Incompetent to Stand Trial
Solutions Working Group 3:
Initial County Competency Evaluations

October 15, 2021
Agenda: Working Group 3. Initial County Competency Evaluations

1. Welcome and Introductions
2. Recap Goals of this Working Group
3. Recap of Last Meeting’s Highlights and Short-Term Strategies
4. Discussion of Medium- to Long-Term Strategies
5. Call for Public Comment
6. Meeting Wrap Up and Next Steps
Working Group #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)

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

• **Chair**: Kate Warburton, DSH and Charles Scott, UCD/DSH

• **Representatives:**
  - Deanna Adams
  - Francine Byrne
  - Katherine Clark
  - Mathew Greco
  - Scarlet Hughes
  - Stephen Manley
  - Farrah McDaid Ting
  - Danny Offer
  - Neil Gowensmith
  - Ira Packer
  - Dawn Percy
  - Jonathan Raven
  - Stephanie Regular
  - Marni Sager
  - Todd Schirmer
Working Groups

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

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
Ground Rules

• **Statute outlines the goals of the workgroup:**
  • Charge is to generate actionable ideas and solutions to advance alternatives to placement in DSH restoration of competency programs, not to provide oversight.
  • 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.

• **Process for Meetings:**
  • Keep 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
  • Working group members, please refrain from using the chat function.
  • Participants may use Q&A function for technical issues, chat for contributions
Timeframes for Strategies and Solutions – 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 or in community including 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

October 14, 2021

CalAIM, Behavioral Health Care Continuum, Community Care Expansion
3. Recap of Last Meeting’s Highlights and Short-Term Strategies

**Goal:** Reduce the number of individuals found Incompetent to Stand Trial by strengthening the quality of the initial county competency evaluation (aka Alienist Evaluations)
# Overview of Solutions Generated So Far

<table>
<thead>
<tr>
<th>Working Group</th>
<th>Short (April 2022)</th>
<th>Medium (Jan 2023)</th>
<th>Long (Jan 2024+)</th>
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<tbody>
<tr>
<td># 1</td>
<td>7</td>
<td>22</td>
<td>3</td>
</tr>
<tr>
<td># 2</td>
<td>12</td>
<td>7</td>
<td>7</td>
</tr>
<tr>
<td># 3</td>
<td>10</td>
<td>20</td>
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<tr>
<td>Total</td>
<td>29</td>
<td>47</td>
<td>10*</td>
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* Long-term solutions under development; to be discussed in Meeting #3 of each working group.
## Overview of Solution Types

<table>
<thead>
<tr>
<th>Solution Type</th>
<th>Working Group #1</th>
<th>Working Group #2</th>
<th>Working Group #3</th>
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<tbody>
<tr>
<td>Policy Change (including statutory)</td>
<td>3</td>
<td>13</td>
<td>6</td>
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<tr>
<td>Admin/Operations</td>
<td>8</td>
<td>5</td>
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<tr>
<td>Funding</td>
<td>2</td>
<td>1</td>
<td>7</td>
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<tr>
<td>Tech Assistance/Training</td>
<td>5</td>
<td>4</td>
<td>6</td>
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<td>Treatment Capacity</td>
<td>8</td>
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<td>Communication</td>
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<td>Research/Information Sharing</td>
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Group 3: Problems with Reports

- Over 50% did not provide DSM diagnosis or lacked diagnosis justification.
- Less than 20% linked mental disorder with CST impairments.
- Minimal use of structured assessments.
- Lack of understanding of legal standards
- Relying only on evauluee self-report (malingering, but other problems as well)
- Not considering acute effects of substance use
- Not tying the opinion on competence to the data
Group 3  
Short-Term Solutions Examples

• Provide state directed training for current alienists and future pipeline
  • State TA with videos, template reports, checklists, etc. to increase knowledge for existing alienists (DSH website resource page for evaluators, Sheriffs for IMOs)

• Triage waitlist (i.e., CO criteria) – identify needs for acute hospitalization

• Address IMO issues in reports, including whether there is TA needed to address whether psychologists can make this recommendation rather than only psychiatrists

• Identify potential and requirements of tele-evaluations (i.e., San Diego)

• Identify field of current evaluators – solicit lists from counties

• Clarify potential for 1370 court competency re-evaluations
4. Discussion of Medium-to Long-Term Strategies

**Goal:** Reduce the number of individuals found Incompetent to Stand Trial by strengthening the quality of the initial county competency evaluation (aka Alienist Evaluations)
Group 3
Medium-Term Solutions Examples

(In conjunction with and building on Short-Term Solutions)

- Establish dedicated (increased) funding pool with standards and accountability/quality oversight to support increased funding for and quality of reports
  - Identify low-quality evaluators and establish mechanism to exclude
- Provide legislative clarification that psychologists can opine IMOs
- Change statutory language from “may” to “shall” consider and make specific findings as to whether or not the defendant would be appropriate for diversion
- Statute change to require alienist recommendation of probability of restoration – address neuro-cognitive disorders and medical factors)
- Set time frames for appointment, receipt of reports, etc. that are mandatory (absent a showing of good cause) as a Rule of Court (or statute)
- Identify administrator to assemble packet with key legal docs for evaluation
- Identify demographics and cultural and linguistic competence of evaluators. Ensure training of alienists include information on discrepancies and biases in evaluations.
- Treat 1170(h) felonies (so-called “county prison felonies”) like misdemeanors per 1370.01, including diversion to other type of treatment – noted potential for increase due to potential malingering, unintended consequences
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<td>Work force</td>
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Public Comment

• 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
Meeting Wrap Up and Next Steps

• Agendas and meeting materials will be posted on the IST Solutions Workgroup webpage at https://www.chhs.ca.gov/home/committees/ist-solutionsworkgroup/