



# Realizing the Potential of *Olmstead* and Housing First

2024 Housing First Partners Conference

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# American with Disabilities Act 1990

- Signed into law July 26, 1990 by President George H.W. Bush
  - “... historically society has tended to isolate and segregate individuals with disabilities and, despite some improvements, such forms of discrimination against individuals with disabilities continues to be a serious and pervasive social problem. ...ADA takes a sledgehammer to a wall which has for too many generations separated Americans with disabilities from the freedom they could glimpse, but not grasp.”
- Title II of the ADA prohibits public entities, including state and local governments, from discriminating against “qualified individuals with disabilities” by excluding them from services and activities due to their disability
- Also applies the same definition to the private sector
- To further enforce the Act regulation the US Dept. of Justice developed the “integration mandate” requiring public entities to “administer programs, services and activities in the most integrated setting appropriate to the needs of the qualified individuals with disabilities”
- Integration mandate would become the basis of the Olmstead decision

## Olmstead vs L.C. and E.W.

- Filed on May 11, 1995 on behalf of Lois Curtis (L.C.) age 31 and Elaine Watson (E.W.) age 47 was added in 1996
- They were held in Georgia Regional Hospital for years after their treatment team determined they were able to live in the community because the state did not want to give them the funds they needed to live independently.
- June 22, 1999 Supreme Court on a 6-3 vote rejected the state of Georgia's appeal to enforce institutionalization of individuals with disabilities
- Olmstead named after the Defendant, Tommy Olmstead, Commissioner of the Georgia Dept. of Human Resources



# Justice Ruth Ginsberg

- “States are required to place persons with mental disabilities in community settings rather than in institutions when the state’s treatment professionals have determined that community placement is appropriate, the transfer from institutional care to a less restrictive setting is not opposed by the affected individual, and the placement can be reasonably accommodated, taking into account the resources available to the State and the needs of others with mental disabilities.”



A State had to demonstrate that it had a “comprehensive, effectively working plan for placing qualified persons with mental disabilities in less restrictive settings, and a waiting list that moved at a reasonable pace not controlled by the State’s endeavors to keep its institutions full populated.”

# Impact of Olmstead

- In 2009 US Dept. of Justice made Olmstead a priority of its Civil Rights Division
- Courts expanded Olmstead beyond psychiatric hospitals to include:
  - All State and Medicaid funded institutions including nursing facilities
  - Individuals living in the community who were at risk of institutionalization
  - Sheltered workshops (2014 Olmstead violation Rhode Island)
  - Forensic hospitals (Georgia)



# Overview of the Department of Justice vs The State of North Carolina Olmstead Settlement Agreement



## Disability Rights of NC findings:

- “Between October 2008 and July 2009, four residents of North Carolina’s Adult Care Homes died as a result of resident-on-resident assaults. Disability Rights North Carolina has learned that all of the residents involved had mental health diagnoses. Disability Rights North Carolina considers all of the people involved in these tragic assaults to be victims of North Carolina’s failed policy decision to rely on Adult Care Homes for the primary form of publicly-funded housing for people with mental health disabilities.”



## USDOJ findings letter July 2011

- “The State fails to provide services to individuals with mental illness in the most integrated setting appropriate to their needs in violation of the ADA.”
- “The State plans, structures, and administers its mental health service system to deliver services to thousands of persons with mental illness in large, segregated adult care homes, and to allocate funding to serve individuals in adult care homes rather than in integrated settings.”
- “Adult care homes are institutional settings that segregate residents from the community and impede residents’ interactions with people who do not have disabilities.”



# United States Vs. the State of North Carolina: “The Agreement”

- Agreement signed August 23, 2012 between the United States and the State of North Carolina
- Not an admission by the State that corrective measures are necessary to meet the requirements of the ADA, the Rehab Act or the Olmstead decision
- OR that any citizen or resident of the State is entitled to housing or a housing subsidy under the United States or NC Constitutions, the ADA, the Rehab Act, the Olmstead decision or any other federal or State law or regulation
- The agreement is intended to ensure that the State will willingly meet the requirements of the ADA, the Rehab Act and the Olmstead decision and that the goals of community integration and self-determination will be achieved
- The State disputed many of the findings and conclusions but it was in their best interest to avoid litigation
- Total of 103 requirements

# Substantive Provisions: Community Based Supportive Housing

- “The State agrees to develop and implement **effective** measures to prevent inappropriate institutionalization and to provide **adequate and appropriate** public services and supports identified through person centered planning in the most integrated settings appropriate to meet the needs of individuals with SMI, who are in or at risk of entry to an adult care home”
- Community-based Supported Housing Slots
  - Will provide access to 3,000 housing slots by July 1, 2020 (*2000 from ACH's*)
  - Scattered site housing with no more than 20% of the units occupied by someone with a known disability
  - Priority is for single occupancy housing

# Housing Priority Populations for Housing Slots

1. Individuals with SMI who reside in an adult care home determined by the State to be an Institution for Mental Disease (“IMD”);
2. Individuals with SPMI who are residing in adult care homes licensed for at least 50 beds and in which 25% or more of the resident population has a mental illness;
3. Individuals with SPMI who are residing in adult care homes licensed for between 20 and 49 beds and in which 40% or more of the resident population has a mental illness;
4. Individuals with SPMI who are or will be discharged from a State psychiatric hospital and who are homeless or have unstable housing;
5. Individuals diverted from entry into adult care homes pursuant to the preadmission screening and diversion provisions of Section III(F) of this Agreement.

## Our Housing Challenges

- The affordable housing market is beyond scarce
- Treatment providers don't understand tenancy support
- Not every stakeholder embraces Housing First philosophy/practice
- Lack of policy that promotes the integration of housing and healthcare
- Creating and funding a continuum of housing options and a system of care

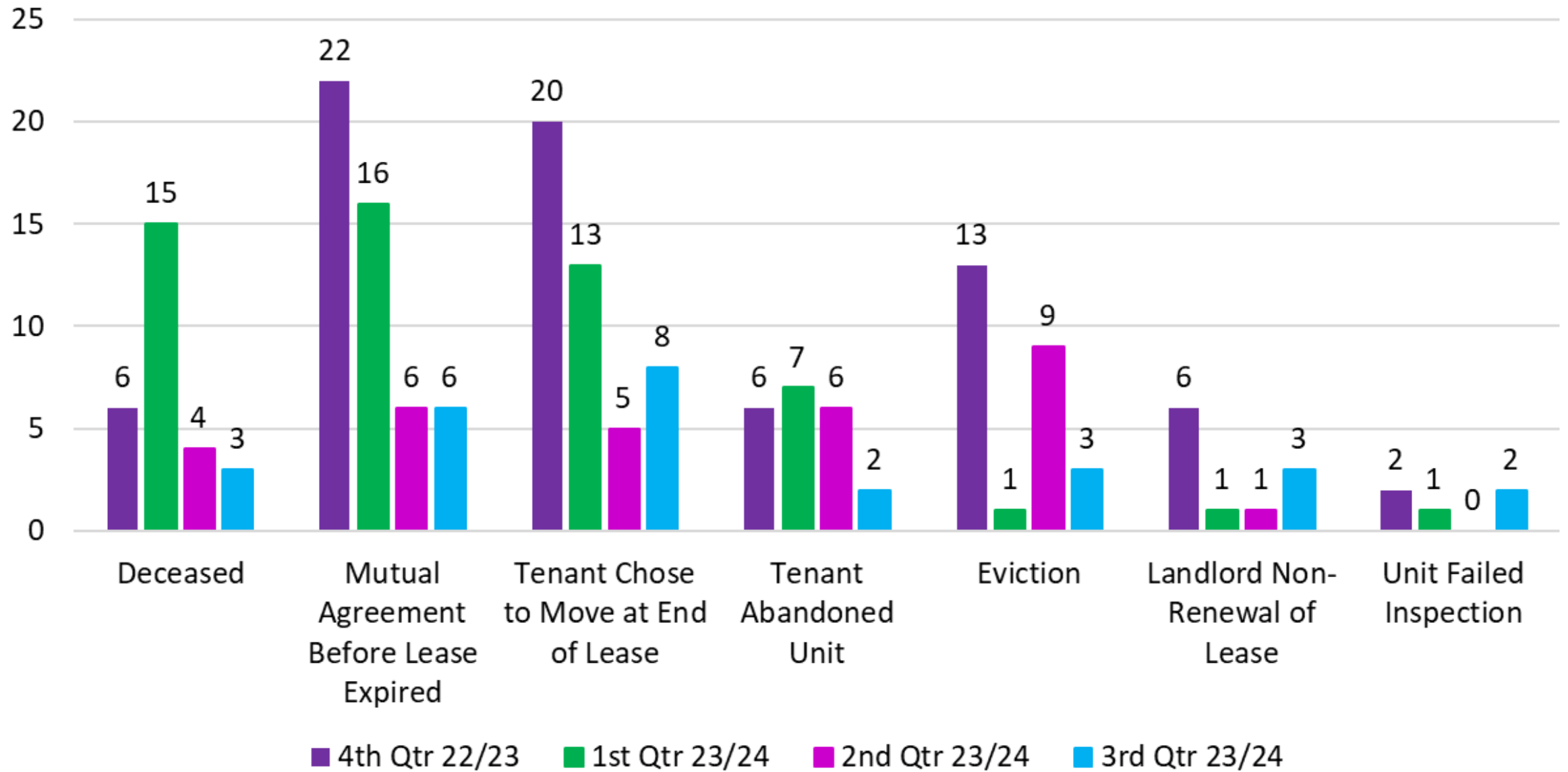


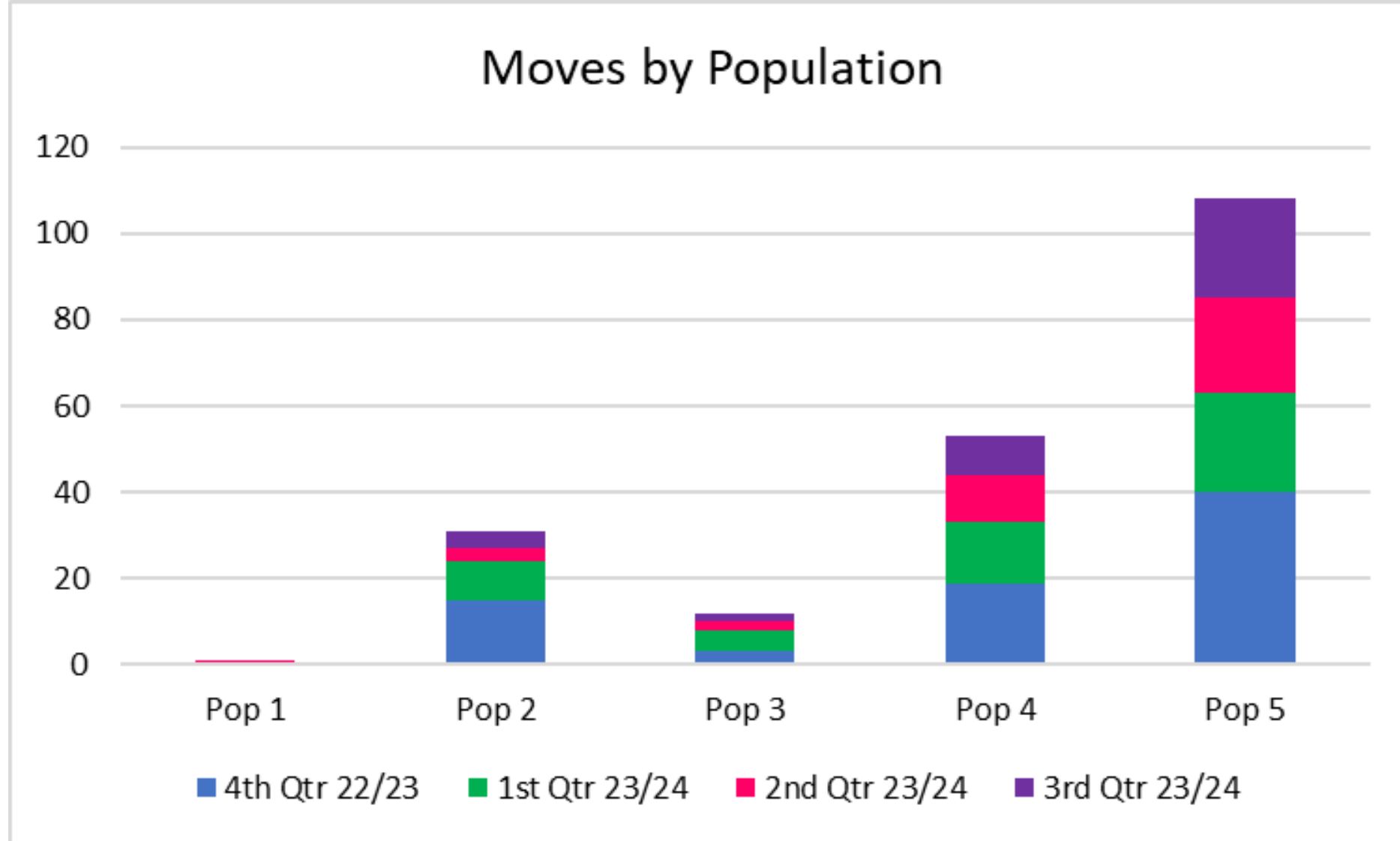
## Net Gains/ Losses Thru February 2024

Quarter	Moves	Separations	Net Gain
4 <sup>th</sup> Qtr. 22/23	77	75	2
1 <sup>st</sup> Qtr. 23/24	51	57	-6
2 <sup>nd</sup> Qtr. 23/24	39	31	8
3 <sup>rd</sup> Qtr 23/24 (Jan. and Feb.)	38	20	18

Separations continue to decrease over time as we work to prevent separations with our members.

# Separation Reasons by Quarter





- Trend: Most moves come from members assigned to population 5.
- It is far easier to move someone who already lives in the community into housing compared to someone currently living in a facility.

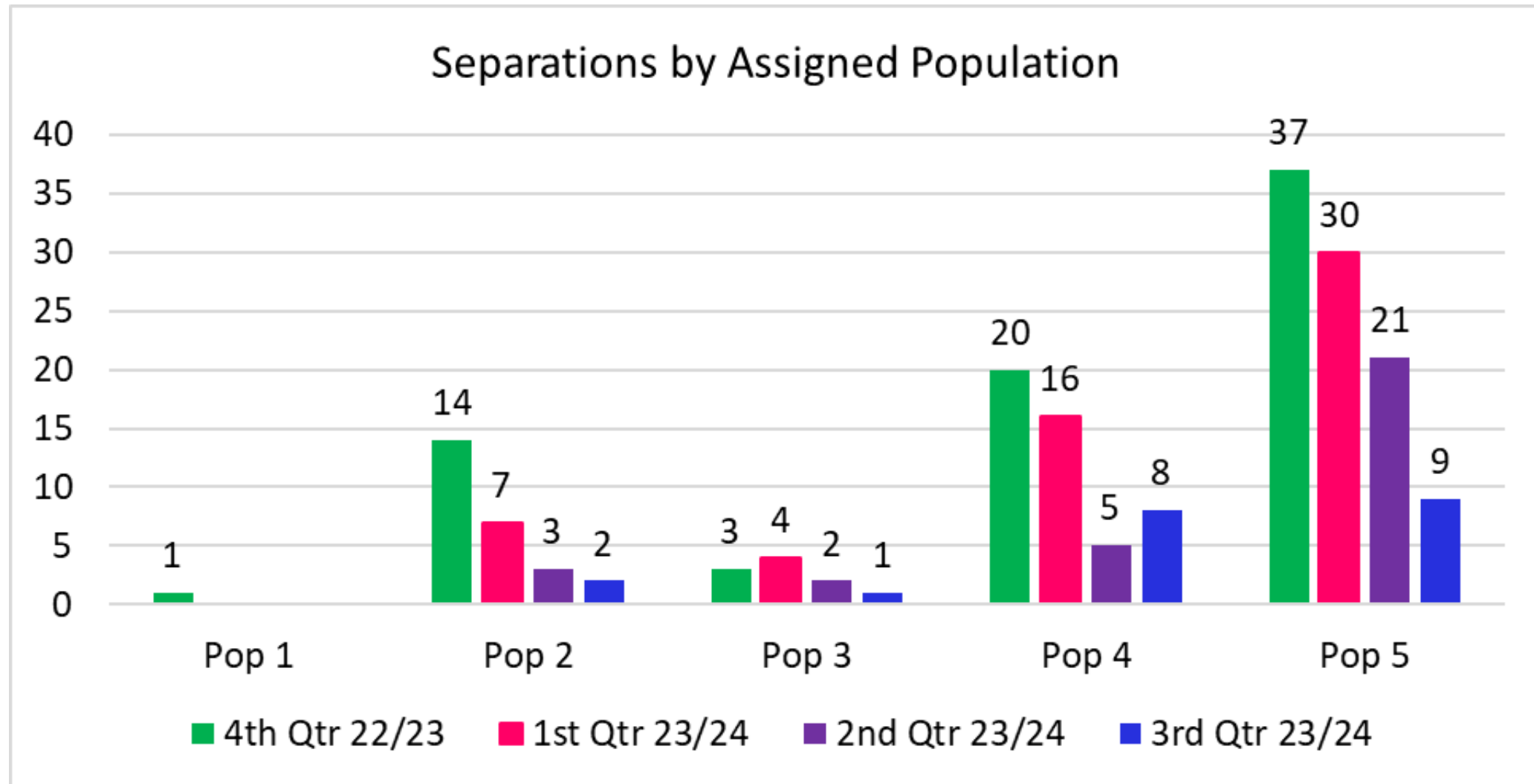


# Population Trends

Pop 2 Housed in a facility	Pop 3 Housed in group care	Pop 4 Housed in a State Psychiatric Hospital (SPH)	Pop 5 Housed in the community
Average Age = 58	Average Age - 52	Average Age - 43	Average Age = 50
Medical and physical barriers	Medical barriers	Medical barriers	SPMI maintenance of symptoms
Guardian barriers	Guardian barriers	Guardian barriers	Funding
SPMI barriers	SPMI barriers	SPMI barriers	
Funding barriers	Funding barriers	Funding barriers	
Exposure to the community	Exposure to the community	Exposure to the community	
Change in routine	Legal barriers	Legal barriers	

# Separation Data April 2023- February 2024

N=183




Members assigned to Population 5 continue to have the most separations, followed by members assigned to population 4.

## Separation Data: Lessons learned

- People are lonely and need to connected!
- Community Inclusion is **Critical** to successful tenancy
- Tobacco Use & Nicotine Replacement Therapy
- Housing Keeping Interventions are needed
- Training, Training, Training





**It always seems  
impossible until it's done.**

Nelson Mandela

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