



# **Incompetent to Stand Trial Solutions Workgroup**

August 31, 2021

# Opening Comments

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- Member Introductions
- Ground Rules
- DSH Updates
- Los Angeles Community Based Restoration Program
- Working Groups – Topic, Formation and Process



# Opening Comments - Ground Rules

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- **Statute outlines the goals of this workgroup:**
  - Our charge is to generate actionable ideas and solutions to advance alternatives to placement in DSH restoration of competency programs, not to provide oversight.
  - We must submit recommendations to CHHS and the Department of Finance on or before November 30, 2021, for short-term, medium-term, and long-term solutions.
- **Funding**
  - \$75 Million in 2021-22 to implement quick and impactful solutions; up to \$175M in future years depending upon strategies identified and continued funding availability.
- **Process for Meetings:**
  - Workgroup and the smaller working groups are subject to Bagley-Keene.
  - Keep the discussion moving forward toward solutions
  - This is not an oversight or voting group. Goal is to generate ideas and solutions.
  - Be brief and brilliant. Keep the discussion moving to allow for new ideas from all group members
  - Raise your hand on Zoom to indicate that you have a question or comment to share



# Opening Comments – DSH Updates

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## *Stiavetti v. Clendenin – Original 2019 Order*

- DSH must commence substantive services to restore an IST Defendant to competency within 28 days of the transfer of responsibility.
- Transfer of responsibility is the date of service of the commitment packet and may be extended by means of service.
- “Substantive services” are services and medication reasonably designed to promote the defendant’s restoration to mental competence. The baseline medical services provided by county jails under Penal Code 6030 and 15 CCR 1200 *et seq.* are not substantive services.



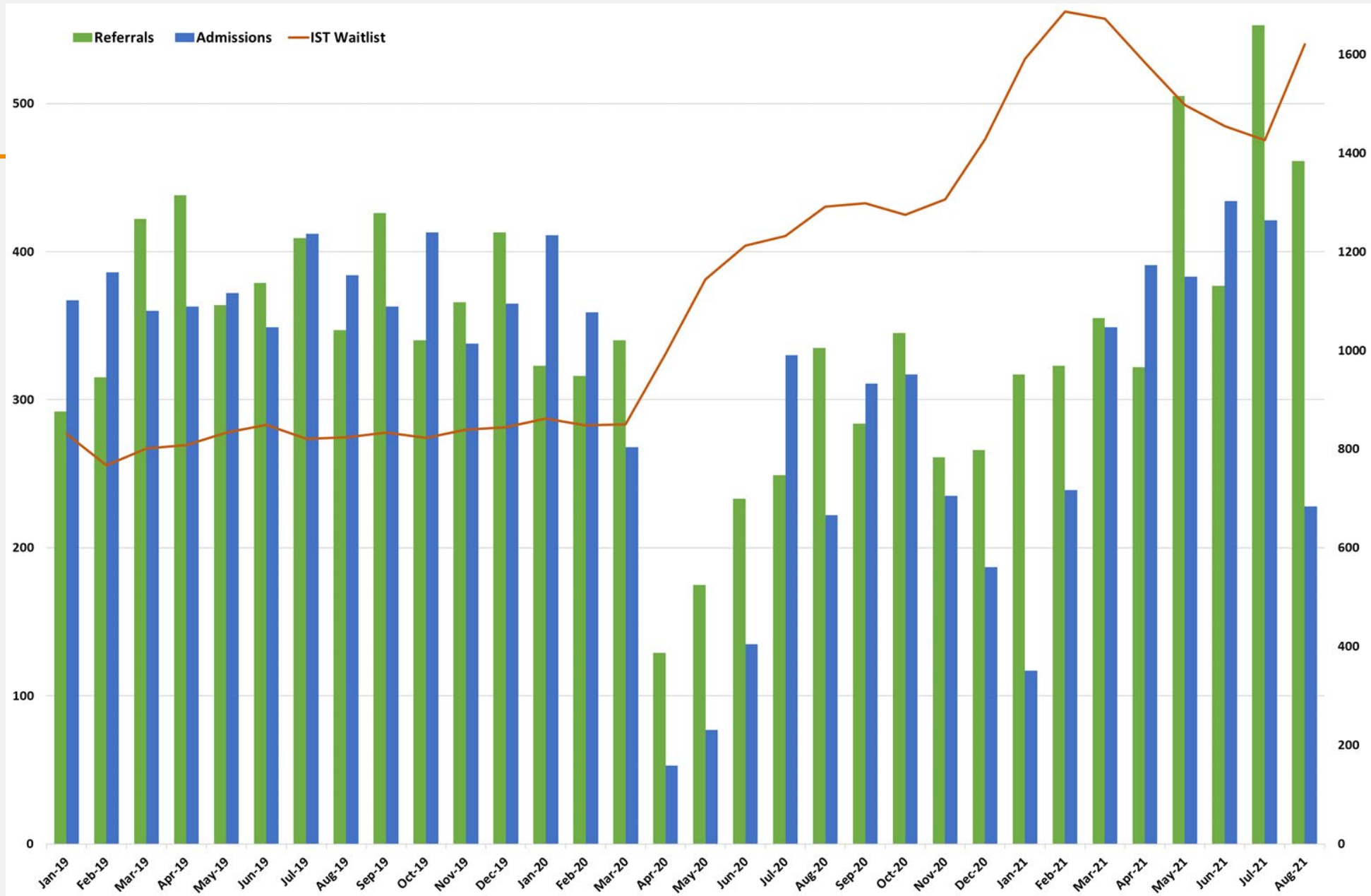
# Opening Comments – DSH Updates

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- *Stiavetti V. Ahlin* – timelines in original court order
  1. Within 12 months of March 22, 2019 DSH must commence substantive services for all IST defendants within 60 days from the transfer of responsibility date.
  2. Within 18 months of March 22, 2019, DSH must commence substantive services for all IST defendants within 45 days from the transfer of responsibility date.
  3. Within 24 months of March 22, 2019, DSH must commence substantive services for all IST defendants within 33 days from the transfer of responsibility date.
  4. Within 30 months of March 22, 2019, DSH must commence substantive services for all IST defendants within 28 days from the transfer of responsibility date.



# Opening Comments – DSH Updates



# Opening Comments – Bridge to Broader Behavioral Health Initiatives

## Short-term (April 1, 2022)

### Immediate solutions for 1600+ in jail waiting plus new referrals

Provide access to treatment now – in jail, community, or diversion  
Identify those who have already restored  
Reduce new IST referrals

## Medium-term (Jan 10, 2023)

Continue to provide timely access to treatment  
Begin other changes that address broader goals of reducing the number of ISTs, increase IST treatment alternatives

## Long-term (Jan 10, 2024 or Jan 10, 2025)

Implement longer term solutions that can move the needle toward breaking the cycle of criminalization  
Reduce the number of individuals found IST on felony charges while broader behavioral health transformation initiatives are implemented

CaAIM,  
Behavioral Health  
Care Continuum,  
Community Care  
Expansion



# Opening Comments

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- Objectives laid out in statute for the workgroup to consider:
  - Reduce felony incompetent to stand trial (FIST) recidivism
  - Increase FIST treatment capacity
  - Increase FIST diversion
  - Reduce FIST length of stay
  - Reduce number of FISTs
  - Increase access to treatment before transfer to a restoration of competency program





# Opening Comments – Statutory Triggers

Welfare and Institutions Code Section 4147 - Until December 31, 2024, if the Secretary of CHHS determines:

EITHER:

- a) The IST Solutions Workgroup cannot complete the recommendations (due November 30, 2021) due to reasons outside CHHS or DSH control,

OR

- b) That insufficient progress has been made in implementing the recommendations in a timely manner,

AND

1. IST Referrals to DSH continue to exceed DSH capacity available, AND
2. DSH continues to maintain an IST waitlist, AND
3. IST defendants are not able to receive timely access to restoration of competency services and no reasonable state solutions are available



# Opening Comments – Trigger Language

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## Welfare and Institutions Code Section 4147

### THEN:

If approved by CHHS and DOF and after 30-day notification to the Joint Legislative Budget Committee and the public guardian and county behavioral health agencies:

- a) DSH may discontinue admissions for new LPS patients, and
- b) DSH may impose LPS reduction targets over the next 3 fiscal years
- c) DSH may charge 150% of the daily bed rate for LPS bed usage above the specified patient reduction targets.



# Working Groups

**Deliverables:** Define actionable recommendation(s), cost/funding required, statutory changes that may be required, metrics to track and data sources

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1. Early Access to Treatment and Stabilization for Individuals Found IST on Felony Charges

2. Diversion and Community-Based Restoration for Felony ISTs

3. Initial County Competency Evaluations



# 1. Early Access to Treatment and Stabilization for Individuals Found IST on Felony Charges

- **Goal:** Identify short-term solutions to provide early access to treatment and stabilization in jail or via JBCTs in order to maximize re-evaluation, diversion or other community-based treatment opportunities and reduce length of stay.
- **Co Chairs:** Melanie Scott, DSH and Kate Warburton, DSH
- **Representatives:**
  - CA State Association of Counties
  - NAMI, Family or Consumer member
  - Sherriff
  - County Behavioral Health
  - District Attorney
  - Public Defender
  - Judge/Judicial Council
  - Council on Criminal Justice and Behavioral Health
  - Department of Healthcare Services
  - Department of Finance
  - Plus one small county representative (can be sheriff or other county department)
  - Plus subject matter experts identified by CHHS and DSH



# 2. Diversion and Community-Based Restoration for Felony ISTs

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- **Goal:** Identify short-term, medium-term and long-term strategies to implement Diversion and Community-Based Restoration programs
- **Co Chairs:** Chris Edens, DSH and Stephanie Welch, CHHS
- **Representatives:**
  - CA State Association of Counties
  - NAMI, Family or Consumer member
  - Disability Rights California
  - County Behavioral Health
  - Public Administrator/Public Guardian
  - Probation
  - District Attorney
  - Public Defender
  - Judge/Judicial Council
  - Council on Criminal Justice and Behavioral Health
  - Department of Healthcare Services
  - Department of Developmental Services
  - Department of Finance
  - Plus one small county representative (can be behavioral health or other county department)
  - Plus subject matter experts identified by CHHS and DSH



# 3. Initial County Competency Evaluations

- **Goal:** Reduce the number of individuals found Incompetent to Stand Trial by strengthening the quality of the initial county competency evaluation (aka Alienist Evaluations)
- **Chair:** Kate Warburton, DSH and Charles Scott, UCD/DSH
- **Representatives:**
  - CA State Association of Counties
  - NAMI, Family or Consumer member
  - Judge/Judicial Council
  - District Attorney
  - Public Defender
  - Department of Finance
  - Plus one small county representative (can be court, judge or other county department)
  - Plus subject matter experts identified by CHHS and DSH



# Public Comment

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- Public Comment will be taken on any item on the agenda
- There are 3 ways to make comments:
  - Raise hand on zoom to speak – please keep comments to 2 min.
  - Type comment in chat function
  - Email comment to [ISTSolutionsWorkgroup@dsh.ca.gov](mailto:ISTSolutionsWorkgroup@dsh.ca.gov)



# Meeting Wrap Up and Next Steps

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- Next Full Workgroup Meeting September 29, 2021 (There will be no meeting of the full workgroup on September 15, 2021).
- Working group chairs will schedule first meetings in mid-September.
  - Working groups will meet through October.
  - Working groups are subject to the Bagley-Keene Open Meeting Act
    - Agenda's and meeting materials will be posted on the IST Solutions Workgroup webpage at <https://www.chhs.ca.gov/home/committees/ist-solutions-workgroup/>

