Incompetent to Stand Trial (IST) Diversion Program

September 26, 2018 Program Implementation Partners Meeting

Hosted by the California Department of State Hospitals

~ Caring Today for a Safe and Healthy Tomorrow ~
Increased IST Referrals & Pending Placements from 2013-14 to 2017-18

- 60% increase in referrals (232 to 372 per month)
- 139% increase in average pending placements (343 to 819 per month)

Addressing the Increase...
Capacity and Systems Improvement

- Increased Bed Capacity since 2012-13
  - State Hospital – 411 beds
  - Jail-Based Treatment/AES – 309 beds

- Patient Management Unit

- Reduced Average Lengths of Stay
  - State Hospitals – 152.6 days
  - JBCT – 69.4 days

- Legislative Changes
  - AB 2186 (2014) - Streamlined Involuntary Med Process
  - AB 2625 (2014) – Unlikely to Regain Competency; Unrestored – 10 days to return to court
  - AB 1810 (2018) – Court order re-evaluation
Capacity and Systems Impacts

- Increased number of ISTs served
  - State Hospitals – 19% increase since 2012-13
  - JBCT – 557% increase since 2014-15
- Waitlist Continued to Grow
- Increase in Referrals Outpace Capacity Growth

*Understanding the Demand...*
Graph 18: Percent Change in Inpatient Incompetent to Stand Trial Population, 1999-2014

Based on the 26 States with Numerical Data for 1999, 2005, and 2014

*Notes: 27 states had numerical data. However, NH was removed since it had 0 IST patients for 1999, 2005, and 2014.
GA had a percent change of 302% for 1999-2005 and 344% for 1999-2014.
MD had a percent change of 409% for 1999-2014.
UT had a percent change of 629% for 1999-2005 and 1129% for 1999-2014.

Sources: 2017 NRI Inpatient Forensic Services Study, and 1995-2015 State Mental Health Agency Profiling System
No significant changes over time - Malingering, Substance, Probably Competent, Primary Diagnosis, Age
Significant Change – Percent of patients with 15+ prior arrests (from 18% to 45%)
Demand: DSH Statewide IST Admissions Study 2016-17

Lack of Housing

Percent Homeless in California

<table>
<thead>
<tr>
<th>Percent of population</th>
<th>Homeless</th>
<th>Unsheltered homeless</th>
<th>Unsheltered IST</th>
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<tbody>
<tr>
<td>Percent</td>
<td>0.3009</td>
<td>0.1997</td>
<td>47.2</td>
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47% of ISTs did not access Medi-Cal benefits in the 6-month period leading up to their arrest.
What’s Next...

- Increase JBCT Capacity
- Increase forensic bed capacity at DSH-Metro (236 beds)
- Implement LA County Community-Based Restoration
- Implement IST Diversion Program
Mental Health Jail Diversion

Programs designed to redirect individuals with mental illness from the criminal justice system into treatment

**Sequential Intercept Model**

Diagram showing the different intercepts in the process of diverting individuals with mental illness from the criminal justice system.
# MH Jail Diversion and IST Diversion

<table>
<thead>
<tr>
<th>Diversion of Individuals with Mental Disorders</th>
<th>IST Diversion Program ($100M)</th>
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<tbody>
<tr>
<td>Penal Code 1001.35 – 1001.36</td>
<td>Welfare and Institutions Code 4361</td>
</tr>
<tr>
<td>Felony and Misdemeanors</td>
<td>IST on felony charges or potential to be found IST on felony charges</td>
</tr>
<tr>
<td>DM Diagnosis, excluding antisocial personality disorder, borderline personality disorder, and pedophilia</td>
<td>Schizophrenia, Schizoaffective Disorder, or Bipolar Disorder</td>
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Diversion of Individuals with Mental Disorders (AB 1810/PC 1001.35-1001.36)

- Creates **pre-trial** diversion for individuals with DSM dx charged with felony or misdemeanor
  - Excludes: antisocial personality disorder, borderline personality disorder, and pedophilia
- Mental disorder played a significant role in the commission of the charged offense
- Qualified mental health expert opines the defendant’s symptoms motivating the criminal behavior would respond to mental health treatment
Diversion of Individuals with Mental Disorders (AB 1810) – Cont.

- Allows the court to grant diversion if a mental health treatment program agrees to accept responsibility for the treatment of the defendant
- Diversion period is up to 2 years
- Charges are dismissed upon successful completion of the diversion program
Diversion of Individuals with Serious Mental Disorders
PC 1001.35 – PC 1001.36

$100M
IST Diversion Program
WIC 4361
Demonstrate effective strategies and community-based programs that can support the diversion of ISTs and/or individuals at risk of an IST finding on a felony charge from incarceration

Reduce felony IST referrals to DSH

Integrate individuals into long term community treatment after diversion to reverse cycle of criminalization
IST Diversion Program: What is it?

$100M investment over 3 years to increase diversion opportunities for individuals likely to be or found IST on felony charges

DSH will contract with counties to:
- Expand existing diversion programs
- Establish new diversion programs
- Focus on post-booking programs

Promote a collaborative and flexible approach to address the long-term, comprehensive needs of this population.
Primary diagnosis of schizophrenia, schizoaffective disorder, or bipolar disorder

Correlation between symptoms of mental illness and/or conditions of homeless and the instant offense

Does not pose a significant safety risk if treated in the community
IST Diversion Program: Services

- Evidenced-based community mental health treatment and wraparound services
- Services along a continuum of care
- Based on individual needs of the diversion program participant
- Services may include, but not be limited to:
  - Forensic Assertive Community Treatment Teams
  - Intensive Case Management
  - Criminal Justice Coordination
  - Crisis Residential Services
  - Peer Support
  - Supportive Housing
  - Substance Use Disorder Treatment
  - Vocational Support
IST Diversion Program: Additional Services/Requirements

DSH may also contract with counties to fund the following services:

- Post-booking assessments of defendants to determine whether a defendant will benefit from diversion services
- Up to 15 days of in-jail treatment pending transfer to a diversion program

Counties will be required to provide outcomes data to DSH
IST Diversion Program: Funding

$99.5M to be awarded to counties

- Primarily focused toward the 15 counties with the highest number of IST referrals to DSH
  - Alameda, Contra Costa, Fresno, Kern, Los Angeles, Riverside, Sacramento, San Bernardino, San Diego, San Joaquin, Santa Barbara, Santa Clara, Solano, Sonoma, Stanislaus

- Up to $8.5M (of the $99.5M) available for other counties

- 10-20% matching requirement by counties
Vision and Goals

Program Partnership: Council of State Governments Justice Center

Program Partnership: Council on Criminal Justice and Behavioral Health (CCJ BH)
CCJBH is to provide consultation to the Department of State Hospitals (DSH) when evaluating proposals from the counties participating in community diversion programs that demonstrate the potential to reduce referrals to DSH for competency restoration.
Opportunities:

- Champions of Diversion – Support Long-Term System Change
- Support County Partners - in Criminal Justice and Behavioral Health Systems
- Bring Attention and Awareness to a Critically Unserved, Underserved, and Inappropriately Served population
  - Unsheltered Homeless
  - Serious and often Untreated Mental Illness
  - Multiple, if not dozens, of Arrests and Interactions with Criminal Justice System
IST Diversion Program
Application for Funding

$100M
IST Diversion Program
WIC 4361
IST Diversion Program: Application for Funding

Our Approach:

- Provide Local Discretion & Flexibility
- Non Competitive Funding Process for Top 15 Counties
- Extended Timeframes for LOI Development
- Technical Assistance and Support for LOI Development and Funding Process
- Maximize the potential to develop effective pre-trial diversion programs for Felony IST population
- Ensure full distribution of authorized funds
IST Diversion Program: Application for Funding

Use Request for Letters of Interest (RLOI) process

RLOI developed in partnership with:
- CSG Justice Center – founding partner of the Stepping Up initiative
- Executive Director, CCJBH
- Stakeholder Feedback
IST Diversion Program: Application for Funding

RLOI Process/Responses

- Intent to Respond
- Identify Lead Organization – One Per County
- Counties submit response to series of questions that will help gauge:
  - Local Planning & Collaborative Efforts
  - Proposed Use of Diversion Funds
  - Key Program Elements
  - Challenges & Gaps
- Proposed Cost for Local Diversion Program
  - Matching Funds and other Leveraged Resources
IST Diversion Program: Application for Funding

Interactive Process for LOI Review
- Follow-up meetings between state and county partners
- Technical Assistance Opportunities

Counties will have an opportunity to update LOI submission
IST Diversion Program: Application for Funding

LOI submissions should be responsive to the following components:

- Potential to reduce felony IST referrals to DSH
- Demonstrates provision of clinically appropriate wraparound services
- Demonstrates collaborative approach with criminal justice/behavioral health partners
- Demonstrates linkage to ongoing services in the community
IST Diversion Program: Funding For 15 Counties

- Maximum Allocation Funding for Top 15 Counties = $91M
- Goals for Distribution of Funds
  - Fair & Equitable Process
  - Flexibility In How Funds are Utilized
  - Identify Target Population To Be Served
  - Full distribution of authorized funds
Funding IST Diversion Programs: Methodology

Major Program Goal: Reduce IST Referrals 20-30% to DSH as compared to FY 2016-17

Establish IST Diversion Population

  Target reduction to IST referrals for each county = population to be served

  Adjustment for counties with high volumes to ensure funding availability for all top 15
Establish standardized allocation rate per client
  Total Funds / Target IST Reduction = Allocation Rate

Apply Allocation Rate to Target Population Range
  Establish Allocation for Top 15 Counties

Allocation = Benchmark for LOI Development
IST Diversion Program: RLOI Timeline

October 2018 – RLOI Release
- Interested Counties Notify DSH of Intent

November 2018 – RLOI Technical Assistance Meeting
- Q & A Session
- Technical assistance in developing LOI response

LOI Response Due Dates
- 3 due dates to stagger submissions and provide additional time for counties as needed
Funding IST Diversion Programs

- Fund Distribution via Contracts

- County Match Requirement: 10%-20%
  - Up to 5% for Program Development & Evaluation

- Leveraging Other Mental Health Funding
  - Funding Sources to Consider
IST Diversion Program: Outcomes Reporting Requirements

Minimum data elements that must be provided to DSH within 90 days prior to the end of each quarter:

- Number of individuals and length of time ordered to diversion
- Number of individuals declared IST with felony charges ordered to diversion
- Number of individuals participating in diversion
- Participant’s SSN, DOB, and demographics (age, sex, etc.)
- Length of time in diversion
- Services and support provided to participant while in diversion
- Number of days participant was in jail prior to placement in diversion
- Number of days spent at each level of care facility available in diversion
- Participant’s diagnoses
- Participant’s charges
- Number of participants that successfully complete diversion
- Names, SSN, and DOB of participants who do not complete diversion and why
IST Diversion Program: Next Steps

Sept 2018 – Meeting with Diversion Implementation Partners: Review Funding Opportunity & Solicit Feedback

Sept/Oct 2018 – Finalize Request for Letters of Interest (RLOI)

Oct 2018 – Release RLOI

Nov 2018 – Interactive Session with Interested Counties to Support LOI Development

Post Nov 2018 – Review LOI Submissions, Develop Contracts in Partnership with Counties
Thank You!

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