



# **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

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

Working Group	Short (April 2022)	Medium (Jan 2023)	Long (Jan 2024+)
# 1	7	22	3
# 2	12	7	7
# 3	10	20	
Total	29	47	10*

\* Long-term solutions under development; to be discussed in Meeting #3 of each working group.



# Overview of Solution Types

Solution Type	Working Group #1	Working Group #2	Working Group #3
Policy Change (including statutory)	3	13	6
Admin/Operations	8	5	
Funding	2	1	7
Tech Assistance/Training	5	4	6
Treatment Capacity	8	3	
Standards/Accountability	3		8
Technology	1		1
Communication	1		
Research/Information Sharing	1		2

# 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 evaluatee 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 IMO's)
- 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 IMO
- 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

# Medium-Term Solutions Discussion (by 1/10/2023)

Ref.	Strategy	Statutory/Administrative Changes Needed
1	Establish dedicated (increased) funding pool with standards and accountability/quality oversight to support increased funding for and quality of reports	
2	Identify low-quality evaluators and establish mechanism to exclude	
3	Provide legislative clarification that psychologists can opine on IMOs	
4	Change statutory language from “may” to “shall” consider and make specific findings as to whether or not the defendant would be appropriate for diversion	
5	Statute change to require alienist recommendation of probability of restoration – address neuro-cognitive disorders and medical factors)	
6	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)	
7	Identify administrator to assemble packet with key legal docs for evaluation	
8	Identify demographics and cultural and linguistic competence of evaluators. Ensure training of alienists include information on discrepancies and biases in evaluations.	
9	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	



# Long-Term Solutions Discussion (by 1/10/2024 or 2025)

Problem	Strategy	Statutory/Administrative Changes Needed
Work force	Dedicated and increased funding for fellowships around the state	



# 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](mailto: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/>

