

California State Assembly



Assembly Budget Agenda

Subcommittee No. 1 on Health

Assemblymember Dr. Akilah Weber, Chair

Wednesday, April 3, 2024
9:30 A.M. – State Capitol, Room 437

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Public Comment will be taken in person after the completion of each panel and any discussion from the Members of the Subcommittee.

Items To Be Heard

4140 Department of State Hospitals

Issue 1: Department and Budget Overview, Caseload Estimates, and Program Adjustments

The California Department of State Hospitals (DSH) manages the nation's largest inpatient forensic mental health hospital system. The mission of DSH is to provide evaluation and treatment to patients in a safe and responsible manner, by leading innovation and excellence across a continuum of care and settings. Within the context of the broader mental health system of care, DSH primarily serves individuals who have been committed to the Department through the superior courts or Board of Parole Hearings. Additionally, DSH serves a smaller contingent of conserved individuals referred by the counties and inmates from the California Department of Corrections and Rehabilitation. DSH is responsible for the daily care and provision of mental health treatment of its patients. Upon discharge from a DSH commitment, individuals typically return to their community, and the county behavioral health system serves to provide additional services and linkages to treatment.

DSH oversees five state hospitals (Atascadero, Coalinga, Metropolitan, Napa, and Patton). In addition to state hospital treatment, DSH provides services in contracted Jail-Based Competency Treatment (JBCT), Community-Inpatient Facilities (CIF), Conditional Release Program (CONREP), Community-Based Restoration (CBR), and pre-trial felony mental health Diversion programs. DSH is responsible for the daily care of over 7,000 patients.

With nearly 13,000 employees located across its Sacramento headquarters and five state hospitals throughout the state, every team member's effort at DSH focuses on the provision of mental health treatment in a continuum of treatment settings while maintaining the safety of patients, employees, and the public. Approximately half of the Department's employees are in nursing classifications, including psychiatric technicians and registered nurses that provide care for patients in DSH's state hospitals.

DSH is funded through the General Fund and reimbursements from counties for the care of Lanterman-Petris-Short (LPS) patients. All DSH facilities are licensed through the California Department of Public Health (CDPH) and four of the five facilities (Atascadero, Metropolitan, Napa, and Patton) are accredited by The Joint Commission, an independent, not-for-profit organization that accredits and certifies nearly 21,000 health care organizations and programs in the United States.

Governor’s 2024 January Budget

The Department of State Hospital’s (DSH) proposed budget for fiscal year (FY) 2024-25 totals \$3.4 billion – a decrease of \$85.3 million (or two percent) from the 2023 Budget Act – with 12.0 proposed new positions in budget year (BY). The proposed budget will allow the department to maintain operations, delivery of services, and provide state hospital facility capital outlay project improvements.

**TOTAL State Hospitals Comparison
2023 Budget Act v. 2024-25 Governor's Budget
(Dollars in Thousands)**

FUNDING SOURCE	2023 Budget Act	2024-25 Governor's Budget	Difference	% Change
State Operations	\$3,424,158	\$3,362,641	(\$61,517)	-2%
Capital Outlay	\$74,234	\$50,445	(\$23,789)	-32%
TOTALS	\$3,498,392	\$3,413,086	(\$85,306)	-2%

*Total includes non-budget act items (Medicare, Lottery, Re-Appropriations)

Enrollment and Caseload

As of January 1, 2024, DSH has a total of 952 patients pending placement, of which 501 are deemed Incompetent to Stand Trial (IST). The enrollment, caseload, and population estimates propose continued resources for infectious disease control and increased funding to respond to the projected increase in census and rising costs of patient-driven operating expenses such as utilities, pharmaceuticals, and food.

The DSH estimated caseload is projected to exceed 9,000 by the end of FY 2024-25, with a total of 5,839 across the state hospitals, 2,496 in contracted programs and 979 in Conditional Release Program (CONREP) Non-Sexually Violent Predatory (SVP) and CONREP SVP programs. Over the last decade, the population demographic has shifted from primarily civil court commitments to a forensic population committed through the criminal court system. The table below displays patient caseload by commitment type and contract location.

2024-25 Governor's Budget Estimates Caseload	
Location	Estimated Census on June 30, 2025
Population by Commitment Type – Hospitals	
Incompetent to Stand Trial (IST) — PC 1370	1,912
Not Guilty by Reason of Insanity (NGI) — PC 1026	1,225
Offenders with Mental Disorders (OMD) — PC 2962/2972	1,051
Sexually Violent Predator (SVP) — WIC 6602/6604	954
Lanterman-Petris-Short (LPS) — PC 2974	585
Coleman — PC 2684	112
Subtotal	5,839
Contracted Programs	
Jail Based Competency Treatment Programs	567
Community Based Restoration	1,706
Community Inpatient Facilities	223
Subtotal	2,496
Conditional Release Programs (CONREP)	
CONREP Non-SVP	674
CONREP SVP	31
CONREP Forensic Assertive Community Treatment (FACT) Program	90
CONREP Step Down Facilities	184
Subtotal	979
GRAND TOTAL	9,314

Populations for the state hospitals have continued to grow. The table on the next page shows population trends for the previous five years, which reflect a 9 percent annualize growth rate of the population. As illustrated in the following table, the growth in Incompetent to Stand trial individuals is driving most of the growth in the overall population:

Table 3: Patient Census

	6/30/2019	6/30/2020	6/30/2021	6/30/2022	6/30/2023	% Change
IST*	1,929	2,108	1,951	2,096	2,843	36%
LPS	736	747	789	707	584	-17%
NGI	1,416	1,415	1,338	1,244	1,225	-2%
OMD 2962	559	508	415	383	334	-13%
OMD 2972	778	760	716	685	710	4%
SVP	962	943	939	956	954	0%
Coleman	185	296	169	114	112	-2%
Subtotal	6,565	6,777	6,317	6,185	6,762	9%
CONREP	646	661	647	714	733	3%
Total	7,211	7,438	6,964	6,899	7,495	9%

* IST census includes the following facilities and programs: state hospitals, community-based restoration program, IST diversion, jail-based competency treatment program, and community inpatient facilities.

Caseload Estimates Reflect Recent Significant Policy Changes

Policy changes that impact the total caseload and/or cost per case of the DSH population drive costs changes in the caseload estimate. In the 2024-25 budget, the department expect the following recent policies to result a significant change in the departments underlying caseload estimates:

- Mission Based Review – Direct Care Nursing (-\$10.3 million in FY 2023-24)*
 This staffing standard established population driven methods for calculating staffing needs to support the workload of providing 24-hour nursing care services within DSH. A total of 335.0 positions were allocated to support the Medication Pass rooms to be phased-in over four years. As of August 31, 2023, all phase-ins are complete, and 177.0 positions have been filled. Additionally, a total of 44.5 positions were allocated to provide nursing supervision afterhours to be phased-in over two years. DSH continues to experience challenges in hiring Medication Pass Psychiatric Technicians (PT), resulting in an additional one-time savings of \$10.3 million in FY 2023- 24.
- Mission Based Review – Treatment Team and Primary Care (-\$5.3 million in FY 2023-24)*
 This staffing standard uses data-informed methodologies for standardizing caseload for DSH’s Interdisciplinary Treatment Team. A total of 180.4 positions were allocated to support the Interdisciplinary Treatment Team to be phased-in over five years. As of August 31, 2023, 52.8 positions have been established. A total of 31.9 positions were allocated to support Primary Medical Care to be phased-in over three years. As of August

31, 2023, all positions have been established and 10.5 have been filled. Additionally, a total of 12.0 positions were allocated to support Clinical Executive Leadership. As of August 31, 2023, all positions have been established and 7.0 have been filled. DSH continues to experience challenges with hiring the newly authorized positions, resulting in a one-time savings of \$5.3 million in FY 2023-24.

- *Patient-Driven Operating Expenses and Equipment (OE&E) (\$10.8 million in FY 2023-24 and ongoing)*

The Budget Act of 2019 adopted a standardized methodology to provide funding for patient-related OE&E items based on updated census estimates for each fiscal year and an estimated per patient cost, derived from past year actual expenditures. Due to inflation and increases in hospital patient census, DSH requests \$10.8 million in FY 2023-24 and ongoing to support patient-related operating expenses, specifically in the areas of utilities, pharmaceuticals, and foodstuffs.

- *Infectious Disease Prevention (\$25.9 million in FY 2024-25; \$7.7 million in FY 2025-26 and ongoing; 10.0 positions in FY 2024-25 and ongoing)*

During the onset of the COVID-19 pandemic, DSH executed a COVID-19 response plan across its system and adjusted this plan on an ongoing basis. Although the California State of Emergency ended on February 28, 2023, and the Federal State of Emergency ended on May 11, 2023, DSH has an ongoing responsibility to protect the health and safety of staff and patients from aerosol transmissible diseases (ATDs). Based on the changes in operations made by DSH in accordance with the Centers for Disease Control and Prevention (CDC), California Department of Public Health (CDPH), California Division of Occupation Safety and Health (CalOSHA), and local public health guidance, DSH has continued to prioritize the safety of its employees and patients through infection control measures. DSH requests \$25.9 million in FY 2024-25, and \$7.7 million in FY 2025-26 and ongoing for expenditures related to infection control measures to continue to protect the health and safety of DSH staff and patients. Additionally, DSH requests permanent funding and position authority for 10.0 limited term Public Health Nurse (PHN) positions, in FY 2024-25 and ongoing, to ensure compliance with public health guidelines and regulations.

CONREP Non-SVP (-\$599,000 in FY 2023-24)

DSH continues to expand its continuum of care and anticipates a total contracted caseload of 1,038 in FY 2023-24 and 945 in FY 2024-25. As a result of delays in admissions to the Northern CA Statewide Transitional Residential Program (STRP) A&A facility, DSH reports a one-time savings in FY 2023-24 of \$599,000.

Proposed Budget Reduction

The Governor's Budget proposes to revert \$14 million (\$7 million General Fund from 2022-23 and \$7 million Mental Health Services Fund from 2023-24) in unspent funds that were appropriated in the 2022 Budget Act to establish a psychiatric educational loan repayment program as a workforce incentive strategy for state hospitals.

This loan repayment program was never implemented by the department. However, the department has undertaken a series of other initiatives to address workforce issues at the state hospitals. This included a budget proposal this Subcommittee adopted last year for the "Psychiatry Workforce Pipeline, Recruitment, Hiring and Retention." Specifically, the 2023 Budget included 7.0 positions and General Fund of \$6.5 million in 2023-24, growing to \$8.3 million by 2027-28 for this purpose. The department also have agreements with local community colleges and fellowships as additional tools it uses to address workplace recruitment, advancement, and retention.

Budget Change Proposal for Capital

The Department has one proposal for a capital project to replace the central plant that provides heating and cooling for 32 patient housing and administrative buildings at the DSH-Metropolitan campus. In 2022, this Subcommittee approved a \$1.8 million request for the Department to commission working drawings and planning for this project. Now that those documents are completed, the administration is seeking \$50,445,000 (Public Buildings Construction Fund) for the construction phase of the DSH-Metropolitan Central Utility Plant (CUP) Replacement Project. The project includes the replacement of the existing CUP located at DSH-Metropolitan that presently supplies steam for hot water and central heating, as well as chilled water for air conditioning, to 32 patient housing and administrative buildings.

Panel

- Stephanie Clendenin, Department of State Hospitals
- Brent Houser, Department of State Hospitals
- Sean Hammer, Department of State Hospitals
- Joseph Donaldson, Department of Finance
- Will Owens, Legislative Analyst's Office

Staff Comments

This hearing is the Subcommittee's one opportunity to discuss this important department and to get a general update on its operations, outcomes, and challenges. Staff recommends that the Subcommittee explore the following three issues for discussion:

Caseload and operational trends

The heart of this department's current and future policy direction is based upon where this underlying caseload is evolving. The Subcommittee will explore the biggest driver of caseload growth, the Incompetent to Stand Trial caseload, in the next issue on the agenda. However, the Subcommittee could explore some other questions about how department's caseload is evolving, such as:

1. What are the primary drivers of change to the overall population of DSH?
2. Did the pandemic change the direction of caseload growth in a meaningful way and if so, do you expect that change to continue?
3. We are seeing the impact of an aging population in our CDCR facilities, is that dynamic also impacting the services and needs of the DSH population? If so, how is the department anticipating and responding to that challenge?

Mission-Based Review

DSH was one of the entities reviewed by the Department of Finances Mission-Based Budgeting unit. This unit was established in 2016 in partnership with the Assembly Budget Committee to provide mission-based oversight of departments as an alternative to performance-based budgeting reviews. As one of the first entities reviewed by this unit, DSH caseload estimated reflected changes and additional investments that are now fully implemented. Given the interest in additional oversight of departments by the Assembly Budget Committee, the committee may wish to explore the impact and value of this review. Possible questions the members could consider include:

1. Can you explain the findings of the Mission Based review and how it impacted your department?
2. Did that review effort benefit your department's operations moving forward?
3. Should the Assembly encourage the administration to conduct more of these reviews in other departments?

Proposed elimination of the loan repayment program.

Given the workforce challenges faced by the department, the Subcommittee agreed to various investments in workforce recruitment and development. The loan forgiveness program mirrored initiatives adopted in other health care departments to address the workforce challenges, and it was hoped that it would result in additional workforce retention. In 2023, the Department proposed a comprehensive workforce plan in its budget, which at the time staff assumed would complement the loan forgiveness program.

The Subcommittee requests the administration present an overview of DSH's psychiatry workforce shortages, and solutions, as well as the justification for the proposal to revert the Legislature's \$14 million for a DSH loan repayment program.

1. How effective have the state efforts been to address the state hospital's staff recruitment challenges?
2. Which strategies have been the most effective and finding professionals for our vacancies?
3. What are the reasons that the Psychiatry Loan Repayment Program was not implemented?
4. What are the strategies being implemented with the resources approved through the 2023 BCP, how will we know if they were working?

Budget Change Proposal Seems Appropriate to Adopt

The proposed funding of the construction phase of the Metropolitan Hospital Central Utility Plan replacement is consistent with prior action of this Subcommittee, which authorized the planning and drawings of the project. Staff recommends adoption of this item at a later date in the process, most likely on a vote-only agenda calendar.

Staff Recommendation: Hold Open

Issue 2: Incompetent to Stand Trial Solutions Trailer Bill and Resources

As noted in the previous issue, the State of California has observed significant growth in the number of individuals found IST on felony charges and referred to DSH for competency restoration, with year-over-year growth in IST referrals outpacing the department's ability to create sufficient additional capacity. Prior efforts, including increased inpatient bed capacity, systems efficiencies resulting in decreased average length of stays (ALOS), and implementation of community-based treatment programs, had been insufficient to respond to the ever-growing demand, resulting in a waitlist and extended wait times for IST defendants pending placement into a DSH treatment program. Further compounding the issue, the COVID-19 pandemic and the adopted infection control measures required at DSH facilities contributed to significantly slower admissions and a reduction in the capacity to treat felony ISTs at DSH for the duration of the state of emergency, causing the IST waitlist and corresponding wait times to grow substantially.

In 2021, the Alameda Superior Court ruled in *Stiavetti v Clendenin* that DSH must commence substantive treatment services to restore IST defendants to competency within 28 days from the transfer of responsibility to DSH, providing a specified timeline to meet that standard over three years, with February 27, 2024, as the target date for ultimately providing substantive treatment services for felony ISTs within 28 days of the transfer of responsibility. On October 6, 2023, the Alameda Superior Court modified the interim benchmarks and final deadline for compliance with the 28 days as follows:

- March 1, 2024 – provide substantive treatment services within 60 days
- July 1, 2024 – within 45 days
- November 1, 2024 – within 33 days
- March 1, 2025 – within 28 days

Also in 2021, the Legislature enacted Welfare & Institutions Code (WIC) section 4147 through the passage of Assembly Bill 133 (Chapter 143, Statutes of 2021) and the Budget Act of 2021 (Chapter 69, Statutes of 2021), which charged the California Health & Human Services Agency (CalHHS) and DSH to convene an IST Solutions Workgroup (Workgroup) to identify short-, medium-, and long-term solutions to address the increasing number of individuals with serious mental illnesses (SMIs) who become justice-involved and deemed IST on felony charges. Following a series of meetings convened between August 2021 and November 2021 with relevant stakeholders, the Workgroup identified over 40 strategies and solutions to advance alternatives to placement in DSH competency restoration programs.

The Budget Act of 2022 (and subsequent adjustments authorized in the Budget Act of 2023) appropriated funding to implement many of the IST Solutions identified by the Workgroup. These included providing early stabilization to increase diversion opportunities and care coordination,

expanding community-based treatment and diversion options for felony ISTs, improving IST discharge planning and coordination, implementing a pilot for Independent Placement Panels (IPP), and improving alienist training. These resources were combined with previously funded IST programs, including IST re-evaluation services, JBCT, and CIF, expanding the DSH continuum of care for IST individuals. Additionally, statutory changes aimed at solving the IST crisis have been implemented to streamline and improve IST processes, target the continued growth in IST determinations (felony IST growth cap), and establish a comprehensive set of strategies and solutions, ensuring felony IST individuals have timely access to appropriate treatment and services. Collectively, these strategies and solutions assist the state in meeting the court-ordered treatment timelines outlined in *Stiavetti v. Clendenin*.

As DSH has expanded its continuum of care, the number of individuals found IST on felony charges and referred by the superior courts to DSH has continued to increase. During the COVID-19 pandemic, operational impacts slowed admissions and treatment capacity, further impacting the waitlist.

Prior to the declared State of Emergency, in February 2020, DSH had 850 individuals pending placement into a DSH IST treatment program. Throughout the pandemic, DSH observed seasonal fluctuations in the waitlist, with increases in winter and summer, and decreases in the spring and fall, as DSH recovered from COVID-19 surges. In January 2022, resulting from a COVID-19 surge, the IST waitlist reached a high of 1,953. In the 2023-24 May Revision, DSH reported the waitlist had declined to 804, inclusive of individuals receiving Early Access and Stabilization Services (EASS), which represented a reduction of 45 percent from the total waitlist of 1,473 reflected in the 2023-24 Governor's Budget.

IST and the 2024 Budget

The administration has indicated that the January Budget includes proposed trailer bill language related to solutions to the Incompetent to Stand Trial (IST) waiting list challenges. However, as of the writing of this agenda, the administration has not yet shared this proposed language. The Governor's Budget also includes the following fiscal adjustments:

Incompetent to Stand Trial (IST) Solutions (-\$58.6 million in FY 2023-24; 2.0 position authority in FY 2024-25 and ongoing)

DSH continues to increase its IST continuum of care through the expansion of existing IST treatment programs and reports a current waitlist of 501 IST individuals as of January 1, 2024. This change represents a reduction of nearly 38 percent from the waitlist of 804 reported in the 2023-24 May Revision. Furthermore, of the 501 individuals on the waitlist pending admission to a treatment bed, 172 are receiving substantive treatment services through the Early Access and Stabilization Services program or other treatment program. Only 329 individuals on the waitlist are individuals who are not yet receiving treatment services from a DSH program. DSH reports

a net savings of \$58.6 million in FY 2023-24 due to changes in implementation of the EASS program, Jail-Based Competency Treatment (JBCT) program, and Community Inpatient Facilities (CIF) program. DSH also requests position authority only for 2.0 positions to support the workload associated with administering the Felony IST Growth Cap program.

DSH-Metropolitan Increase Secured Bed Capacity (ISBC) (-\$9.6 million in FY 2023-24)

The DSH-Metropolitan ISBC project continues to experience delays in the activation of the remaining units for Incompetent to Stand Trial (IST) forensic patients. The roof replacement on the Skilled Nursing Facility (SNF) building is projected to be complete March 2024, allowing Units 4 and 5 to be activated for IST patients in May 2024. The 10-month delay in activation results in a one-time savings of \$9.6 million in FY 2023-24.

Panel

- Stephanie Clendenin, Department of State Hospitals
- Christina Edens, Department of State Hospitals
- Joseph Donaldson, Department of Finance
- Will Owens, Legislative Analyst's Office

Staff Comments

The Department is grappling with a challenging deadline as its operations emerge from the impact for COVID-19 and it undertakes process and policy changes to address the needs of the IST population. The Subcommittee may wish to discuss how the department intends to meet these challenges over the next year. The members may wish to consider the following questions:

1. Can you describe the progress that DSH has made in addressing the IST waiting list?
2. Does the Department expect to meet the court deadline of March 1, 2025?
3. What factors influence the size of the IST waiting list? What do we expect to happen over the next fiscal year to this population?

IST Trailer Bill

The Department of Finance has suggested that the administration has a trailer bill provision related to the IST population that wishes to include as part of the 2024 budget package. While Government Code Section 13308 (b) requires the administration to submit all proposed trailer bill provision by February 1st of each year, the administration continues to reflect the proposed IST language as “pending” almost two months after the deadline. Given that the language was not available before the agenda for this hearing was finalized, the Subcommittee will have no opportunity to review or hear from stakeholders on these proposed changes.

This Subcommittee was criticized in past years for adopting statutory changes in this area without providing stakeholders and opportunity for input. While the Department likely has justification for the need for the changes, it has not provided the Subcommittee with sufficient time to make an informed decision on this language.

Therefore, staff recommends the Subcommittee reject the proposed trailer bill based on its tardiness. If the administration feels that these statutory changes are essential for this year, staff can work with the administration to offer alternative paths to consider this language after the June budget package has been finalized.

Staff Recommendation: Reject proposed Trailer Bill