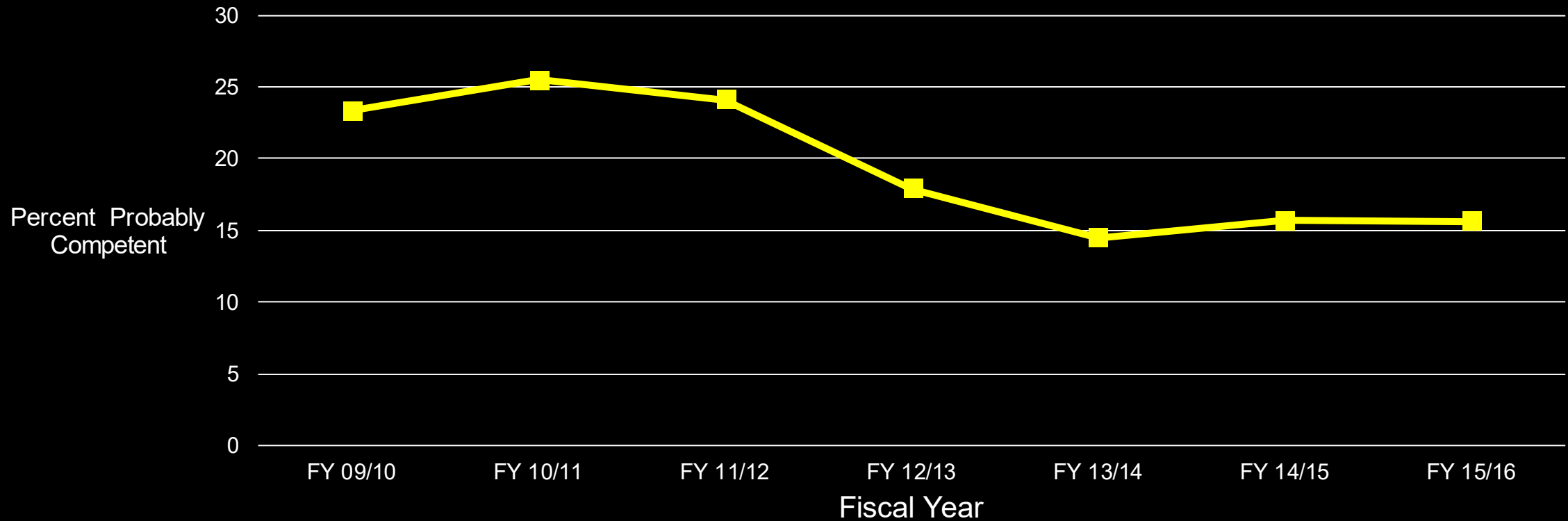
# Malingering?

Percent Malingering by Fiscal Year



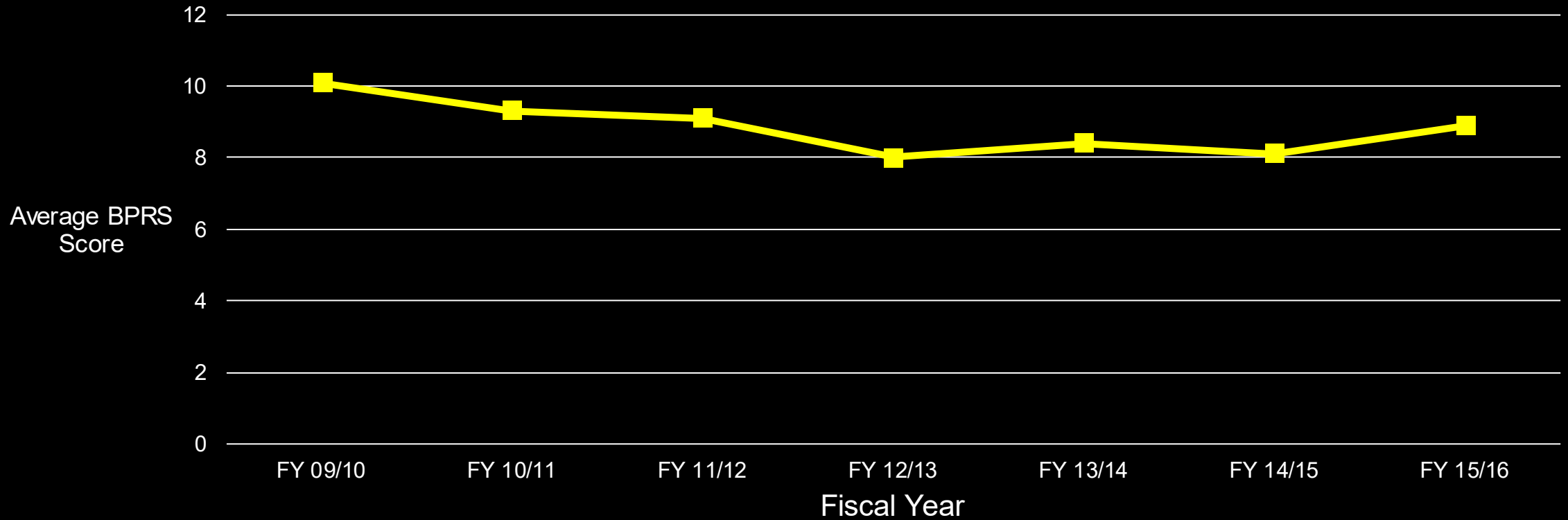
# Already Competent?

Percent Probably Competent by Fiscal Year



# More (or less) ill?

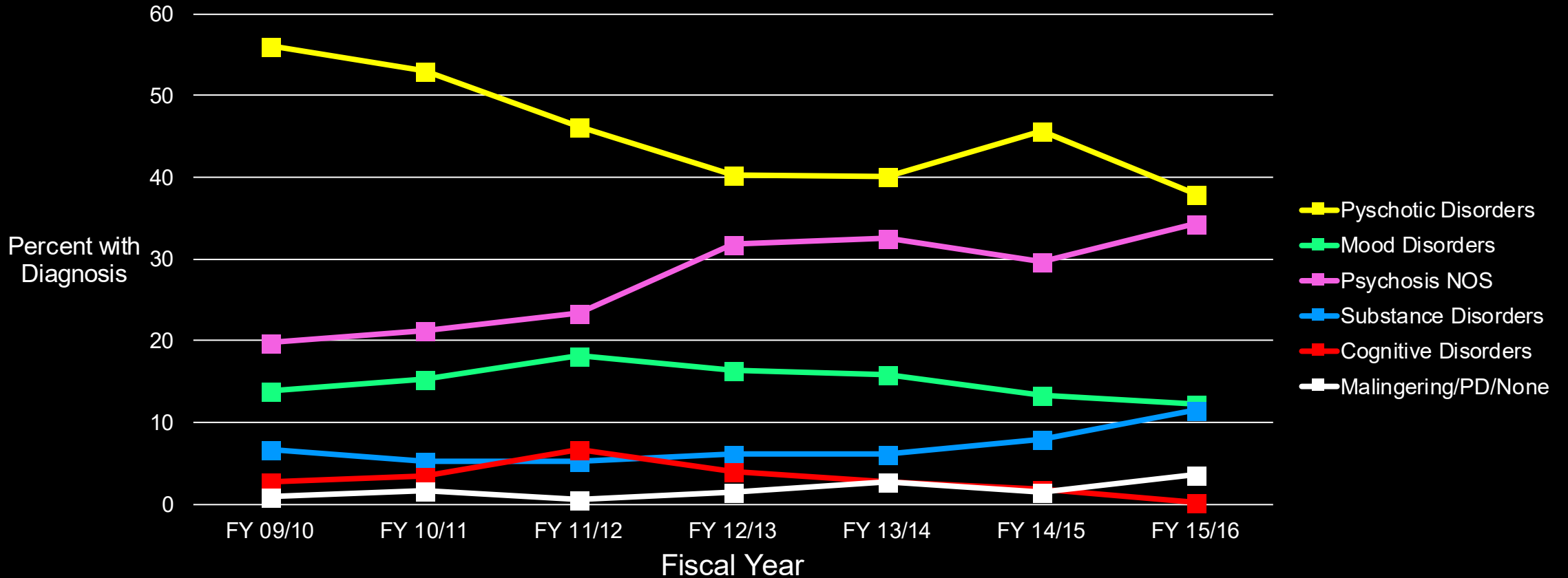
Average BPRS Scores by Fiscal Year





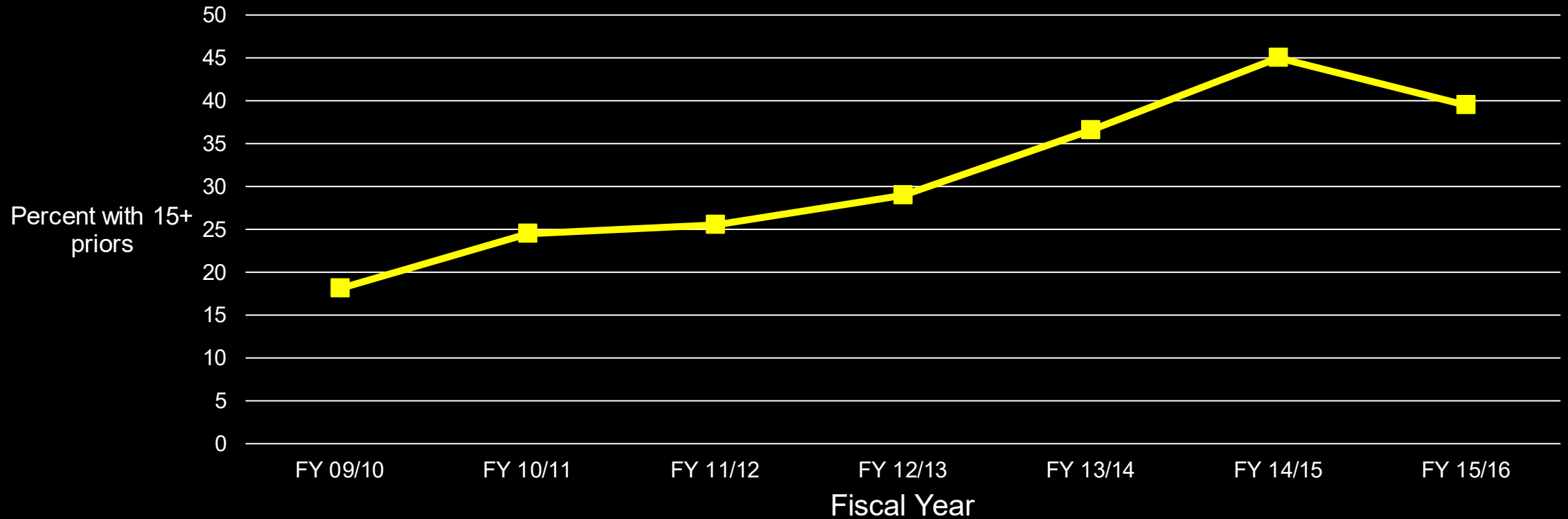
# More Substance Abuse?

Primary Diagnosis by Fiscal Year



# More Criminal History?

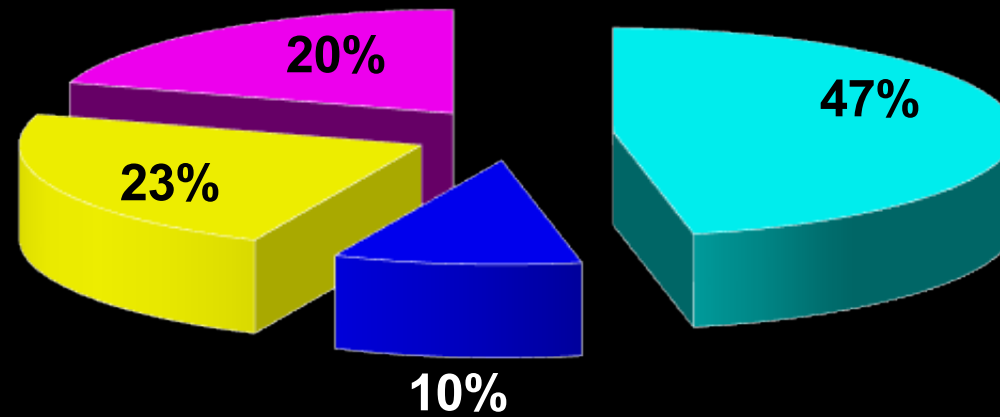
Percent with 15+ Prior Arrests by Fiscal Year



# Statewide - Admissions



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■ No MH services in 6 months

■ No MH ED services in 6 months

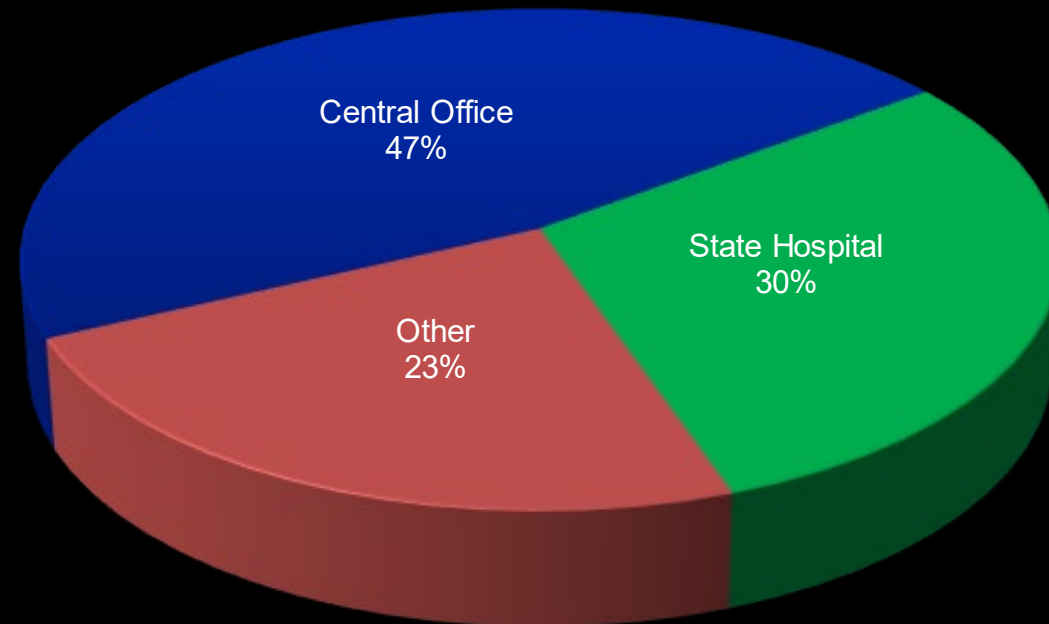
■ 1-2 MH ED services in 6 months

■ 3 or more MH ED services

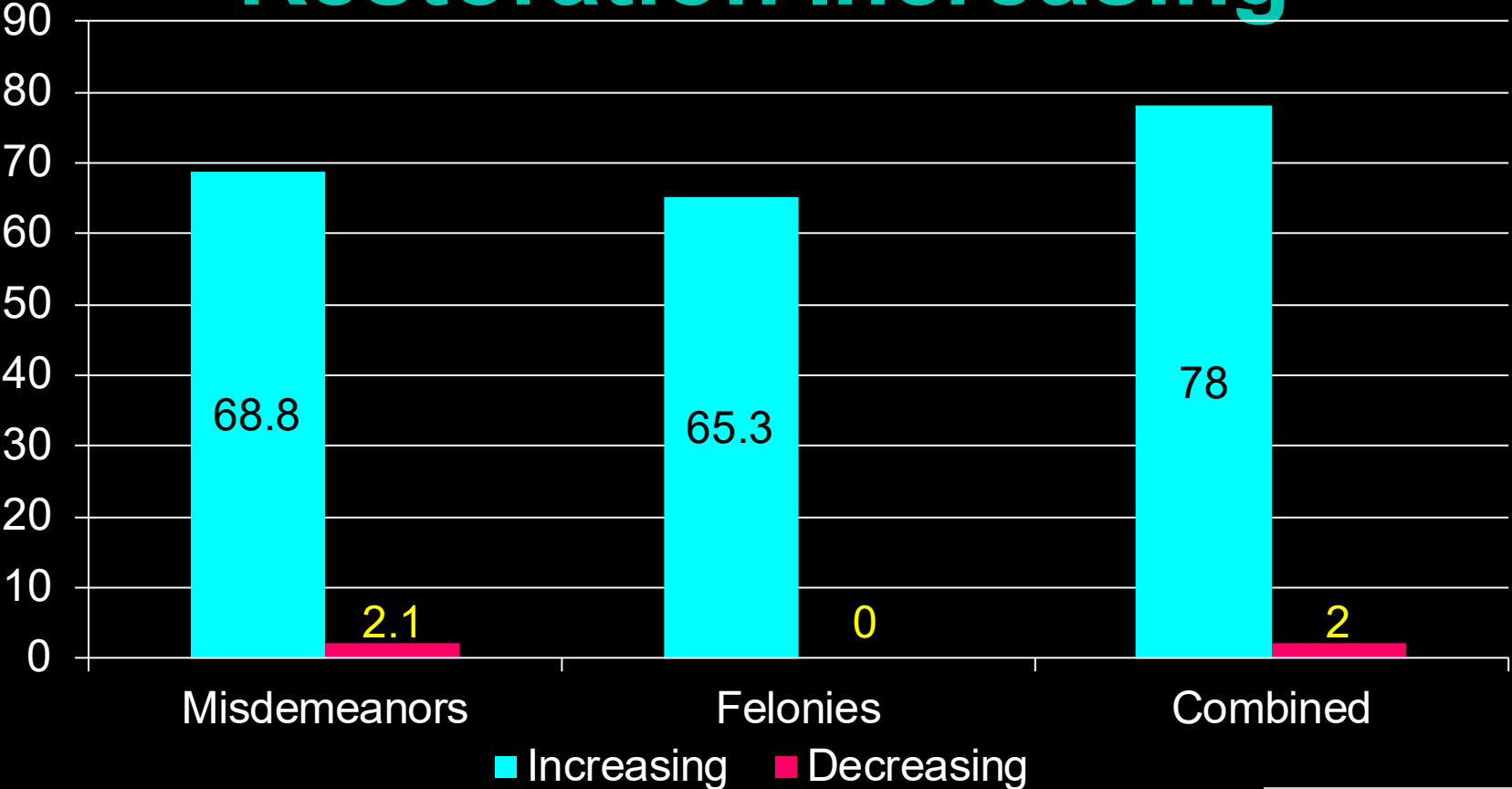
**UCDAVIS**  
**HEALTH**



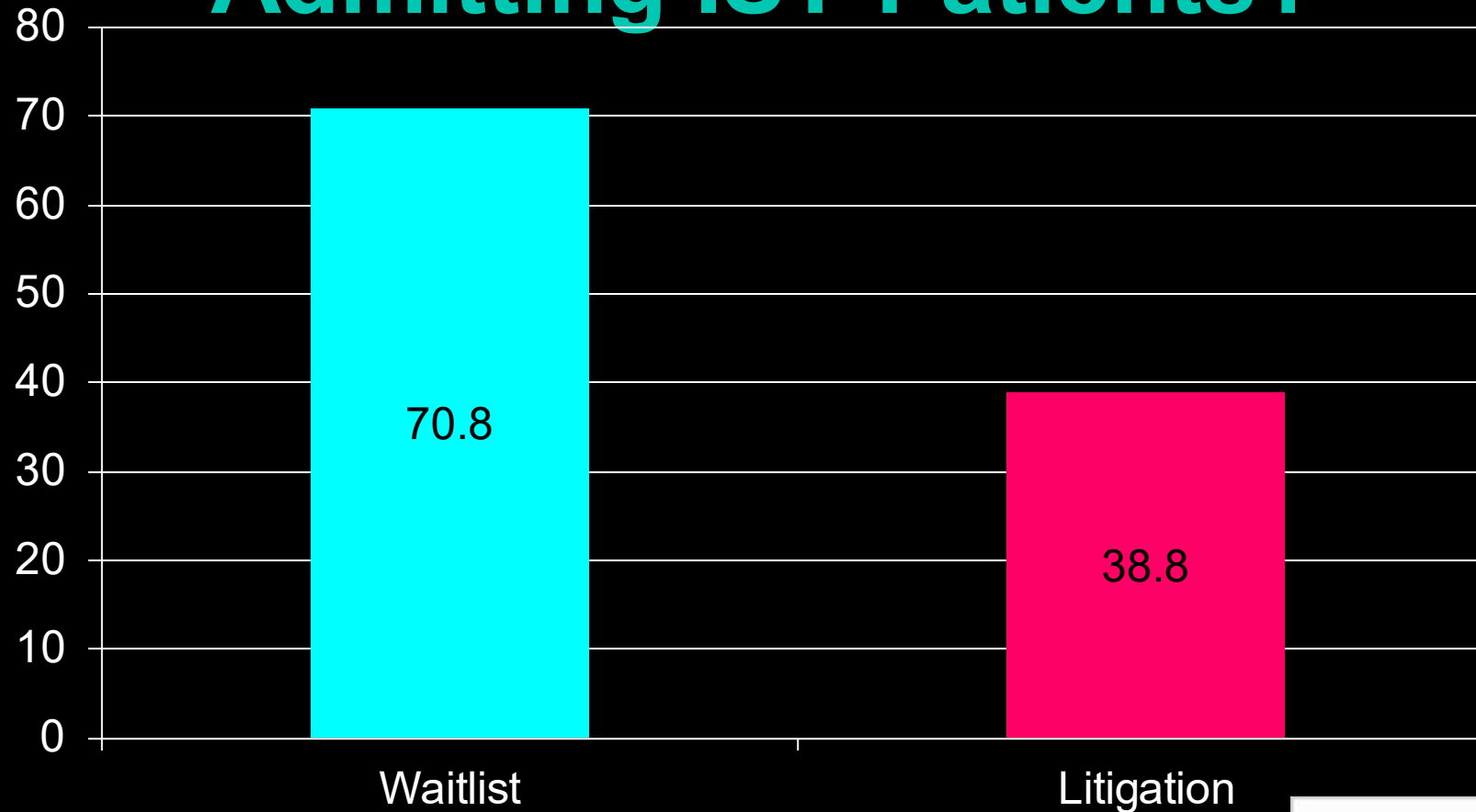
# NATIONAL SURVEY



# Referrals for Competency Restoration Increasing



# Waitlist/Litigation for Admitting IST Patients?



# Rankings

- Responses ranked high in importance\*:
  - Inadequate general mental health services (3.45)
  - Inadequate crisis services in community (3.71)
  - Inadequate number of inpatient psychiatric beds in community (3.78)
  - Inadequate ACT services in community (4.22)

\*Lower numbers means a higher (more important) ranking





# Why?: Our Hypothesis

- Individuals with Schizophrenia Spectrum Disorders are drifting into an untreated, unsheltered condition.
- These conditions are leading to increased contact with police and criminal charges.
- This increased contact is leading to a surge in IST referrals to state hospitals.
- Building more state hospital beds will only exacerbate the problem long term.
- IST restoration is not adequate long term treatment plan.
- So, what can we do?



35-year-old male transient male. Police called, arrived as patient was on roof, pulling the roofing tiles off the residence and throwing roofing tiles off the roof. He took off his clothing. Officers stated patient then threw roofing tiles at them. One tile landed a foot from officers. Broke skylight, doused himself with water from spout. No response to taser. Ran away and was apprehended. Agitated and talking to himself. Charged with **felony aggravated assault** on a police officer (**AWDW** roof tile), and **felony vandalism**.



45-year-old transient male entered a sandwich shop. Believed he owned the establishment. Locked the back door and put crates in front of it, per his comments to secure it because it “was busted”, and asked for a sharpie and paper to put an out of order sign on the back door. Proceeded to bathroom, cleaned it, and expressed concern about someone slipping due to excess water on the floor. Asked the clerk for the money in the register stating, “Don’t worry I’m the owner.” Was denied without incident. Then asked for a sandwich. Clerk ran out and into the storefront adjacent for help. At the time of arrest was delusion about owning stores and talking about “Tony the Tiger”. Pt charged with **false imprisonment and attempted robbery.**



37-year-old transient male. Police called when patient refused to leave Jack in the Box. Police asked him to step outside and he complied. During a search, the police informed patient he was not welcome at the Jack in the Box. He became upset and tried to get out of the grasp of the officer. He then tried to call the police on an imaginary phone. He was talking to himself about the devil. He was missing his left eye and informed police he took out his eye because the devil told him to. The police attempted to handcuff patient and the patient struggled, was tasered multiple times. Charged with **battery with Injury on a police officer and resisting executive officer.**



# Waitlist Review Diversion Eligibility

N=191



■ Meets Diversion Eligibility ■ Probably not Diversion Eligible

**UCDAVIS**  
**HEALTH**



# Does an IST commitment help?

## 3-Year Post Discharge Recidivism Rates

**2014-15 Discharges: IST Recidivism Rate – 69.0%**

**2015-16 Discharges: IST Recidivism Rate – 72.3%**

**2016-17 Discharges: IST Recidivism Rate – 71.0%**

*Note: Recidivism Rate is based on the count of individuals arrested 3 years following discharge [count of individuals (arrested)/# of discharges].*



# Does an IST commitment help?

- Across 3 years of IST discharges **15%** of felony ISTs had a **single offense**. Post discharge from DSH **35%** of them had their **charges dropped**.
- Across 3 years of IST discharges **85%** of felony ISTs had **multiple offenses**. Post discharge from DSH **24%** of them had their **charges dropped**.

*Note: IST discharge cohorts includes the following three fiscal years: FY 2016-17, FY 2017-18, and FY 2018-19, total of 6,048 IST discharges.*



# Where do ISTs go?

- Across the 3 years of felony IST discharges
  - **24.3%** were sentenced to **prison**.
  - **0.2%** were committed to a **State Hospital** under the Not Guilty by Reason of Insanity commitment.

*Note: IST discharge cohorts includes the following three fiscal years: FY 2016-17, FY 2017-18, and FY 2018-19, total of 6,048 IST discharges.*

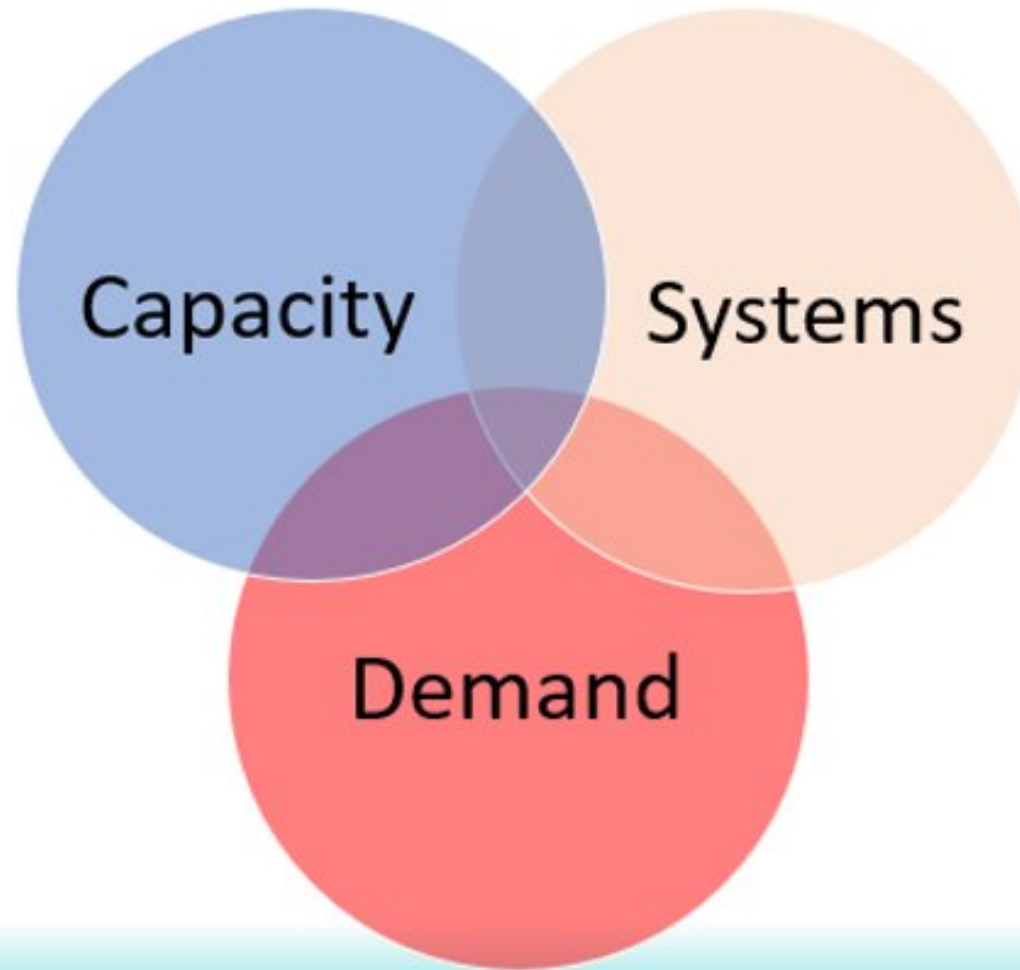




# What have we done to address the issue?



# Addressing the Increase



# Capacity Increases

## FY 2012-13 to 2020-21

- 528 State Hospital Beds
- 437 Jail-Based Treatment Beds
- 415 LA Community Based Restoration (CBR) Beds
- 78-Bed CONREP Step Down\*

*\*In Progress*



# Systems Improvement

- **Patient Management Unit**
  - Centralized IST Referral Processing
  - Patient Reservation Tracking System (PaRTS)
- **Reduced Average Lengths of Stay**
  - State Hospitals – 148.7
  - JBCT – 69.7



# Systems Improvement: Legislative Changes

- **AB 2186** (Statutes of 2014) – Involuntary Medication Orders and Court Reports
- **AB 2625** (Statutes of 2014) – Unlikely to Regain Competency and Unrestored Defendants – 10 Days to Return to Court
- **AB 1810** (Statutes of 2018) – Allows courts to order a re-evaluation of an IST pending transfer to a State Hospital if they receive information from the jail treatment provider or defendant’s counsel that the defendant may no longer be incompetent
- **SB 1187** (Statutes of 2018) Reduced the maximum length of stay for felony ISTs from 3 years to two years.



# Demand

## 2018 Mental Health Diversion

### AB 1810 & SB 215

Diversion of  
Individuals with  
Serious Mental  
Disorders

PC 1001.35 –  
PC 1001.36

\$100M  
DSH Diversion Funding  
WIC 4361



# Demand: DSH Diversion Program

- Authorized FY 2018-19
- \$100M one-time investment over 3 years
- Currently partnering with 24 counties
- Increase post-booking diversion opportunities for individuals likely to be or found IST on felony charges
- Flexible funding source



# 2021 Budget Act

- **Capacity**
  - \$250 M for sub-acute capacity to serve felony ISTs in the counties
  - Community Based Restoration Expansion
  - JBCT Expansion
  - CONREP FACT
- **Systems Improvement – Legislative Changes**
  - AB 133 (Statutes of 2021)
    - Requires non-restorable IST defendants to be returned to the custody of the county within 10 days or be charged a daily bed rate
    - Removes DSH as a treatment location for Misdemeanor ISTs.
- **Demand**
  - Diversion Expansion
  - IST Reevaluation Program





# 2021 Budget Act

- **IST Solutions Workgroup**
  - \$75M set aside to support recommendations
- **Additional Community Capacity**
  - \$2.2B Behavioral Health Continuum (Department of Healthcare Services)
  - \$850M Community Care Expansion
    - Adult Residential Facilities



**THANK YOU**

