THE DEPARTMENT OF STATE HOSPITALS
INCOMPETENT TO STAND TRIAL
July, 2016

The Department of State Hospitals (DSH) operates the nation's largest inpatient forensic mental health hospital system. Its mission is to provide evaluation and treatment in a safe and responsible manner, seeking innovation and excellence in state hospital operations, across a continuum of care and settings. DSH is responsible for the daily care and provision of mental health treatment to its patients.

DSH operates five state hospitals and three inpatient psychiatric programs treating inmates located in state prisons, employing more than 12,000 staff members. In 2014-15, DSH served nearly 13,000 patients, of which 4,144 were Incompetent to Stand Trial (IST). The average daily inpatient census was over 6,700 (1,355 ISTs)—with an additional 600 outpatients in its conditional release program (ConRep) and 142 beds in the jail-based competency treatment programs (JBCT). The average length of stay for ISTs in 2014-15 was 178.2 days.

INTRODUCTION TO THE ISSUE

One of DSH's primary populations served is IST defendants. In California, felony defendants who are unable to participate in their defense or unable to understand the nature of their crime or criminal proceedings due to a mental illness are found to be IST by the courts and ordered to DSH for competency restoration treatment. The treatment can be administered within the ConRep program, a JBCT, or a state hospital. Once treatment is completed and competency is restored, the court is notified and the defendant is returned for court proceedings.

Over the past four years, DSH has experienced a significant increase in the number of IST referrals by the courts to its state hospitals. In 2012, DSH noted a significant and sustained increase in IST referrals from county courts. In 2013, DSH began collecting data on IST referrals. Annualized referral data indicate a more than 10% annual growth in IST referrals to DSH for 2013-14, 2014-15 and 2015-16. Annual IST referrals increased from 2,789 to 3,085 to 3,398 in these years.

DSH has responded by expanding IST capacity in the state hospitals and JBCTs along with implementing program efficiencies; however, as of June 27, DSH has 464 IST referrals on its waitlist.

LEGAL CHALLENGES RELATED TO CONTINUING IST WAITLIST

As a result of the increased referrals and ongoing IST waitlist, DSH is experiencing several ongoing legal pressures related to ISTs.

- **Continued increases in Orders to Show Cause (OSC) -** Many courts continue to issue OSCs for their IST defendants who remain not admitted after a certain period of time. DSH received 651 OSCs in FY 2014/15, more than 13 per business week. This has increased to 768 OSCs to date in FY 2015/16, more than 17 per business week. Responding to these actions require significant DSH staff resources.
- **Solano County Superior Court Ruling -** In September 2015, Solano County Superior Court statement of decision and findings of fact held that DSH did not have sufficient capacity statewide to house IST patients, and such challenges have gone on for several

years; it also held that DSH prioritized admissions based on OSCs which was unreasonable and arbitrary. It further held that all IST patients, regardless of their county of commitment, have the same right to be treated promptly. This court ruling has resulted in increased pressure from various courts regarding the order of admission of ISTs into the DSH system.

- ***In re Loveton -*** Prior to the holding in *In re Loveton*, DSH strived to admit patients within 30 days from the date of commitment. However, with the increasing IST referrals and waitlist and some courts regularly issuing OSCs, DSH had not always been able to consistently meet this timeframe. As a result, several courts issued standing orders for the admission of a particular county's defendants within a specified timeframe ranging from 7 to 60 days. DSH appealed these standing orders, and the Appellate Court reversed and remanded the cases back to the Superior Courts. In February 2016, in *In re Loveton*, the Contra Costa Superior Court's standing order of 60 days was challenged. The First District Court of Appeal ruled that a 60-day timeline from the time of commitment is a reasonable period of time to admit ISTs. Further, an amended order following *In re Loveton* states that DSH can request an extension for the filing of the 90-day evaluation report if DSH has not received the referral package in a timely manner, and thereby deny admission until a completed package is received. DSH is evaluating whether it can establish a consistent process for ensuring the admission of ISTs within 60 days, by clarifying commitment admission priorities and required documentation for a complete admission package, working with the courts to reduce OSCs, notifying the court of anticipated admission timelines when a patient is referred, and by expanding IST capacity to reduce the waitlist.

  As a result of *In re Loveton*, several counties have indicated that they will adopt a 60-day timeframe as a guide. There have been several counties that have indicated that they plan to adopt standing orders with a 60-day timeframe.

- **Stiavetti v. Ahlin -** On July 29, 2015, the ACLU filed a lawsuit in Alameda Superior Court on behalf of plaintiffs Stephanie Stiavetti, Kellie Bock, Kimberly Bock, Rosalind Randle, and Nancy Leiva. The lawsuit alleges that the criminal defendants who have been found to be incompetent to stand trial have a constitutional right to adequate and timely evaluation and treatment. The ACLU alleges that DSH, along with the Department of Developmental Services (DDS), is not providing treatment in a constitutionally permissible timeframe. The complaint alleges the following causes of action: (1) violation of California Constitution, article I, section 7, violation of due process due to the delay of admission; (2) violation of California Constitution, article I, section 15, defendants' rights to a speedy trial; (3) violation of California Constitution, article I, section 14, prohibiting due process of law, due to the delay of admission; and (4) taxpayer action under Code of Civil Procedure section 526A to prevent the illegal expenditure of funds, based on the delay of admissions. The court has issued an order directing the parties to engage in mediation by July 21, 2016.

- ***M.S., et al. v. County of Ventura, et al.*** – A complaint has been filed in the Central District Federal Court, seeking class action status, naming Pam Ahlin in her official capacity as Director of DSH and Harry Oreol, in his official capacity as Executive Director of DSH-Patton, along with Ventura County and other defendants. The complaint looks at addressing IST admission wait times to DSH, among other claims. The complaint alleges the following claims of relief: (1) Violation of the Fourteenth Amendment of the U.S. Constitution; (2) Violation of the Sixth and Fourteenth

Amendments to the U.S. Constitution – Right to Speedy Trial; and (3) Violation of the Americans with Disabilities Act (ADA). The complaint seeks the following: (1) Certification of a class action; (2) Declaration that Defendants are depriving Class Members of their due process rights under the Fourteenth Amendment; (3) Issuance of preliminary and permanent injunctions from violations of the Sixth and Fourteenth Amendments and the ADA; (4) General, Special and Compensatory Damages; (5) Any applicable statutory penalties; and (5) Award of Plaintiffs' costs and attorneys' fees. The complaint has not been served on any of the defendants.

CAUSES OF INCREASING IST REFERRALS:

DSH reviewed California population data, court statistics, county mental health spending, national mental health spending, and data in its Admission, Discharge Transfer (ADT) system, as well as IST data collected by the University of California, Davis at DSH-Napa to see if there were any clear indicators on the causes of increased referrals.

Trends in Superior Court Mental Health Fillings, California Population, Felony Cases, DSH IST Population Served

The 2015 Judicial Council of California Court Statistics Report shows that between 2009-10 and 2013-14 the Superior Courts saw an increase of 72 percent in annual mental health filings (from 12,254 to 21,081). During this same time, felony cases declined 8% from 261,768 in 2009-10 to 241,117. Felony cases then began to climb back up in 2012-13 and 2013-14, increasing 8% to 260,461 in 2013-14. During these same five years, California's population growth was only 3%. The increased mental health filings do not correlate to California's growth in population. (Attachment 1)

To examine this further, DSH looked closely at Los Angeles County and San Diego County, the two counties with the greatest growth in Superior Court mental health filings (Attachment 2). Per Department of Finance data, Los Angeles County comprises 26% of California's population. While its population has grown 2% over the last five years, its mental health case filings increased by 401% (from 1,226 to 6,144) between 2009-10 and 2013-14. During this same time, DSH treated 36% more ISTs from LA County (from 816 to 1,112). In March 2016, the Los Angeles County Board of Supervisors ordered a study on their growing misdemeanor IST population. This study, being conducted by a panel representing the county's courts, public defender, district attorney, and county mental health was to be done in 60 days. San Diego County represents 8.3% of the California population. Its population has grown 3% in the past five years, while its mental health case filings grew 106%. DSH is treating 46% more ISTs from San Diego County (153 to 224). Many counties across California are experiencing growth, although the growth is not necessarily as acute as these two counties. The average of the remaining 56 counties shows a 31% growth in IST referrals across the 5 years. (Attachment 2 and 3)

IST Primary and Secondary Diagnosis

Recognizing that there is an overall growth in ISTs in California, DSH examined data from its system to see if there were any noticeable changes in the IST population besides just a growth in number. DSH reviewed high level statewide IST data from its Admission, Discharge, Transfer (ADT) System as well as more detailed data captured on ISTs treated at DSH-Napa as part of a UC Davis research project. Overall, there were no conclusive findings in these datasets as it relates to primary and secondary diagnosis upon admission. There were changes during this time from DSM-IV-TR to DSM 5, the standards for psychiatric diagnosis and coding that would contribute to some of the changes in diagnosis trends. There were two notable findings in the review that, while interesting, do not provide an explanation for the

increase in ISTs. The primary diagnosis of delirium/dementia has increased by 90.1% (91 to 173) as compared to a 29.2% increase in IST patients served (3,207 to 4,144). While this represents only a small percent (4%) of the primary diagnosis, it does reflect an increasing treatment need for ISTs. The second noteworthy trend was in the secondary diagnosis data, Substance Related Disorder increased by 42.8% versus the IST population increase of 29.2%. While DSH is seeing more patients with a secondary diagnosis of Substance Related Disorders, it is likely an incidental finding given the diagnosis is secondary and not the primary driver of the reason for incompetence. The increase in secondary substance abuse disorders may say something indirectly about an increase in community drug use or a change in the community population, but not necessarily a change in the reason for the IST finding. Because substance induced psychotic disorders tend to clear in the short term, an increase in methamphetamine abuse as a primary driver of incompetency might result in more people admitted to the hospital as probably competent, which is not the case as discussed in other IST characteristics below. In reviewing the primary diagnosis data from the UC Davis research for IST patients treated at DSH-Napa; these data do not reflect any significant changes in primary diagnosis across this population. (Attachment 4)

Other IST Characteristics

The UC Davis research captures additional data regarding ISTs that DSH's ADT system does not capture. In examining these data, DSH was able to see that overall for IST patients treated at DSH-Napa, there is not a greater percentage of malingering patients between 2009-10 to 2014-15. Additionally, the percent of IST patients being referred to DSH-Napa for treatment who were probably competent at the time of admission has reduced from approximately 24% to approximately 15% of patients. This suggests that a larger percentage of patients were admitted with severe mental illness. DSH also looked at the Brief Psychotic Ratings Scale (BPRS score) that measures severity of symptoms. This data shows a slight reduction over time suggesting that while DSH is seeing more patients with severe mental illness, they are not individually more psychotic overtime. (Attachment 5)

IST Criminalization

UC Davis also captures for their IST research data on patients with greater than 15 prior arrests. DSH-Napa experienced a significant change in the percent of patients referred for treatment who have more than 15 prior arrests. This jumped from approximately 17% in 2009-10 of the IST population to 45% of the population in 2014-15. (Attachment 5)

ISTs Unlikely to Regain Competency and Reaching Maximum Commitment

DSH also reviewed 3 years of data (2013-14 through March 16, 2016) related to ISTs unlikely to regain competency and those that have reached the maximum commitment time of three years. DSH is not seeing any significant changes in the number of these individuals in its system. (Attachment 6)

Mental Health Spending, National and California Data

Finally, DSH looked at national and other state data sources to determine whether there was anything specific contributing to the cause. While there is not any specific literature or research on causes of IST increases to date or any national longitudinal data on the number of IST referrals over time, anecdotally multiple states including Colorado, Idaho, Montana, New York, Hawaii, Maryland, and Washington are experiencing major increases in IST referrals[1]. Over all, the state hospital forensic population has been increasing over the past 30 years. According to

[1] Multiple sources including Western Psychiatric State Hospital Association benchmarking data, media reports and responses to list serve survey.

a report from NRI[1] Controlled Forensic and Sex Offender Mental Health Expenditures as a percentage of state psychiatric hospital expenditures has grown from approximately 7% in 1983 to approximately 43% in 2014. NRI data also shows that while there has not been a significant change in state mental health spending or per capita state mental health spending nationally, the expenditures for State Psychiatric Hospital Inpatient Services has reduced. (Attachment 7)

Looking at California specifically, DSH reviewed data regarding county mental health spending. The expenditure data shows an overall increase for all counties in mental health funding levels. From 2009-10 through 2014-15, mental health spending at the local level increased by 38%. During this same time, the Consumer Price Index increased by 9.2%. (Attachment 8)

Community Psychiatric Beds
One factor that may be contributing to the IST population increase is the decrease in psychiatric hospital beds in the community over time. California Hospital Association data shows a significant decrease in the number of psychiatric facilities, the number of psychiatric beds, and the number of psychiatric beds per 100,000 Californians since 1995. This may contribute to the inability for an individual to receive the care he or she needs when they have acute psychiatric needs (Attachment 7)

DSH's RESPONSE TO THE INCREASING IST REFERRALS:

IST Capacity Increased by 444 Beds
Over the past several years, DSH has taken a number of actions to address the growing IST referrals and pending admission waitlist. These actions included the addition of 444 State Hospital Competency Restoration beds since 2013. These beds include the activation of 336 additional state hospital beds and the creation of 108 new jail-based competency treatment beds.

- **Increased State Hospital Bed Capacity**

2013 Hospital Bed Capacity Increase		
Hospital	**Date of Activation**	**Net Capacity**
DSH-Atascadero	January 2013	35
DSH-Atascadero	February 2013	35
	2013 Net Increase	70
2014 Hospital Bed Capacity Increase		
Hospital	**Date of Activation**	**Net Capacity**
DSH-Metropolitan	March 2014	30
DSH-Napa	April 2014	26
DSH-Coalinga	June 2014	70
	2014 Net Increase	126

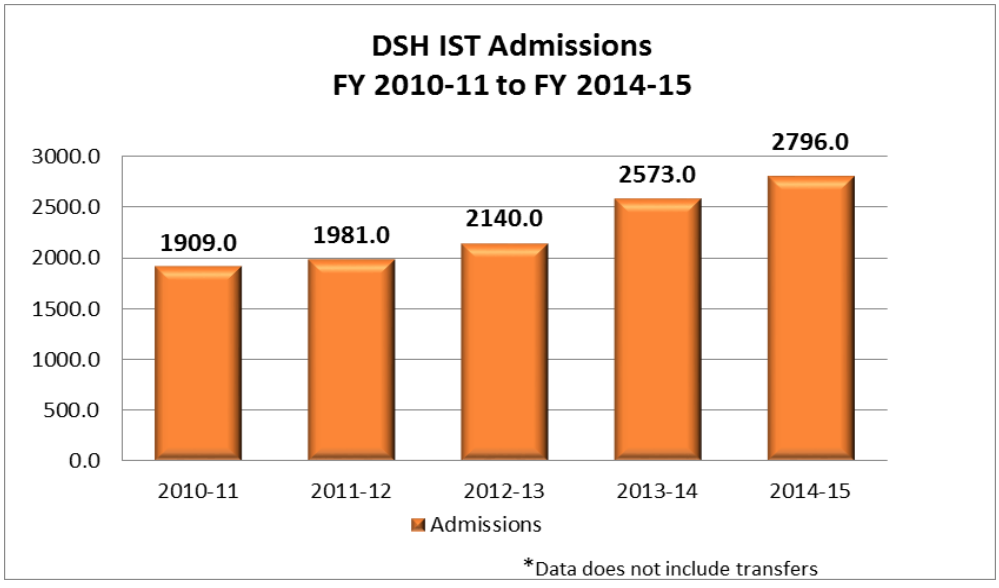
[1] Lutterman, T. 205 Profiles of State Mental Health Agencies and State Substance Abuse Agencies. NASMHPD Research Institute. February 2016.

2015 Hospital Bed Capacity Increase		
Hospital	**Date of Activation**	**Net Capacity**
DSH-Coalinga	March 2015	35
DSH-Coalinga	August 2015	50
DSH-Atascadero	August 2015	55
	2015 Net Increase	140
TOTAL IST Hospital	**Inpatient Bed Increase**	**336**

- **Increased Jail Based Competency Treatment Capacity**

Jail-Based Competency Capacity Increases			
Program Location	**Date of Activation**		**Net Capacity**
San Bernardino County	June 2015	76	Regional JBCT Beds
Sacramento County	October 2015	16	Sacramento JBCT Beds
Sacramento County	March 2016	16	Regional JBCT Beds
	2015-16 JBCT Net Increase		108
TOTAL	**DSH IST Capacity Increase**		**444**

IST Hospital Admissions Increased 46% Over Five Years
By creating additional IST beds and improving efficiencies, DSH was able to increase the number of IST annual admissions. During the period from Fiscal Years 2010-11 to 2014-15, DSH IST defendant admissions rose from an annual rate of 1,909 to 2,796, a 46% increase.



IST Length of Stays Reduced by 24%
During the past several years, DSH has worked to reduce the length of stay for ISTs by implementing efficiencies and streamlining treatment of ISTs. Previously, all DSH patients were assessed and treated using a recovery model which included comprehensive treatment planning and diverse treatment objectives. While this model is appropriate for non-forensic populations, DSH recognized a need to adapt our clinical model to suit our forensic population. As such, DSH has worked to streamline and standardize a treatment pathway specific to the unique needs of IST patients through targeted assessments and focused treatment. While still a work in progress, in the past five years, DSH reduced its average IST length of stay from 203.9 days to 155.8 days, or 24%

Outcome of DSH Actions
While DSH increased capacity and admissions and reduced length of stays, the IST waitlist has not decreased at present. The impacts of capacity expansions were offset by the continued increase in IST referrals. The pending admission waitlist continues to fluctuate from month to month. As of June 27, 2016, there are 464 ISTs pending placement in a state hospital.

IST Waitlist 2012-2016	
December 2012	168
December 2013	383
December 2014	426
December 2015	379
June 2016	464

ADDITIONAL MITIGATION EFFORTS:

Governor's IST Workgroup
In 2013, a Governor's IST workgroup was convened, comprised of a wide range of affected stakeholders including: DSH, Judicial Council, California District Attorneys Association, California Public Defenders Association, California State Sheriffs Association, California State Association of Counties, County Behavioral Health Directors Association, Criminal Defense Bar, Department of Finance, Disability Rights California, Health and Human Services Agency, and Los Angeles County Sheriff's Department, among others. The workgroup focused on IST issues and worked to develop collaborative solutions to improve the IST system.

Two statutes were products of the Governor's workgroup:

- **Involuntary Medication Orders and Court Reports** - AB 2186 (Chapter 733, Statutes of 2014) allows for an involuntary medication order to transfer with a patient between the state hospital and other facilities, clarifies the timing of reports to the court, allows for an extension of a temporary involuntary medication order, and specifies the process for a renewal of a medication order.

- **Unlikely to Regain Competency and Unrestored Defendants** - AB 2625 (Chapter 742, Statutes of 2014) requires that if a defendant is determined unlikely to regain competence that they are returned to the committing court within 10 days, notification of this determination is provided to the parties and the court to initiate conservatorship or

other placement. Unrestored defendants within 90 days of the expiration of their IST maximum commitment must also be returned to the committing court for conservatorship or other placement.

Additional Legislation Enacted
Since 2014, a number of other laws have been enacted that impact the IST population. These include:

- **AB 2190 (Chapter 734, Statutes of 2014)** modified the requirement that IST defendants charged with specified crimes be automatically committed to a DSH state hospital for at least 180 days, instead of giving the committing court discretion to order the defendant into an alternative program, such as a community-based outpatient facility, in specified circumstances.

- **SB 1412 (Chapter 759, Statutes of 2014)** applied existing IST legal procedures to individuals facing revocation of probation, mandatory supervision, post release community supervision, or parole, and who may be mentally incompetent.

- **SB 85 (Chapter 26, Statutes of 2015)** eliminated the January 2016 sunset date authorizing county jails to be used for competency restoration treatment for IST defendants.

- **AB 1468 (Chapter 26, Statutes of 2014)** Statewide Patient Management Unit. Established July 1, 2014, this unit is focused on managing DSH patient movement and maximizing utilization of bed capacity to improve admission times, and ensuring appropriate patient placement and prompt delivery of mental health services.

- **AB 1468 (Chapter 26, Statutes of 2014)** Improved referral tracking. Effective July 1, 2014, DSH has a centralized unit coordinating with the state hospitals to improve tracking of patient referrals, improve timeframes for analyzing admission documentation, and promptly deliver court required forensic reports.

FUTURE EXPANSION PLANS:

Continuing DSH Capacity Increases
DSH continues its efforts to implement additional measures responsive to IST referral increases. The following efforts have been approved and are currently underway:

- **Secure Treatment Area Expansion at DSH-Metropolitan -** Capital Outlay funding has been approved to construct a security fence around existing patient housing buildings, creating additional secured treatment capacity. DSH will net about 200 new forensic treatment beds and 32 Skilled Nursing Facility beds. Project completion is scheduled for Summer/Fall 2018. IST defendants would have priority placement in the new secure units.

- **Increase Jail-Based Competency Treatment Program Capacity -** The 2016-17 budget includes a new 10-bed JBCT program at Sonoma County jail and the May Revision proposes an additional 25 beds within the state.

- Increase State Hospital Bed Capacity – The 2016-17 budget includes funding to activate an additional 75 beds for the treatment of ISTs. These beds include 50 at DSH-Napa and 25 at DSH-Patton.

ONGOING IST CHALLENGES & PRESSURES:

Despite previous initiatives to increase IST treatment and bed capacity, DSH faces continuing challenges.

- **County IST referrals continue to grow -** In 2014-15, the average number of IST referrals was 257 per month. In the first nine months of 2015-16, the average number of monthly IST referrals was 285 per month, an 11 % increase.

- **The Coleman Federal Court Lawsuit is impacting available IST beds at DSH-Atascadero-** In accordance with the Coleman Court and CDCR's Bed Plan, DSH is required to make available 306 low custody level state hospital beds at DSH-Atascadero (256) and DSH-Coalinga (50) to serve qualified Coleman patients. As the demand for these low custody beds fluctuates, DSH utilizes non-filled beds to serve other commitments at DSH-Atascadero, primarily Incompetent to Stand Trial (IST) patients and Mentally Disordered Offender (MDO) patients. Currently, DSH, under the direction of the Coleman court, is reviewing CDCR patients within all DSH prison facilities for eligibility for placement in the lower custody state hospital environment. This is resulting in an increase of Coleman patient placements at DSH-Atascadero and nearly all of the designated Coleman beds are now filled. This results in fewer beds remaining for other commitments, including ISTs.

- **Individuals deemed Unlikely to be Restored to Competency or who have reached their maximum commitment continue to linger in State Hospital IST beds -** While counties are generally picking up the IST defendants within the mandated 10-day timeframe, courts are frequently ordering them back to the State Hospital pending further actions, such as conservatorship hearings. In June 2016, DSH had 17 ISTs who were deemed unlikely, but not picked up by their committing county and another 13 ISTs who were within 90 days of the end of their maximum term but not picked up by their committing county. DSH has also received court orders to "try again" to restore competency following an Unlikely to be Restored to Competency report in lieu of picking up the defendant for conservation or other placement.

- **Regional Jail-based Competency Treatment Programs can be beneficial, but can be difficult to coordinate, which can lead to underutilization.**

    - The 76-bed San Bernardino County JBCT expansion, activated on June 1, 2015, was created as a regional JBCT to treat ISTs from Los Angeles and other counties. Until March 2016, it operated at an average census of approximately 40 patients. Utilization of a JBCT bed for a county's IST defendants requires full cooperation and coordination among a county's stakeholders (Courts, Public Defenders, District Attorney, Sheriff, and Community Program Director). DSH has experienced difficulty gaining full cooperation of regional county stakeholders regarding JBCT expansions due to multiple factors. Processes must be established for transfer of screening documents and patient records between the feeder county and regional provider. The court procedures for

referral to the JBCT for screening and commitment must be coordinated with the JBCT as well. In addition, patients are screened by the receiving county's sheriff and concurrent processes between the county sheriffs for custody screens (to screen out highly assaultive patients) and medical screenings must be established. This has delayed full utilization of new JBCT programs. Regional JBCT programs also require transportation agreements between the participating counties which make it difficult to expand regional programs to more distant counties. DSH has also observed that some courts interpret the IST statute inconsistently, which has necessitated non-standard agreements with different courts about the JBCT referral process.

- DSH cannot move patients who have been ordered to a state hospital to a JBCT even if DSH deems a patient is appropriate for treatment in a JBCT. IST defendants must be placed in a JBCT via a court order and are transferred directly from the county jail to the DSH-operated JBCT. If patients are not restored while in a JBCT, the patients can be moved from the JBCT to a state hospital.

OPTIONS FOR FURTHER ACTIONS:

1) **Reconvene the Governor's IST workgroup-** Examine the continuing challenges of IST treatment capacity and growing IST referrals, and suggest solutions to streamline the current referral process, improve the efficiency of and capacity for IST treatment, and examine the causes of the increase in IST defendants committed to the State Hospital System.

Goal – To discuss options for addressing this ongoing issue.

2) **Patient Management Unit for IST Competency Defendants in JBCT-** Provide DSH's Patient Management Unit authority to place an IST defendant in any program or facility operated by or contracted with DSH, including either a state hospital or jail-based competency program, where appropriate bed space is available.

Goal - Fully utilize all available IST competency program JBCT space to treat as many competency restoration patients as possible.

3) **Reduce IST Maximum Term-** Shorten the maximum term for IST defendants from three years to two years to better reflect the actual experience of the time required for competency restoration for restorable defendants. This would free space for restorable IST defendants by not holding unlikely to regain competency defendants for extended periods. In 2014-15 DSH treated 4,144 ISTs, of which 111 had a length of stay greater than two years. According to the Justice Policy Institute[1], research shows that 70 percent of ISTs will be restored within 6 months of starting treatment and nine out of ten ISTs will be restored within a year. DSH clinical experience indicates that the chances of restoring a defendant after 18 months are very remote. Housing IST defendants who are unlikely to regain competency in state hospital beds for extended periods is an inefficient use of high-demand competency restoration resources. **Note -** At least 26 states have shorter commitment periods than California – Georgia, Missouri, New

[1] Justice Policy Institute, "When Treatment is Punishment, The Effect of Maryland's Incompetency to Stand Trial Policies and Practices", October 2011.

Hampshire, Ohio, and Wisconsin provide for up to one year; Texas, up to 120 days, can request a 60-day extension, total 180 days; North Carolina, 60 days and South Carolina, 90 days; and Massachusetts, 40 days. Fewer than a dozen states have commitment periods longer than three years including: New York (2/3 of maximum sentence), Florida (felony criminal charges can be dismissed after 3 years effective July, 2016, was 5 years previously), and Pennsylvania (ISTs are discharged if a Court determines there is no probability they will attain capacity in the foreseeable future, those likely to be restored are detained for the lesser of their potential sentence or ten years). New York is looking to reduce their maximum commitment period, especially for those accused of a crime with a life sentence.

Goal - To avoid holding IST defendants beyond a period where they can achieve maximum benefit from restoration of competency services. This would allow multiple IST defendants access to the bed that an un-restorable defendant occupies.

4) **Improve Alienist IST Evaluation Report Accuracy-** Establish minimum education and/or training standards for a psychiatrist or licensed psychologist to be considered for appointment to perform competency evaluations for a court. UC Davis research at DSH Napa indicates that current alienist evaluations are producing a consistent 15 to 17 % rate of IST malingerers improperly determined to be incompetent and admitted to DSH for competency restoration treatment. This research also showed that in 2014-15 malingerers had an average length of stay of 109 days. Last fiscal year's IST admissions totaled 2,800. Elimination of malingerers could eliminate approximately 400 unnecessary IST admissions annually.

Goal - Improve the thoroughness and quality of the Alienist reports on competency to reduce the number of malingerers referred to DSH for treatment that ultimately do not require competency restoration.

5) **Joint Use Facility –** Create joint use correctional treatment facilities with interested counties that could serve as diversion programs or housing for state and local inmates with high mental health or substance use disorder treatment needs that would otherwise be housed in a county jail, state prison, or state mental hospital.

Goal –Reduce the cost of housing and treatment of incompetent to stand trial defendants and other inmates with mental illness.