

Department of State Hospitals Growth Cap Program Expenditure Plan

Point of Contact Information

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County: Monterey

- A. Program/Project Title:** County of Monterey Mental Health Diversion Expansion
B. Project Funds: \$1,425,000
C. IST Impact: Post-Booking Mental Health Diversion

This funding would expand the reach of mental health diversion under Penal Code section 1001.36 to individuals charged with a felony and pending a competency determination. The use of Growth Cap funds will reduce felony IST commitments by identifying suitable candidates post-booking and before an IST determination. In FY 2023-24, there were 83 defendants in Monterey County who were committed because they were found incompetent to stand trial. A granular review of these cases ascertained that approximately 1/3 of those individuals were appropriate for diversion if the Project Scope (see below) had been in effect.

D. Project Scope

Pursuant to Welfare and Institutions Code section 4336(c)(2)(B), \$1,425,000 will be directed to post booking mental health diversion to serve those with serious mental illness and who are likely to be found incompetent to stand trial, to prevent the incompetent to stand trial determination, and divert the individual from incarceration. The target population that shall be served are individuals diagnosed with a mental disorder as identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, including, but not limited to, bipolar disorder, schizophrenia, and schizoaffective disorder but excluding a primary diagnosis of antisocial personality disorder and pedophilia, and who are presenting non-substance-induced psychotic symptoms. The amount of funds shall equal the amount invoiced by DSH. After declaration of a doubt concerning competence and a forensic conclusion by a clinical psychologist or psychiatrist that a defendant is presently IST and eligible for diversion, all persons charged with the following felony crimes shall be evaluated by the Public Defender and District Attorney for suitability for diversion: vandalism, obstructing or resisting an officer, arson, and theft, including taking a vehicle without the owner's consent. In addition, any other case deemed worthy of review by the Public Defender shall also be reviewed by the District Attorney.

Following review by the Public Defender and District Attorney and prior to a recommendation of diversion being made to the court, there will be a review by an Interdisciplinary Team (IDT) comprised of representatives from the Public Defender, District Attorney, Probation, and Behavioral Health to determine whether to move forward with a recommendation of diversion. From a granular review of these cases, appropriate candidates for diversion will be identified. Upon agreement by the IDT, and in compliance with Penal Code section 1001.36, the Public

Defender and District Attorney will recommend diversion to the court in lieu of further IST proceedings, including a competency finding.

The Public Defender will require both attorney and social worker involvement from the outset to successfully implement the proposed diversion program. Attorneys will provide the necessary legal advocacy, case review, and court representation, while social workers will contribute their specialized training in engaging clients with mental health challenges, conducting assessments, and connecting them to appropriate services. Together, this collaboration ensures early engagement, thorough case preparation, and coordinated support throughout the diversion process. By integrating legal expertise with behavioral health resources, the program will foster better client outcomes, reduce recidivism, and relieve pressure on the judicial system and the Department of State Hospitals. The total annual cost for these combined services is \$170,000.

The District Attorney will require both victim advocate and attorney involvement to ensure that victims are fully informed and that diversion cases are handled efficiently. The victim advocate will serve as the primary point of contact for victims, explaining the incompetent to stand trial determination and any court-ordered diversion, determining restitution amounts for hearings and orders pursuant to Penal Code section 1001.36(f)(1)(D), keeping victims apprised of proceedings while a defendant is on diversion, and ensuring that victims are informed of their rights under Article I, section 28(b) of the California Constitution (Marsy's Law). Attorneys will provide the necessary legal review, case preparation, and court representation to support these cases from start to finish. The combined annual cost for these services is estimated at \$170,000.

Behavioral Health will receive referrals from the Public Defender and will review the referral packet, including the report of forensic conclusion by a clinical psychologist or psychiatrist that a defendant is presently IST and eligible for diversion, and proceed with further internal review and clinical assessment. This will include meeting with the incarcerated person at the county jail for outreach and engagement, and to conduct further behavioral health screening and assessment as needed to determine eligibility and appropriate level of care placement recommendations, and availability/suitability of community-based options. Behavioral Health treatment recommendations will be reviewed at IDT.

In instances where IDT recommends moving forward with recommendation to the court by the Public Defender and District Attorney for diversion, Behavioral Health will proceed with preparing the required treatment plan report to be used in the court's consideration and determination of the appropriateness for diversion.

Behavioral Health will provide case management for those granted diversion by the court throughout the duration of the diversion program, provided individuals remain residents of Monterey County and are eligible for Specialty Mental Health Services in Monterey County. This will include coordinating additional care and treatment as needed by the individual and providing referrals to appropriate services and treatment providers. Behavioral Health to provide regular progress review updates on these diversion clients to the court.

Behavioral Health will require a multi-disciplinary team made up of Social Workers, Psychiatric Social Workers, and other Behavioral Health professionals to provide the required outreach, engagement, screening, and assessment in the county jail, which is not billable to Medi-Cal or other funding streams. Behavioral Health will need funding to review records, prepare court reports, and for staff time in court, which are also non-billable activities. The estimated costs for these activities are projected at \$651,000.

Probation will assist in the IDT screening of potential cases for consideration for potential release to the community and provide input about community supervision, including making recommendations for the appropriateness of electronic monitoring or imposition of other special pretrial monitoring conditions, such as alcohol and narcotic screening, appropriate treatment referrals, and monitored compliance with any prescribed medications and treatment recommendations made by Behavioral Health.

If the case is approved by the court for pretrial release from custody to diversion services, the assigned probation officer will work directly with the Behavioral Health care coordinator and the medical provider in the jail to ensure they have appropriate medications and prescriptions upon release, coordinate appropriate referrals and transportation to services and/or housing identified in the treatment plan, and provide support and supervision while in the community. Once released, individuals will be monitored by Pretrial Services and expected to engage in treatment services as directed by the Court and recommended by Behavioral Health, as well as comply with other terms and conditions ordered by the Court. Individuals will be expected to attend all court hearings and will be considered to have successfully exited the program once their diversion program is deemed resolved by the court. The Probation Department will provide regular input to the court regarding compliance with pretrial release conditions of supervision and progress made towards rehabilitative goals, as appropriate.

The Probation Department will need funding to provide pretrial supervision of these offenders in the community, including the cost of any electronic monitoring technology that may be required as a component of their participation. Additionally, the Probation Department would require funding to assist with the review of records, preparation of court reports, and staffing requirements for court appearances. The estimated costs for these activities are projected at \$434,000.

E. Project Outcomes

Based on our review of ISTs from FY 2023-24, over 37% of ISTs were eligible and suitable for diversion based solely on the charges listed in our Project Scope. Upon a granular review of those cases from FY 2023-24, including the case facts, defendant's prior record, and Penal Code section 1001.36, 80% of these defendants would have been deemed eligible and suitable for diversion under our Project Scope, totaling 25 defendants. That fiscal year we were 25 defendants over our IST cap. Therefore, we believe the scope of our project as designed will bring us within our cap moving forward. Once our project is initiated, a granular review of other cases with other charges should yield additional defendants who are eligible and suitable for diversion. Additionally, the program outcomes are expected to show increased engagement with treatment, as well as a decrease in recidivism for those who are connected to services.

The following metrics will be tracked to measure and evaluate outcomes for each fiscal year:

1. **Number of defendants evaluated for incompetence to stand trial (IST)** – total individuals assessed for IST status during the year.
2. **Number of IST defendants diverted** – total IST-designated defendants accepted into a diversion program.
3. **Number of IST commitments** – total IST-designated defendants committed to the Department of State Hospitals or other custodial treatment.
4. **Ongoing projections for each metric** – updated forecasts of annual totals for each metric as the fiscal year progresses.
5. **Number of IST defendants who are successfully diverted** – defendants who meet all diversion program requirements and are successfully diverted.
6. **Number of diverted IST defendants who do not successfully complete diversion and who count toward the growth cap** – includes all diversion participants whose failure counts toward statutory growth cap limits.