

IST SOLUTIONS WORKGROUP – FEEDBACK ON DRAFT RECOMMENDATIONS

REVIEWER NAME: Francine Byrne

#	Strategy	Type	Potential Impact	Other Considerations and Comments
S.6	<p>Provide training and technical assistance for Court appointed evaluators to improve the quality of the reports used by courts in determining a defendant is incompetent to stand trial. Etc.</p> <p>This should also include increasing funding to the courts for court appointed evaluators. This item is currently listed as a Medium-Term Strategy, and it should also be prioritized as a Short-Term Strategy to avoid exacerbating the persistent challenge to courts in locating well trained evaluators whose rates can be accommodated within court budgets.</p>	Funding should be included		<p>A rule of court change is a good idea, but can take up to a year, so that specific strategy would not be a short-term solution.</p> <p>Providing training to evaluators is vital in improving the quality of reports. Highly trained evaluators often request higher rates from the courts for their services. It is of equal importance to provide training for evaluators as it is to fund courts to ensure that courts can reasonably afford higher rates.</p>
S.7	<p>Prioritize community-based restoration and diversion by:</p> <ul style="list-style-type: none"> • [...] • Recommend adding: Improving communication between DSH and local courts in collaboration with the Judicial Council so that a person on the waitlist is not removed from diversion consideration prematurely when a bed becomes available at DSH. 			<p>Suggest adding in the Judicial Council of California to this bullet point. Ex. Improving communication between DSH and courts, in collaboration with the Judicial Council. We have internal branch communication resources that can help with this.</p>
M.1	<p>Statutorily prioritize community outpatient treatment and diversion for individuals found incompetent to stand trial on felony charges for individuals with less severe behavioral health needs</p>			<p>Requiring a separate hearing for diversion eligibility is going to place a burden on the Courts,</p>

	<p>and criminogenic risk and reserve jail-based competency and state hospital treatment for individuals with the highest needs. Options include:</p> <ul style="list-style-type: none"> • [...] • Recommend excluding this bullet: Treat penal code 1170(h) felonies consistent with SB 317 (Chapter 599, Statutes of 2021) which requires a hearing for diversion eligibility, if not diversion eligible, a hearing to consider assisted outpatient treatment, conservatorship, or dismissal of the charges. • Recommend adding: Change presumption of appropriate placement to outpatient treatment or diversion for felony IST and require judicial determination based on clinical needs or high community safety risk for placement at DSH or in a jail-based treatment program, and a determination that existing community resources are available to place a felony IST client in treatment. • Reform exclusion criteria of diversion under PC 1001.36 to “clear and present risk to public safety” rather than “unreasonable risk to public safety” • Recommend adding: Statutorily require the use of structured mental health risk assessments to assist in identifying defendants that should be eligible for diversion or community treatment • Mandate judicial consideration of diversion at the outset of criminal proceedings for mentally ill defendants. 			<p>and it would require funding to implement.</p> <p>Regarding the second bullet, AOT is basically a civil process with limited options to the Judge, and outright dismissal in a felony case would put any Judge in a very difficult position.</p> <p>The third bullet should also include a determination that existing community resources are available to place a felony IST client in treatment.</p> <p>Regarding the fourth bullet, this will take a number of changes by the Legislature to 1001.36 where the Legislature has already spelled out a definition.</p> <p>Regarding the fifth bullet, it is important to specify the type of risk assessment in the last bullet point. SB 10 mandated the use of pretrial risk assessments and was overturned by voters. Additionally, if you are going to require a risk assessment, you should also require a needs assessment and who will perform these –the alienists, the Jail, CONREP?</p> <p>Regarding the sixth bullet, how practically would a Judge make this determination at the time of</p>
--	---	--	--	--

				<p>booking, or filing of complaint, or arraignment when a doubt has not been raised regarding the defendant's competence which is normally done by the defense attorney and depends initially on the basis given by the attorney?</p> <p>How can you know that the defendant is not able to communicate with his or her attorney, if the determination is made before there has been time for the attorney to talk to the client in detail?</p>
M.2	<p>Provide increased opportunities and dedicated funding for intensive community treatment models for individuals found IST on felony charges. Options include:</p> <p>Recommend adding:</p> <ul style="list-style-type: none"> • [...] • Crisis Residential and similar unlocked facility • Substance abuse residential treatment • Medical detoxification programs or facilities 			
M.4	<p>Establishing statewide pool of court-appointed evaluators and increase the number of qualified evaluators</p> <ul style="list-style-type: none"> • [...] Etc. 			<p>This should be a short term strategy because if we cannot obtain these evaluations because of lack of evaluators and lack of a realistic schedule for competitive payment, we will simply continue a system of delay and not receive the help of evaluators in the courtroom for the Judge to make determinations regarding competency and diversion.</p>

M.5	<p>Improve statutory process leading to finding of incompetence or restoration to competence:</p> <ul style="list-style-type: none"> • [...] Etc. 	Funding should be included		Additional funding for the courts is needed to implement this recommendation. To do this will require funding for sufficient evaluators before a discussion of timeframe limits.
M.7	<p>Revise/improve involuntary medication order statutory process:</p> <ul style="list-style-type: none"> • [...] • [...] • Remove special designation requirements for jails to be able to provide involuntary medications for felony ISTs and allow jails to provide involuntary medications when needed and there is a court order. 			Regarding the third bullet, this will require training and education. Jails do not always willingly follow these orders, nor do they have the training to implement them. The same is true with community providers where they are equally concerned about liability and appropriate care for the patient.
M.8	<p>Develop stabilization inpatient capacity prior to placement in diversion programs.</p>	Funding should be included		This should start with a screening and assessment and this will have to be funded by the State because most jails do not have this capability at the present time.
M.9	<p>Provide funding to expand support services to increasing utilization of diversion and community-based restoration for felony ISTs, including:</p> <ul style="list-style-type: none"> • [...] Etc. 			Suggest that the State takes advantage of the new Cal-AIM program to fund these services.
M.10	<ul style="list-style-type: none"> • Support individuals with serious mental illness remaining stable in the community Psychiatric Advance Directives (PADs) - peers would assist with the completion of the PADs (see above for peer costs). • Enhance funding to the public guardians to ensure people with serious mental illness are appropriately placed in the continuum of care 			Agree that we need more Public Guardians. Also needed is more secured or locked facilities to place individuals in who need that level of care. Additional public guardians will not be effective without appropriate treatment options.

M.11	Explore alternative jail-based competency and community-based restoration contract models to support Sheriff's in subcontracting to community facilities for treatment rather than providing in-jail competency treatment.			It should be a stated goal to move completely away from jail-based competency restoration eventually. We are concerned that sheriffs may not be the appropriate contracting party for community treatment and contracting through the Sheriff may inadvertently encourage inefficient funding and treatment silos. County Behavioral Health may be more appropriate option.
M.12	Expediting assessment and treatment immediately upon booking of defendants with serious mental illness, including: <ul style="list-style-type: none"> • [...] Etc. 			Fully support. And this is where funding through Cal-AIM and the State can make a real difference and not add costs to the counties.
M.13	Establish requirements and/or provide incentives/enhanced rates to support increased community-based treatment and housing for justice-involved individuals with SMI, including to: <ul style="list-style-type: none"> • [...] Etc. 			Incentives and providers who will contract with existing housing and landlords to assure that the landlords will have security regarding property damage and other issues. Consider funding these providers on a "pay for success" model based on the number of individuals released from the jail and actually placed in existing housing units in the community (rather than trying to build our way out of homelessness) and demonstrating that the individuals stay in that housing.
M.14	Provide flexibilities, and expedited licensing to increase access to inpatient beds and housing, including:			This is essential if we are going to increase capacity in the foreseeable future and not be in

	<ul style="list-style-type: none"> [...] Etc. 			the position of waiting three years for the facility to be finally build, licensed, and approved.
M.15	Revise DSH's Conditional Release Program (CONREP) Community Program Director Role and/or placement criteria to facilitate increased felony IST placement to CONREP and Diversion programs.			Very important at the crucial decision hearing where the Judge will decide whether to divert or commit the defendant. The CONREP's that are not under County Behavioral Health have no real connections to community treatment and in many counties never recommend community treatment. Their role should be redefined by DSH and they should not be the entity making placement recommendations.
L.2	Support effective implementation of the proposed Cal-AIM (California Advancing & Innovating Medi-Cal) components that impact the justice involved, including: <ul style="list-style-type: none"> [...] Etc. 			Essential and should start now in terms of planning and should be considered short term or counties may miss opportunities and MCP's may not include optional services that are essential for criminal justice involved mentally ill individuals.
L.3	Develop quality improvement oversight/peer review of court-appointed evaluators and their reports, may include: <ul style="list-style-type: none"> [...] Etc. 			This is fine as written but the implementation will require a significant amount of collaboration and funding. Need to identify who will provide the oversight and peer review and consider the role of the trial courts .
L.4	Increase opportunities for alternatives to arrest and pre-booking diversion, including: <ul style="list-style-type: none"> [...] Etc. 			Some of these suggestions, such as sobering /triage stations can be funded with Cal-AIM money with no match required by the

				County. There may be opportunities to leverage resources with court pretrial programs. Consider making this a short-term goal because it is an optional program for the MCP's.
L.5	<p>Expand community treatment and housing options for individuals living with serious mental illness justice-involved individuals, including:</p> <ul style="list-style-type: none"> • [...] Etc. 			Should be a priority and also short term goal because these individuals often will need the highest modalities of community mental health treatment, and that will require State funding, and as to all these bullets, we need to give CJ mentally ill individuals a priority.
L.6	<p>Develop new licensing category for enriched and intensive community treatment options for individuals living with Serious Mental Illness including individuals who are justice-involved which may include provisions of mental health, health care, and intensive support services in a home-like setting:</p> <ul style="list-style-type: none"> • [...] Etc. 			Agree and we should use the model developed for those with developmental disabilities.
L.7	<p>Facilitate appropriate information sharing and support cross-system data initiatives across State, courts, and local entities that serve ISTs.</p> <ul style="list-style-type: none"> • Develop State Health Information Guidance on sharing health and housing information in the context of serving people involved in the criminal justice systems, including the development of standard authorizations for release of information and MOU's. • [...] 	Training and technical assistance should be included		<p>Agree, with emphasis on helping the counties identify gaps in their treatment modalities.</p> <p>Previous attempts to develop statewide health information sharing guidance by CalOHI included criminal justice scenarios yet had trivial impacts across criminal justice systems. If this recommendation is adopted, training and technical assistance would be advised to ensure this</p>

				recommendation achieves its intended outcomes.
L.8	<p>Support the development and expansion of a culturally and linguistically competent workforce to meet an individual's forensic and behavioral health needs, including:</p> <ul style="list-style-type: none"> • [...] Etc. 			<p>Agree and forensic fellowships and similar programs are a real and unutilized or under-utilized option in many counties. This will require funding, and coordination with existing Medical Schools, Universities and Hospitals. Peer support navigators can be funded through MCP's and should be a short-term objective. NAMI should be asked to design a family support plan.</p>