

**Incompetent to Stand Trial Solutions Working Group
Work Group 2: Diversion and Community-Based Restoration for Felony
ISTs
Friday, October 1, 2021 – 9AM to 11AM
Discussion Highlights**

1. Welcome and Introductions

Karen Linkins welcomed all attendees and announced she will be co-facilitating the meeting with colleagues from Desert Vista Consulting, Jennifer Brya and John Freeman. She thanked everyone for their dedication to this process and this population and for bringing their wide range of expertise to the table. She reminded the group to be solution-oriented and of the urgency of the work, noting the fact that there are currently over 1,700 people in jail awaiting treatment. She reviewed the agenda and the work group goal, which is to identify short, medium, and long term strategies to implement diversion and community-based restoration programs. She reminded the group that they will produce concrete recommendations that will be included in the report due to the state at the end of November. Karen Linkins asked members to introduce themselves, beginning with the co-chairs. She also asked members of the public to introduce themselves in the chat with their affiliation and county. All members of the working group were present except Dawn Percy and Jonathan Raven. The members in attendance were:

- Co-chair Katherine Warburton, Forensic Psychiatrist and DSH Medical Director
- Co-chair Stephanie Welch, Deputy Secretary of Behavioral Health and Policy Advisor at Health and Human Services
- Francine Byrne, Principal Manager of the Criminal Justice Services Office at the Judicial Council of California, representing the Council along with subject matter experts Judge Stephen Manley and Deanna Adams
- Jessica Cruz, CEO of NAMI CA
- Dr. Sarah Desmarais, Sr. VP of Policy Research Associates, present as a subject matter expert and trained as a Forensic Psychologist
- Elise Deveccio-Cavagnaro, Consulting Psychologist at the MediCal Behavioral Health Division of the Department of Health Care Services

- Anita Fisher, Member of Council on Criminal Justice and Behavioral Health, NAMI Leader
- Neil Gowensmith, Associate Professor at the University of Denver, Former State Director of Forensic Mental Health for Hawaii, Private Consultant for mental health systems
- Brenda Grealish, Executive Officer at the Council on Criminal Justice and Behavioral Health
- Cathy Hickenbotham, Council on Criminal Justice and Behavioral Health, working on diversion program
- Tony Hobson, Behavioral Health Director for Plumas County, Clinical Psychologist, CCGBH Council Member
- John Keene, Chief Probation Officer in San Mateo County, representing state association (joined late)
- Dr. Veronica Kelley, Behavioral Health Director for San Bernardino County, President of the County Behavioral Health Directors Association
- Kristopher Kent, Attorney for the Department of State Hospitals
- Pamila Lew, Senior Attorney with Disability Rights California
- LD Louis, Assistant District Attorney for Alameda County, Head of office mental health unit, representing California District Attorneys' Association
- Farrah McDaid Ting, Senior Legislative Representative for the California State Association of Counties
- Marni Sager, Manager in the State Operated Facilities Division of the Department of Developmental Services
- Gilda Valeros, Supervising Attorney for Santa Clara County's Public Defender's Office
- Scarlet Hughes, Executive Director of the California State Association of Public Guardians and Conservators, subject matter expert on conservatorship

2. Recap of Goals of this Working Group

Karen Linkins reminded group members that while there is overlap between the subjects of the three different working groups, it is helpful to try to stay in the bounds of this one when discussing ideas. More specifically, focus should remain on the people currently on the waitlist while using the broader context to inform solutions. She said it is helpful to point out overlap where it is identified. She asked members to raise their hand on Zoom to speak. She asked that the Zoom Q+A feature not be used by workgroup

members unless they need assistance with technical issues, but noted the chat is available, particularly for members of the public in attendance to ask questions and give input. There will also be a public comment period at the end.

Karen Linkins reminded the group of the timelines for solutions: short-term to be implemented by April 1, 2022, medium-term by January 10, 2023, and long-term by January 10, 2024 or 2025. She introduced the Co-chairs to provide a recap of the last meeting.

3. Discussion of Short-Term and Possibly Medium-Term Strategies

Katherine Warburton said that people have likely heard her presentation multiple times, so she will just provide a brief reorientation:

- DSH's current hypothesis is that people with schizophrenia spectrum disorder are becoming unsheltered and going untreated, both of which leads to increased contact with police and is resulting in felony charges. This drives the increased number of IST referrals to DSH.
- Building more hospital beds is not a long-term solution and neither is temporary restoration, as these things do not disrupt the criminalization cycle. 75% of DSH IST discharges return to being unsheltered and untreated in communities with a 70% recidivism rate.
- Diversion programs are needed to interrupt this cycle.
- UCD forensic fellows determined 47% of waitlist could be eligible for diversion, which is 799 people that could be sent to community treatment. DSH is currently funding 820 slots.
- Diversion is not happening at this rate of potential eligibility due to barriers such as levels of instability, lack of housing in counties, and concerns about the ability of counties to implement IMOs.

Katherine Warburton indicated to the group that the extended slide deck is available on the work group website. She turned over the floor to Stephanie Welch. Presentation continued:

- The diversity of stakeholders in this work group poses challenges in terms of bringing together a variety of perspectives and experiences. All perspectives are necessary to find effective solutions.
- There is consensus that people should not be sitting in jails and should instead be receiving treatment elsewhere. The group focus needs to be on the 1700 people currently waiting in jails.

- There will be time in October 12th's general work group meeting to discuss behavioral health infrastructure and housing. Guests from some relevant departments will be present.

Chris Edens from DSH presented on community-based restoration:

- In previous meetings, the LA office of Diversion and Reentry presented, who DSH contracts with. They currently have 415 beds and are adding another 100. This slide deck is available on the work group website.
- LA's presentation discussed their work in the pre-release process, including case review and engagement by their clinical team who makes referrals to psychiatrists and other outside providers, including for housing and other support services. Post-release, collaboration and consultation continues between the clinical team in the jail and outside providers, which increases providers feeling supported.
- 95% of LA's diverted clients live in open residential settings with on-site services.
- DSH's program that funds LA's beds is available to fund hundreds more beds in other counties. The budget is \$108k annually per bed based on DSH bed rate for ISTs, \$50k additional funding per bed for one time infrastructure costs, and \$100k annually for DSH to provide technical assistance. County partners receive DSH support in planning, finding housing, and workforce development and training on reports. These partnerships can start as early as April 2022.

Karen Linkins read a question from the chat:

- Lindsey Schachinger asked Chris Edens if all of these clients have felony charges, to which she answered that yes, the funding is exclusive to the felony IST population. She also asked if the hostel is in the jail, to which Chris Edens replied that no, the jail does not have a hospital.
- LD Louis asked if there are data on recidivism for clients of LA county's program compared to those who did not go through the program. She also asked if there is a risk assessment tool to identify diversion eligibility. Chris Edens said she can look into more information on both questions but knows that the program has effectively lowered recidivism rates.
- Pamila Lew asked if there is a Con Rep assessment done in the process for assessing suitability for the program. Chris Edens responded that the process occurs after CPD has opined placement and the client has been committed to DSH. For new partnerships, they want to move this process earlier. Pamila Lew said that community-based restoration may be easier to sell to a judge or prosecutor than immediate diversion. Chris Edens said that both models are in place in LA.

- Neil Gowensmith asked if there are other counties with community-based restoration programs. Chris Edens said not that she knows of for felony ISTs, but there are conditional release programs. This funding specifically aims to expand CBR programs. He replied that he knows this program has a good relationship with the court and an understanding judge helps programs like this be successful. Chris Edens agreed.
- Gilda Valeros said that Santa Clara County has a felony CBR program that Judge Manley works with. She appreciated the LA program's emphasis on building rapport instead of relying on medication injections. She said that many community programs, like DSH, are limited to a focus on competency restoration. She said maintaining relationships between treatment teams with a focus on long-term treatment may be the main reason for program success.
- Veronica Kelley said she appreciates the desire to partner with counties directly as that approach would lead to better resource allocation.

Karen Linkins moved the conversation toward a discussion of the ideas people came up with for their homework. First, she asked for representatives from Sacramento and Santa Clara counties to share more about the work they are doing.

- Catherine York from Sacramento said they have diverted at least 3 or 4 people from custody to a program led by the Public Defender's office. The program regularly meets with system partners and engages in information sharing. The PD's office determines eligibility for diversion in conjunction with psychiatrists.
- Kim Hoang from Santa Clara County also focus on collaboration between teams, including the judge and PD's office. Their team goes into the jail and screens and engages clients to try to improve med compliancy. They have regular meetings with custody health. She seconded that rapport building is key to success, as well as motivational interviewing and determining client goals, which is much easier to do outside of jails and has been successfully increasing lengths of time clients are out of jail. Consistent support through the whole process has been making a difference for clients.

Karen Linkins asked if anyone from Contra Costa, Fresno, or San Diego counties could share.

- Ronnie Potts from Contra Costa County Forensic Mental Health said they have a successful misdemeanor diversion program and are looking to expand it to felony ISTs. Housing availability is the primary barrier to building more program success.
- Earliana Vang from Fresno County discussed their diversion program which has existed for over a year but is recently ramping up. Those diverted so far have mostly not been from the IST waitlist, but rather those who are "likely IST." Some of those people do not qualify for the DSH grant and they are wondering if that could be changed.

- Sarah Gordon from San Diego County said their diversion program is also focused on the at-risk population rather than the waitlist, but they are looking into expanding this to people on the waitlist. Their Public Defender brought up a penal code that allows for consideration of conservatorship at the same time as prosecution, which Sarah suggested could maybe be an alternative to the competency evaluation process. She said she will put the penal code in the chat.

Karen Linkins said hearing from the county representatives is helpful in understanding the amount of variation present and the alternatives that are possible. These alternatives take changing practices and creating cross-sector relationships. She pivoted and showed a slide with the solutions group members submitted early for their homework. Group members discussed their ideas:

- Brenda Grealish discussed the idea of presumptive eligibility for diversion, which would look like having to show why someone should not be diverted with exemption criteria rather than showing why they should. The exemption criteria would be identified by industry experts from different sectors. This proposal also includes a timeframe for making transfers, 24/7 technical assistance available to counties, a peer support system, and potentially a partnership with probation to address safety concerns and psychiatric advanced directives to plan courses of action ahead of time. She agreed with others that building/finding housing for the IST population must be prioritized in this process in conjunction with other state and local agencies. In terms of funding, she said the one-time \$75 million could be used to build out the exemption criteria, fund the 24/7 technical assistance, fund additional slots if needed, hire peer support and probation/law enforcement, and develop the psychiatric advanced directives. She said they hope to leverage existing housing investments. In regards to data, DSH diversion and waitlist data could be analyzed as well as tracking data on exemptions, technical assistance requests, psychiatric advanced directives, and housing status.

Karen Linkins said that while today's meeting needs to focus on the waitlist, the next meeting will be an opportunity to discuss housing, root causes, and long-term solutions.

- Judge Manley said there need to be changes in the law so that diversion determinations are made at the same time that the judge considers whether or not to commit someone to a state hospital. He said it should be mandatory for the judge to consider diversion and for evaluators to give an opinion on it. He said that behavioral health needs to be more involved in engaging defendants around IMO and IMO should be able to be implemented in community treatment settings. He suggested that people on the waitlist who have been held beyond the statutory time for diversion be reevaluated. He said all these recommendations require additional funding and case management. He emphasized the need for substance abuse services for this population. He felt that the suggestion about considering people for conservatorships is unrealistic in many counties because of a lack of resources.

Karen Linkins thanked him. She said that they have sorted all submitted ideas into what they think is feasible on different timelines.

- Veronica Kelley suggested triaging the waitlist in partnership with counties. This should include resource and information sharing, such as telling treatment facilities what charges someone was facing. Like others, she discussed the need to fund housing in CBR development and obtain expedited licensing to build facilities. She said multiple types of treatment need to be funded because people's needs fluctuate. She suggested that changing "unreasonable risk" to "clear and persistent risk" in the penal code could help clarify the criteria for risk averse people and expand the number of diversions.
- Tony Hobson added that in their county, psych facilities are reluctant to take placements from jails and these facilities are the only places IMO can be given.
- Pamila Lew suggested expanding the ODR program and adding additional beds as an immediate solution to reduce the waitlist. She suggested expanding their model of interim, unlicensed housing, which some counties may be eager to do immediately. She suggested expanding DSH staff with technical expertise to advise counties. She encouraged more information sharing to all 58 counties, including best practice guides.
- LD Louis suggested changing the rules to allow felony PBs into diversion programs. She also suggested expanding the accepted diagnoses, which she knows is in the works. She said that the 25% competency rate found by DSH points to a need for better evaluations, so training and standardization should happen to address that. Additionally, an amendment to 1370 might help to increase reevaluations and shorten the waitlist.
- Katherine Warburton said that DSH has technical assistance already available for counties for diversion and CBR. They also have a virtual reevaluation service and can write 1370 reports.
- Tony Hobson responded to a question in the chat about facilities refusing to take placements from jails. He said he knows that this is an issue in multiple counties. Hospitalization placement is more likely before someone goes to court because once someone is in jail, contracted facilities say they are too acute, they do not accept inmates, or they will not release them back to jail. He sees this as discrimination and there needs to be education for hospitals on this.
- Neil Gowensmith said exactly the same situation that Tony Hobson described exists in Colorado. Jails are made to pay to put officers in hospitals in order to place patients.
- Veronica Kelley said she knows this to be true, that county hospitals in at least 4 CA counties come up with excuses to not take these placements and ask for officers as a prerequisite. This poses a problem for officers who are not allowed to bring weapons into hospitals and need to figure out where to put their weapons.

- Stephanie Welch said that hospitals should certainly not be refusing placements. She wondered if an increase in the role of probation could help in this area.
- LD Louis proposed that increased LPS conservatorships could help reduce the waitlist. She suggested also that people be evaluated for grave disability in hospitals instead of jails and could then be moved to the civil track, which could move all people with low level felonies off the waitlist. If they are then returned to the jail, LPS conservatorships could be pursued under 1372. She said they are up against the biases in the public health system against forensic clients. She suggested the framing of “what can public health change” rather than “what can law enforcement do.”
- Farrah McDaid-Ting said in response to the question about probation providing supervision that she has not discussed this with them, but will, though thinks it might not be within their capacity. She said she also has technical and fiscal concerns about expanding the role of conservatorships, as their workforce and funding is quite limited. They are currently requesting for funding from the state for the current caseload. She cautioned also that civil conservatorship removes people’s civil rights, which she compared to being in jail. She said it is necessary in cases but is not a large-scale solution. She said her team’s solutions were presented by Veronica Kelley and reiterated the one about adjusting the penal code.
- Judge Manley said in response to the question about probation that in his county’s program they have an office of pre-trial services that is akin to probation and they monitor all IST cases. As lengths of probation have shortened, they are less involved in supervision. He suggested, though, that the role of probation could be increased.
- Stephanie Welch said their aim is to improve the model with additional resources, not put additional burdens on agencies like probation and conservators. She mentioned that over-supervision through probation is a risk as well.
- Sarah Desmarais said that solutions involving individual interventions mistake needs and risks into account, and not everyone will have the same needs for probation, intervention, etc. However, she has seen examples of probation getting involved with diversion being very successful and there are best practices to look at from around the country. She emphasized that DSH currently has technical assistance available to counties. She suggested the use of a structured risk assessment tool in diversion considerations as a short-term solution and said that in her experience it reveals a lower than anticipated risk.
- Scarlet Hughes, representing public conservators, agreed that diversion into conservatorships is not a solution and will increase the backlog, and people will remain in jail waiting for treatment as conservators do not have increased access to placement and

also come up against facilities not wanting to take their clients. She said public guardianship are probably the most underfunded public resource.

- LD Louis said she is glad they are discussing the lack of resources in the public health system because insufficient treatment adds to the criminalization cycle. She said the public guardian's resources need to be expanded so people can be placed in the least restrictive public guardian's placements as possible, and she disagreed that conservatorships are like jail as it is outside of the penal system. She said conservatorships could be the path to move people from the criminal justice system and into the public health system, at least for lower-level felonies.
- Katherine Warburton said that the already funded diversion and CBR programs are akin to a sort of conservatorship from a clinical perspective, without the same level of responsibility, seeing as they take people under certain conditions into community treatment.

4. Call for Public Comment

Karen Linkins opened the floor to public comment. She thanked everyone for the ideas they put forward today. She said public comment can be made either by raising hands in Zoom, commenting in the chat, or emailing:

- Martin Fox said he agreed with LD Louis' suggestion to expand funding for public guardians. He has experience diverting felonies from the military justice system and said there needs to be a middle alternative. He agreed that conservatorship and the criminal justice system are distinct in terms of the impact of criminal charges on someone's future. He said that efforts should focus on helping families help people in maintaining health.
- Mark Gale said he keeps hearing about contracted providers turning away placements from jails. He suggested an alternative of a diversion residential setting conducted through county departments for those who are eligible. He argued that public settings like this are more appropriate. He also suggested considering assisted outpatient programs for diversion placements.
- Matthew Greco said that he does not think 1170H offenses are necessarily low-level offenses, since they can include assaults, DUIs, and drug sales, as well as people who pled down from more serious felonies. He agreed that conservatorships are not a viable alternative for the criminal justice system. He mentioned that there is a provision that allows for reevaluation in very specific conditions and thinks that DSH's reevaluation program may not comply with the necessary steps, which could lead to a reversal of the decision. He said either the process needs to be followed or the law needs to be changed.

5. Meeting Wrap Up and Next Steps

Karen Linkins thanked everyone for their contributions. She said the next and final meeting for the working group will be on October 22nd from 1-3pm, which will include focus on longer term solutions. She said the homework assignment is to review the solutions presented that will be sent out in an email and expand on them and fill in details such as cost and data collection. New ideas are welcome as well. She asked that they get this done in a week. She reminded the group that they are subject to the Bagley-Keene act which necessitates that conversations on this topic are public. She asked that large conversations not take place outside of the meetings, but it is ok to touch base with others about solutions. She reminded attendees that the minutes and agenda will be posted on the website.

Appendix 1: Chat Transcript

From Steve McComas to Everyone:

Assistant Sheriff Steve McComas-Fresno County Jail

From Connie Draxler to Everyone:

Connie Draxler, LA County Office of the Public Guardian

From Tyler Rinde to Everyone:

Tyler Rinde, Senior Policy Advocate, County Behavioral Health Directors Association (CBHDA)

From Gilda Valeros (she/her), SCC Deputy Public Defender to Hosts and panelists:

Gilda Valeros, Supervising Attorney, Santa Clara County Public Defender

From Stephen Manley to Hosts and panelists:

Judge Stephen Manley, Superior Court, Santa Clara

From David Evans to Everyone:

Good morning....David Evans, Sonoma county Behavioral health

From Stephanie Regular to Everyone:

Stephanie Regular, Contra Costa County Public Defender Office

From Deanna Adams to Everyone:

Deanna Adams, Judicial Council of California

From Brenda Epperly to Hosts and panelists:

Brenda Epperly MSN, RN, Correctional Health Care Consultant, Sacramento County

From Matthew Greco to Everyone:

Matthew Greco, District Attorney's Office San Diego County

From Kim Hoang to Everyone:

Hello! Kim Loan Hoang, Santa Clara County Behavioral Health

From marissa curtis to Everyone:

Marissa Curtis - Fresno County Department of Behavioral Health

From Chad Costello to Hosts and panelists:

Chad Costello, California Association of Social Rehabilitation Agencies

From Jose Chew to Everyone:

Jose Chew, Legislative Analyst with Los Angeles County - Chief Executive Office

From Debra Buckles to Everyone:
Debra Buckles, Stanislaus County Public Guardian

From Amanda Rosen to Everyone:
Amanda Rosen, Forensic Utilization Review Specialist with Fresno County Dept. of Behavioral Health

From Earliana Vang to Everyone:
Good morning. Earliana Vang, Fresno County Department of Behavioral Health

From James Russell to Everyone:
James Russell, Forensic Services Program Manager for Santa Cruz County Adult Behavioral Health.

From Paul Reyes to Hosts and panelists:
Paul Reyes, Contra Costa County, County Administrator's Office

From Nina Hoang to Everyone:
Nina Hoang, Department of Finance

From Ronnie Potts to Everyone:
Good morning everyone, I'm Ronnie Potts from Contra Costa County Forensic Services.

From Dawn Annino to Everyone:
Good morning Dawn Annino, ACEO Fresno Superior Court

From Mitch Collins to Everyone:
Good Morning! Mitch Collins - Contracted Treatment Provider - Turning Point Diversion Program - Fresno County

From Kathi DeLaRosa to Hosts and panelists:
Kathi DeLaRosa, Turning Point's Diversion Program in Fresno County

From Nicole Eberhart to Everyone:
Nicole Eberhart, Senior Behavioral Scientist at RAND (nonprofit research/evaluation org)

From Marie Osborne to Everyone:
Good morning everyone, Marie Osborne-Placer County Behavioral Health

From Elizabeth Escoto to Everyone:
Good morning, Elizabeth Escoto, Deputy Regional Director, Turning Point of Central Ca

From Michelle Cabrera to Everyone:

Good Morning, Michelle Cabrera, Executive Director, County Behavioral Health Directors Association

From Chandra Campbell to Everyone:
Chandra Campbell, Stanislaus County Behavioral Health

From Douglas Dunn to Everyone:
Douglas Dunn, Mental Health Commissioner, NAMI Contra Costa member, parent of a loved one living with major mental health challenges.

From Mark Gale to Everyone:
Mark Gale, NAMI Greater Los Angeles County, Criminal Justice Chair

From Michael Helmick to Everyone:
Michael Helmick, Senior Program Manager. California Mental Health Services Authority (CalMHSA)

From Martin Fox to Everyone:
Martin Fox, Attorney at Law, Judge Advocate, San Mateo County Veterans Coalition, former Captain, Infantry, Vietnam War era and Chief Legal Officer, U.S. Army, Special Court Martial Convening Authority at the former Fort Ord, responsible for AWOL and Deserter Apprehension in the western United States, 1972 to 1975

From Christopher Geiger to Hosts and panelists:
Christopher Geiger; Consultant, Liberty Healthcare Corporation

From Brenda Epperly to Everyone:
Good Morning, Brenda Epperly MSN. RN, Correctional Health Consultant, Sacramento County

From Lindsay Schachinger to Hosts and panelists:
Lindsay Schachinger, NAMI, FASMI and parent

From Steven Jackson to Everyone:
Steven Jackson San Bernardino County Adult Forensic Services

From Jocelyn Wiener to Everyone:
Jocelyn Wiener with CalMatters

From Neil Gowensmith to Hosts and panelists:
Can someone provide a link to these slides? Thank you.

From Lindsay Schachinger to Hosts and panelists:
Chris E. - are these folks all charged with felonies?

From Lindsay Schachinger to Hosts and panelists:

Is this hospital in the jail?

From Neil Gowensmith to Hosts and panelists:

Apologies if I missed this, but are there other counties aside from LA county with current CBR programs in operation?

From Lindsay Schachinger to Hosts and panelists:

Thank you.

From Christine Ciccotti to Hosts and panelists:

Slide 12 provides the recidivism data from LA CBR

From Christine Ciccotti to Hosts and panelists:

https://www.chhs.ca.gov/wp-content/uploads/2021/08/ODR_CBR_Presentation_08312021_Accessible.pdf

From Martin Fox to Everyone:

Hello Workgroup members, The U.S. Department of Veterans Affairs, Palo Alto Healthcare System, has the largest locked mental health treatment facility (Building 520) in the United States. Many counties, including San Mateo County have Military and Veterans courts. Please let me know whether there are any California Department of Veterans Affairs efforts to solicit Diversion and Community-Based Restoration services support from the U.S. Departments of Defense and Veterans Affairs. Thank you for your service. Email: martyfox@juno.com

From sarah gordon to Everyone:

PC 4011.6 permits a client to be evaluated for civil commitment while also being booked on a criminal case. Clients who are referred for evaluation and receive LPS conservatorship could receive diversion under PC 1001.36. There is a small but serious population who might fit such a track--which would avoid an IST evaluation and finding.

From Matthew Greco to Everyone:

Is "DSH Diversion" program a CBR program or is it mental health diversion pursuant to PC1001.36?

From Chris Edens (DSH) to Hosts and panelists:

DSH Diversion is a separate program pursuant to PC 1001.36 but for a subset of this population as outlined in WIC 4361.

From Mark Gale to Everyone:

Regarding PC 4011.6 and Judge Manley's recommendation, could we also refer a potential DSH Diversion client being restored in the community for an AOT program possible in lieu of a conservatorship. It opens up another option.

From Mark Gale to Everyone:

This could be a shorter-term solution

From Chris Edens (DSH) to Hosts and panelists:

@Director Hobson - do you know of any specific reasons why facilities will not take someone directly from jail to help identify a potential solution?

From Lindsay Schachinger to Hosts and panelists:

I'm wondering about the seeming contradiction between people talking about default diversion and what Tony Hobson said about existing psych facilities being reluctant to take anyone from jail. Are people being diverted to special programs that take folks who have felony charges?

From Chris Edens (DSH) to Hosts and panelists:

@Pamila Lew - We recently expanded our LA ODR program by 200 beds in March 2021 and another 100 will activate very soon. In total, we'll have a total of 515 CBR beds in addition to the 240 DSH Diversion slots funded w/LA ODR.

From Tony Hobson to Hosts and panelists:

There are various reasons we are given. Some will state they do not accept inmates. Some will require them to be released from custody before accepting them because they do not discharge back to jail. Most will state the inmate is "too acute." This practice is clearly discrimination.

From Neil Gowensmith to Hosts and panelists:

Tony this is an identical problem (and various reasons) in Colorado. We are actively looking at statutory change for real change in this area, as persons in a medical emergency do not face these barriers.

From Matthew Greco to Everyone:

PC 1370(a)(1)(G) allows a jail medical or mental health staff provider to provide the court with substantial evidence that the defendant's psychiatric symptoms have changed to such a degree as to create a doubt in the mind of the judge as to the defendant's current mental incompetence, the court may appoint a psychiatrist or licensed psychologist to opine as to whether the defendant has regained competence. This is a 2 stage process. Report to the court then a subsequent evaluation. If this process is not followed the subsequent eval would not be authorized by statute.

From Mark Gale to Everyone:

Longer term solution: We are dependent on outside contracted providers who refuse to take the most challenging clients, to Dr. Hobson's point. To remove the capability to "cherry-pick" clients and refuse clients from the jail, why not develop DSH Diversion residential housing specifically designed for the waiting list population and administered by county DMH with a mandate that these programs take at least most of these clients. Obviously, these clients would have been found to be DSH Diversion-eligible. Public clients, public solution.

From Julie Enea to Everyone:

Neil, exactly.

From Martin Fox to Everyone:

The Lanterman-Petris-Short Act contains NINE, yes 9 separate grants of civil and CRIMINAL immunity for responsible government officials who decide to LIMIT or DENY treatment to persons living with Serious Mental Illness.

From Julie Enea to Everyone:

CC Psych Emergency will take an in-custody psych emergency only with 1 on 1 Sheriff supervision. In extreme cases, Sheriff must release the person from custody to CC Psych Emergency.

From sarah gordon to Everyone:

Need to jump off. Thank you all.

From Douglas Dunn to Everyone:

Using LPS Conservatorship to help reduce IST waitlist will never work for Contra Costa county. They all sent out of county based on out-of-county CCBHS contracts.

From Veronica Kelley CBHDA to Hosts and panelists:

Conservatorship cannot be an answer long term- that is literally just a shell game as a conservatee who has a felony background is also in the same predicament- same dx, same placement and treatment issues-

From Mark Gale to Everyone:

Please don't equate LPS Conservatorship and incarceration. AGAIN, they are not the same!

From Veronica Kelley CBHDA to Hosts and panelists:

Legally probation is appointed post adjudication so they have been reluctant to get involved in the diversion conversation because they don't have authority- not on formal probation...

From Stephanie Welch CHHS to Hosts and panelists:

helpful to know

From Jonathan Raven to Everyone:

Probation is heavily involved in our DSH program in Yolo County. Critical partner.

From David Evans to Everyone:

In Sonoma County...probation isn't involved with our Diversion program as they "have no legal authority" once pre-trial grant is terminated. Is pre-trial continued in these other counties while a person is Diversion Court so probation can remain involved?

From Veronica Kelley CBHDA to Everyone:

Legally probation is appointed post adjudication so they have been reluctant to get involved in the diversion conversation because they don't have formal authority- not on formal probation

From Amanda Rosen to Everyone:

Pre-trial release is continued in Fresno County to keep probation involved.

From Jonathan Raven to Everyone:

David, our hook with Probation is we have our participants on SOR - Supervised OR. That give them the legal authority.

From David Evans to Everyone:

Thank you Jonathan and Amanda!

From Christopher Geiger to Hosts and panelists:

I've heard that harm reduction policies have been taken to such extremes in some diversion programs that it is seriously compromising the cultural integrity of the service environment, which reportedly is negatively affecting outcomes.

From Ashley Breth - DSH to Everyone:

For existing TA/webinars, please visit: https://www.dsh.ca.gov/Treatment/DSH_Diversion_Program.html

From Jonathan Raven to David Evans and all panelists:

Do you have pre-trial release (SOR)? What county?

From Veronica Kelley CBHDA to Everyone:

Conservatorship cannot be an answer- that is literally just a shell game as a conservatee who has a felony background is also in the same predicament- same dx, same placement and treatment issues with no funding

From Mark Gale to Everyone:

Thank you, LD

From Michelle Cabrera to Everyone:

To clarify, our public health system in this context appears to reference our county public guardians/conservators as well as the county behavioral health system which is needed for those individuals who meet LPS conservatorship criteria, which is not for everyone.

From Douglas Dunn to Everyone:

I have a public comment.

From Anita Fisher-CCJBH/Family Member to Hosts and panelists:

Would it be legally viable, under a conservatorship with IMO, and support from a CBR program to send the individual home? This could assist with lack of housing. In many cases, families would accept their family members home with SUPPORT. Families would rather have his than visit their acutely ill family member in a prison and still not receiving adequate treatment.

From Veronica Kelley CBHDA to Everyone:

while we absolutely need to fund PAPG statewide- moving people from one wait list to another is just that a move of people from one wait list to another- treatment and the manner in which that can be provided to people in community and the process of how that gets accomplished should be the focus. and we want to get there- but NOT by kicking the can....

From Douglas Dunn to Everyone:

Since my mic is not working, 2 points:

From Douglas Dunn to Everyone:

1. Nothing can happen without necessary funding. 2: The separate funding track (DHCS) means this population will be returned to jail until the competitive based funding is secured. This is the case in Contra Costa County.

From Martin Fox to Everyone:

The Lanterman-Petris-Short Acts nine separate grants of civil and CRIMINAL immunity are limited to officials, which means that contracting organizations are subject to civil and CRIMINAL liability for improvidently releasing a person who later becomes a defendant again. Consequently, the LPS Act encourages contractors to cherry pick candidates for their programs.

From Kate Warburton DSH to Everyone:

(H) (i) The State Department of State Hospitals may, pursuant to Section 4335.2 of the Welfare and Institutions Code, conduct an evaluation of the defendant in county custody to determine any of the following:

(I) The defendant has regained competence.

(II) There is no substantial likelihood that the defendant will regain competence in the foreseeable future.

(III) The defendant should be referred to the county for further evaluation for potential participation in a county diversion program, if one exists, or to another outpatient treatment program.

Steven Jackson to Everyone:

A big assist in removing access to consumers would be for DSH to leverage authority and vet the list for those that would be a good fit for diversion, since not all counties have the level of access to consumers that LA County has.