



CBHDA and CSAC IST Working Group #1 Early Access to Treatment and Stabilization for Individuals Found IST on Felony Charges Recommendations

The Department of State Hospitals (DSH) has identified that one of the main reasons why individuals deemed incompetent to stand trial (IST) or at risk of being found IST are not diverted into the community is the lack of stabilization in custody. The County Behavioral Health Directors Association (CBHDA) and California State Association of Counties (CSAC) agrees that there is more that could be done in custody and in jail mental health to both reduce the number of individuals deemed incompetent to stand trial as well as more quickly return individuals to the community. CBHDA and CSAC will submit recommendations for short, medium, and long-term solutions. This set of recommendations focuses only on those recommendations that can be initiated or implemented in the short-term timeframe. If you have any questions, feel free to reach out to Michelle Cabrera (mcabrera@cbhda.org) or Farrah McDaid Ting (fmcting@counties.org).

Proposed Short-Term Solutions:

- **State Funded Technical Assistance to expand use of IMOs, when appropriate, in jail settings.** Penal Code (PC) Section 2603 allows for the use of involuntary medication orders (IMO) approved by the court. However, there have been challenges in implementing this option across the state including hesitation from jail staff and contracted jail health providers, resourcing difficulties, lack of designation of jail as treatment facility under PC 1369.1, dedicated space to administer medication and provide monitoring, and inability to transfer patients to county hospitals or dedicated jail units of hospitals to administer medication.

These barriers result in individuals that could benefit clinically from the use of an involuntary medication order being more likely found IST and sent to the state hospitals if charged with felonies. Assistance from the state in training, clinical staff capacity, and leading the conversation to bring the parties involved to the table to spread the use of involuntary medication orders across the state could lead to much earlier stabilization of individuals that could be diverted into the community rather than going to DSH.

- **Expand the use Long-Acting Injectables in Jail Settings.** CBHDA and CSAC believe that a simple fix would be to partner with counties to establish new requirements and incentives to increase the use of long acting injectable (LAI) medication for both mental health and substance use disorder treatment, including for those individuals under an IMO. LAI medications have been proven to prevent future treatment resistance, prevent relapse, and improve medication adherence. In addition, LAIs reduce the need for the staffing and risks to patients and staff posed by daily administration of involuntary medications and prevent diversion of medication. Given their efficacy, LAIs should be more broadly adopted as part of the formulary for jail treatment settings. As a part of this strategy of adoption, the state should monitor and report the rate at which jails achieve the following:
 - **Adoption of LAIs as part of the jail-based treatment formulary.**
 - **Updates to policies and procedures to encourage the use of LAIs for mental health and substance use disorder conditions when appropriate, including for any patient with psychosis.**

- **Establishment of any new staffing, including training and updated policies and procedures to support the administration of LAIs as part of IMOs.**
- **Prioritize community-based restoration and diversion by:**
 - 1) **Allowing an individual deemed IST with felony charges who is awaiting treatment with DSH to retain their place on the waitlist; and,**
 - 2) **Improving communication between DSH and local courts so that a person is not removed from diversion prematurely if a bed is available at DSH.**

CBHDA's members in some counties have reported a reluctance to support diversion on the part of court partners (public defenders, district attorneys, etc.) due to a concern that the individual needs the higher level of treatment available through DSH. Although CBHDA and CSAC agree that DSH is a more appropriate treatment setting for some, when an assessment is made that a person may be a strong candidate for in-community treatment, that decision should be supported by improving the individual's access to that higher-level treatment should community-based restoration or diversion not succeed, and by preventing the transfer of an individual who is finding success in diversion or community-based restoration to DSH. CBHDA and CSAC believe this approach may build the support among court partners needed to expand the application of community-based restoration locally.

- **Improved Discharge Planning from State Hospitals.** Counties have identified that the process for discharging felony ISTs and other populations from the state hospitals must be strengthened. Currently county behavioral health is often not notified at all or notified timely upon discharge from DSH or JBCT, or, or upon a determination that the individual has been deemed non-restorable. This lack of communication to county behavioral health limits the county's ability to plan for the individual's return to community, given their vulnerability. Existing reporting is required from the state hospitals at regular intervals to the court and community program director on the status of progress towards restoration to competency. We believe that DSH should, as part of regular reporting to the court on the status of restoration of felony ISTs, include information to county behavioral health. In addition, DSH should update its procedures to engage county behavioral health in discharge planning at a minimum of 10 business days prior to discharge. These changes would strengthen linkages to community-based level of care. Counties have had some success in improving communication and coordination between CDCR and county behavioral health in the last year which could serve as a model for how to improve warm hand-offs at discharge.