



Administration of Justice (AOJ) Policy Committee
129th CSAC Annual Meeting
Tuesday, November 14, 2023 · 1:30 pm – 3:00 pm
Oakland Convention Center · East 2
Alameda County · Oakland, California

Supervisor Oscar Villegas, Yolo County, Chair
Supervisor Rosemarie Smallcombe, Mariposa County, Co-Vice Chair
Supervisor Rich Desmond, Sacramento County, Co-Vice Chair

- 1:30 p.m.** **Welcome and Introductions**
Supervisor Oscar Villegas, Yolo County, Chair
Supervisor Rosemarie Smallcombe, Mariposa County, Co-Vice Chair
Supervisor Rich Desmond, Sacramento County, Co-Vice Chair
- 1:35 p.m.** **Commons Data Transparency Portal Presentation**
Jeff Reisig, District Attorney, Yolo County
- Questions & Answers**
- 2:05 p.m.** **Juvenile Justice Updates from County Probation**
Karen Pank, Executive Director, Chief Probation Officers of California (CPOC)
- Questions & Answers**
- 2:45 p.m.** **Administration of Justice 2024 Priorities - ACTION ITEM**
Supervisor Oscar Villegas, Yolo County, Chair
Ryan Morimune, AOJ Legislative Advocate, CSAC
Stanica Boatner, AOJ Legislative Analyst, CSAC
- Questions & Answers**
- 3:00 p.m.** **Closing Comments/Adjourn**

****Informational Item: AOJ 2023 Legislative Outcomes***

ATTACHMENTS

Commons Data Transparency Portal Presentation

Attachment One..... [Commons Data Transparency Portal](#)

Juvenile Justice Updates from County Probation

Attachment Two.....CSAC Issue Brief: Juvenile Justice in California

Administration of Justice (AOJ) 2024 Legislative Priorities & Year in Review – ACTION ITEM

Attachment Three AOJ 2024 Legislative Priorities & Year in Review Memo

Attachment Four.....CSAC Issue Brief: Incompetent to Stand Trial

Commons Data Transparency Portal
Attachment One

[Commons Data Transparency Portal](#)



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November 1, 2023

To: CSAC Administration of Justice (AOJ) Policy Committee

From: Ryan Morimune, CSAC Legislative Advocate
Stanicia Boatner, CSAC Legislative Analyst

Re: Memo on Commons Data Transparency Portal

In early 2021, the Yolo County District Attorney's Office (DA) partnered with [Measures for Justice](#), a non-profit organization, on a mission to make accurate criminal justice data available to spur criminal justice system reform, to launch the first-ever [Commons Data Transparency Portal \(Commons\)](#). Commons is a collaborative space for the community to explore criminal justice data, engage policymakers, and promote criminal justice system reforms. The portal allows the public to access Yolo County's criminal justice data with the aim of enhancing accountability in the criminal justice system. Yolo County District Attorney Jeff Reisig and staff, along with the Yolo County Multi-Cultural Community Council, placed a high emphasis on providing criminal justice data transparency, which is easily accessible and free to the public. The goal of the portal is to view the raw data and, if disparities arise, address them through policy changes.

Throughout the process, Yolo County worked with community advocates and Yolo County officials receiving input on the most important elements necessary for full transparency. The DA's office believes that when the public, law enforcement agencies, prosecutors, and courts share and trust the same data, it can lead to positive reform. Since the portal enables the community to analyze data for themselves, the public has the opportunity to identify and address disparities. Within the portal, there are options to download the raw data, share it via e-mail or social media, and most importantly, assess the data with local officials, researchers, or media outlets.

Embraced by the DA and community leaders, Commons is a first-of-its-kind online data dashboard that tracks local criminal justice data monthly, alongside a policy goal to address racial disparities in eligibility for diversion programs, as well as implicit bias in cases referred to the DA from local law enforcement agencies. This is achieved through the DA's case management system, which removes race and incident location information, as well as the booking photo, to ensure that the prosecuting attorney will review the case strictly based on the facts provided without any unintended bias.

The Yolo County DA's office was one of the first counties in the state to go paperless. Thus, the DA's office already had a digital case management system available for *Measures for Justice* to evaluate trends, extract data, and publish it through the Commons portal. Commons is unique in that the county data is validated and posted by *Measures for Justice*, a neutral third party. The data is not controlled internally by the DA's office, unlike other portals across the nation. The dashboard is also the first to seek community input as on the accessible data points.

With the assistance of *Measures for Justice*, the Commons Data portal shows accurate performance measure data; and standardizes and improves how criminal justice data is collected, recorded, and released. In Yolo County, the launch of the portal almost immediately spurred reform and drove corrective action. For example, the Yolo County DA's office has changed its policy to ensure more cases – particularly those involving defendants of color – are diverted out of the criminal justice system. More specifically, the office will no longer automatically disqualify an individual from being

referred to a diversion program based on their criminal history, which is estimated to increase the number of individuals entering a diversion program by 15 to 20 percent. This affords more individuals the opportunity to participate in programming that helps remedy the behavior leading to the original arrest, while also holding individuals accountable for the crime or crimes they have committed. Upon successful completion of the diversion program, the participant avoids a conviction on their criminal record. The policy change is the first of many to come that will be driven by data from the portal.

The Yolo County District Attorney's Office was awarded a 2021 California State Association of Counties (CSAC) Challenge Award for the tremendous work of co-creating the innovative and creative Commons Data Transparency Portal with New York non-profit Measures for Justice.

**Juvenile Justice Updates from County Probation
Attachment Two**

CSAC Issue Brief: Juvenile Justice in California



Issue Brief: Juvenile Justice in California

Over the last two decades, California's juvenile justice system has undergone transformative changes at the state and county level. As illustrated by the *Los Angeles Times*, "In 1996, state and county lockups held 20,440 youths. By the end of 2022, the number had fallen to 2,582." On June 30, 2023, the state's Division of Juvenile Justice (DJJ), which had an average daily population of roughly 600 to 700 youth over the preceding decade, ceased operations and realigned the care of these youth to counties. The youth previously adjudicated to DJJ were those with the most serious criminal backgrounds and intensive treatment needs, as evidenced by the state's roughly \$250,000 to \$350,000 per capita cost for housing youth. Notably, in the last year of operation, DJJ per capita costs exceeded \$650,000 per youth, annually. Proposed by Governor Newsom and codified by the Legislature, DJJ's closure dramatically altered the juvenile justice landscape in California, presenting local governments with new responsibilities and acute challenges for delivering services to this unique population.

History

Understanding how the state ultimately realigned juvenile justice to the counties requires a brief review of California's juvenile justice system over the last several decades. As noted by the Congressional Research Service, "During the 1980s and 1990s, most states revised their juvenile justice systems to include more punitive measures and to allow juveniles to be tried as adults in more instances." California was no exception, and during this period, juvenile facilities began to mirror adult institutions, with the state's DJJ population peaking at an all-time high of 10,166 youth on July 17, 1996.

By the early 2000s, several factors began to coalesce, dramatically reshaping juvenile justice policy. One critical aspect was the 2003 *Farrell v. Allen* lawsuit, which alleged that the state failed to provide adequate care and effective treatment for youth housed in DJJ. The following year, the state entered into a consent decree to provide adequate and effective treatment and rehabilitative services for youth housed in its facilities. The lawsuit, which spanned over 12 years, helped shift the focus from a punitive approach to a rehabilitative model of care and treatment. Additionally, there were changes to the provision of behavioral health services and programs that take into consideration the science and research around adolescent brain development.

In 2007, SB 81 (Chapter 175, Statutes of 2007), the Legislature enacted the Juvenile Justice Realignment Bill, which limited commitments to DJJ for only the

most serious crimes and realigned responsibility for all other justice-involved youth to county probation departments. In the subsequent years, there was a significant decline in the number of youth housed at DJJ. Following the state's fiscal crisis of the late 2000s and early 2010s, the Legislature adopted Governor Brown's 2011 Realignment plan, which dramatically shifted the responsibility and funding for a series of major programs to counties from the state, including key public safety, behavioral health, and social service programs. County probation departments were responsible for over 90% of the youth incarcerated population, and increasingly focused on diversion, community supervision, and other alternatives to detention, while incorporating developmentally appropriate services.

Spotlight: *Farrell v. Allen* Conclusion

On February 22, 2016, the Alameda County Superior Court terminated the *Farrell* lawsuit, ending over a decade of litigation and court oversight of DJJ operations. The court dismissed the case in recognition of significant achievements by DJJ to resolve the issues underlying the original suit and the concerns raised by the court-appointed experts and the *Farrell* Special Master. *Farrell* remedial plans addressed deficiencies in (1) education, (2) youth with disabilities, (3) sex behavior treatment, (4) health care, (5) safety and welfare, (6) dental care, and (7) mental health.

DJJ Realignment

In his first budget (2019-20), Governor Newsom

proposed transferring DJJ to a newly created, independent department within the California Health and Human Services Agency. This proposal was delayed due to the COVID-19 pandemic and was unexpectedly changed at the end of the 2020 legislative session. The plan shifted to shuttering DJJ and realigning the responsibility of all youth to county probation departments under SB 823 (Chapter 337, Statutes of 2020). SB 823 proposed to close intake at DJJ on July 1, 2021, provided counties statewide with \$225,000 per youth on an annual basis, and included a statutory formula for distribution of those funds, which will be revisited in January 2024. SB 823 also established the age of jurisdiction at 23 for youth adjudicated of specified offenses and age 25 for youth adjudicated of offenses that would result in an aggregate sentence of seven or more years in adult court.

Spotlight: Per Capita Spending

Under a statewide formula, counties receive \$225,000 annually for each youth who was eligible for commitment to DJJ prior to closure, and youth adjudicated to be a ward of juvenile court for DJJ-eligible offenses. At the time of DJJ's closure, annual per capita spending was estimated at about \$655,000, a cost driven in significant part by the standards of care established under *Farrell*. While the statutory formula for distribution of funds will be revisited in 2024, it is notable to highlight counties will likely experience increasing cost pressures in excess of \$225,000 currently provided per youth.

A subsequent bill, SB 92 (Chapter 18, Statutes of 2021), authorized counties to establish Secure Youth Treatment Facilities (SYTFs) for certain youth; provided guidance on how counties adjudicate, house, and facilitate services for these youth; required the court to set a maximum term of confinement for the youth in a SYTF; mandated regular progress review hearings and allowed probation or the youth to make a motion to the court for transfer to a less restrictive program; and required the Judicial Council to develop and adopt a matrix of offense-based classifications.

or at the time of closure.

State to County Transition

Ultimately, the state determined that youth and young adults remaining at DJJ at the time of closure would also need to transfer to county care and custody. Counties worked diligently to create plans so individuals transitioning from state to local juvenile justice facilities would not experience substantial treatment and programming disruptions. Assuming responsibility for youth with the most serious offenses and intensive treatment needs required county probation departments to reassess their existing services, including their capacity to treat youth with serious behavioral health issues, female youth, individuals with adult convictions, and those participating in sexual behavior treatment programs. These specialized treatment programs took years to establish within DJJ, with court oversight through the *Farrell* lawsuit, and thus represent a challenge for county probation departments, particularly under the accelerated realignment timelines. To add to these challenges, counties are also creating programming not only for returning DJJ commitments, but youth and young adults who otherwise would have been adjudicated to DJJ in the past, as well as those entering the system with unknown needs. Counties are continuing to be flexible and creative to improve the juvenile justice continuum, while endeavoring to address the complex needs of this dynamic and ever-changing population.

Since DJJ's June 30, 2023 closure, counties are required to provide wrap-around services, programming, specialized treatment, and maintain and increase staffing where necessary, while making significant upgrades to improve design and create additional space within existing facilities. Nevertheless, the focus of county probation departments remain the same – to provide care for youth and young adults close to their loved ones and ensure access to effective, individualized treatment – with the goal of ensuring that all youth are safe, healthy, and supported to become contributing members of their community.

Lastly, SB 92 set a DJJ closure date of June 30, 2023.



**Administration of Justice (AOJ) 2024 Legislative Priorities & Year in Review
Attachment Three**

AOJ 2024 Legislative Priorities & Year in Review Memo



November 1, 2023

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To: CSAC Administration of Justice (AOJ) Policy Committee

From: Ryan Morimune, AOJ Legislative Advocate
Stanicia Boatner, AOJ Legislative Analyst

Re: Administration of Justice 2024 Legislative Priorities and 2023 Year in Review

The first year of the 2023-24 legislative session presented numerous bills with significant impacts to counties. In this memo, please find the Administration of Justice (AOJ) priorities for 2024 and a review of some of the noteworthy public safety measures from 2023.

ACTION ITEM - 2024 Legislative Priorities

Felony Incompetent to Stand Trial (IST) Growth Cap and Penalty Program. In late December 2022, the Department of State Hospitals (DSH) released a letter to counties on the implementation of the Administration’s growth cap process, which indicated over 30 counties were on pace to exceed their IST commitment cap and pay a penalty at the end of this year, based on current projections from DSH. Although the growth cap and penalty program was established through the previous budget and is existing law, CSAC along with other county affiliates were successful in getting the department to agree to changes to the methodology and penalty formula, which reduced both the number of counties faced with a penalty, as well as the amount some counties must pay to the state for the first year of implementation. CSAC will continue to work with counties to support local planning efforts, as well as advocate for program changes that better reflect the shared goal of reducing the number of individuals who are deemed IST, prior to being referred to DSH by the courts.

Division of Juvenile Justice (DJJ) Realignment Implementation. As the Legislature and advocates continue to prioritize accountability, transparency, and community-based and justice-involved inclusion within the juvenile justice continuum – this year was no different with measures such as AB 702 (Jackson), which would have required that 95% of Juvenile Justice Crime Prevention Act (JJCPA) dollars are allocated to community-based organizations, and would have also changed the composition of the juvenile justice coordinating councils to include more community representatives; and AB 505 (Ting), which made changes to several key provisions of DJJ realignment, specifically as it relates to county juvenile justice plans – the process, reviews, reports, and subcommittee leadership – in addition to granting more county probation oversight and investigative authority to the state’s Office of Youth and Community Restoration. As a result of our successful advocacy, key amendments were proposed to AB 702 and the author made it a two-year bill, which we will be engaged on next year. And as anticipated, AB 505 was approved by the Legislature and signed by the Governor on October 9, 2023. CSAC banded together with chief probation officers and 33 individual counties to raise awareness around implementation concerns, nearly defeating the measure in the Senate, despite receiving overwhelming support all year. CSAC will continue to prioritize funding to protect county interests consistent with the Administration of Justice Policy Platform and advocate for legislation that prevents additional

barriers to successful DJJ implementation, more specifically the delivery of individualized services and specialized treatment necessary for rehabilitation.

2024 Federal Priorities

Justice and Public Safety Funding. The State Criminal Alien Assistance Program (SCAAP) remains a key source of federal justice funding for many California counties. CSAC will continue to serve as a lead advocate in efforts to protect and enhance SCAAP funding and will urge Congress to pass a long-term SCAAP reauthorization.

In addition, CSAC will continue to advocate for maximum program resources for other key federal justice and public safety programs that are administered through the U.S. Department of Justice, including the Edward Byrne Memorial Justice Assistance Grant (JAG) Program, the Second Chance Act (SCA), the Victims of Crime Act (VOCA), and the Violence Against Women Act (VAWA), as well as programs administered by the Office of Juvenile Justice and Delinquency Prevention.

INFORMATIONAL ITEM – 2023 AOJ Legislative Year in Review

2023 Legislation

The below public safety bills are 2-year bills:

[AB 745 \(Bryan\) - Reentry Housing and Workforce Development Program.](#) This measure directs the Department of Housing and Community Development (HCD) to establish a Reentry Housing and Workforce Development program and would provide competitive, five-year renewable grants through the HCD in coordination with the California Department of Corrections and Rehabilitation. The grants from the Reentry Housing and Workforce Development Program would be available to counties to fund evidence-based housing and workforce development interventions to prevent individuals with recent histories of incarceration from becoming homeless, becoming gainfully employed, and remaining stably housed. Counties will have the opportunity to apply for grants and use the funds for long-term rental assistance in permanent housing operating subsidies in new and existing affordable or supportive housing, landlord incentives for security deposits and holding fees, as well as tenancy, wrap-around, and other critical services to assist individuals with exiting homelessness. CSAC supports [AB 745](#) as it aligns with our AT HOME plan to address homelessness and reduce recidivism by providing evidence-based housing, and employment and housing services to recently released and soon-to-be-released individuals. The author decided to make AB 745 a 2-year bill. CSAC will continue to work on this bill in 2024.

[AB 702 \(Jackson\) - Local government financing: juvenile justice.](#) This measure would revise and recast components of the Juvenile Justice Crime Prevention Act (JJCPA), including requiring funded programs to be modeled on trauma-informed and youth development approaches in collaboration with community-based organizations (CBOs), requiring that no less than 95% of funds are allocated to CBOs and non-law enforcement government entities, and changing the membership provisions of county juvenile justice coordinating councils. CSAC, along with the Urban Counties of California (UCC) and the Rural County Representatives of California (RCRC) opposed [AB 702](#), as it would redirect a stable, constitutionally protected funding structure from counties. This is also at a time when counties are working diligently toward full implementation of SB 823, which has shifted the state's responsibility for the care and custody of system-involved

youth to county probation. AB 702 is a 2-year bill. CSAC, UCC, and RCRC will continue to work on this bill in 2024.

[AB 280 \(Holden\) – Segregated confinement](#). This measure would limit the use of segregated confinement in every jail, prison, public or privately owned detention facility and a facility in which individuals are subject to confinement or involuntary detentions and requires specified facilities in the state in which individuals are subject to confinement or involuntary detention to follow specified procedures related to segregated confinement. The author decided to make AB 280 a 2-year bill. CSAC will continue to monitor AB 280 as segregated confinement will continue to be a legislative focus in 2024.

The below public safety bills were signed into law by the Governor:

[AB 505 \(Ting\) The Office of Youth and Community Restoration](#). This measure will make changes to several key provisions of the 2020 legislation that realigned full responsibility for the juvenile justice continuum to county governments. [CSAC, the Chief Probation Officers of California, Rural County Representatives of California, Urban Counties of California, and 33 individual counties opposed AB 505](#) for the following reasons:

- AB 505 disrupts the vital governance principle that responsibility must be accompanied by the authority to implement.
- AB 505 prematurely proposes additional and burdensome changes less than three years after the enactment of juvenile justice realignment, and not even three months after the state Division of Juvenile Justice’s closure.
- AB 505 unnecessarily elongates the local planning process and disrupts the provision of direct service delivery, while creating additional risk and heightened exposure to litigation.

AB 505 (Chapter 528, Statutes of 2023) was signed by the Governor on October 9, 2023.

[AB 33 \(Bains\) Fentanyl Misuse and Overdose Prevention Task Force](#). This measure subject to an appropriation, establishes the Fentanyl Misuse and Overdose Prevention Task Force to undertake various duties relating to the assessment of the nature and extent of fentanyl misuse in California and the evaluation of approaches to increase public awareness of fentanyl misuse. [CSAC supported AB 33](#) in the development of recommendations to strengthen state and local efforts to prevent fentanyl abuse and death, protect and assist persons who misuse fentanyl or other illicit substances that may contain fentanyl, and develop policy recommendations on the implementation of evidence-based practices to reduce fentanyl overdoses. As an urgency measure, AB 33 (Chapter 887, Statutes of 2023) takes effect immediately as signed by the Governor on October 13, 2023.

[SB 19 \(Seyarto\) Fentanyl Misuse and Overdose Prevention Task Force](#). This measure establishes the Fentanyl Misuse and Overdose Prevention Task Force, upon appropriation by the Legislature. This task force will play a critical role in evaluating the nature and extent of fentanyl usage, as well as developing policy recommendations to mitigate the harmful impacts of fentanyl in our communities. [CSAC supported SB 19](#) as the opioid epidemic remains a public health and safety crisis in our communities. SB 19 evaluates fentanyl misuse public awareness campaigns, measures and evaluates California’s progress in fentanyl overdose prevention, and develops policy recommendations on the implementation of evidence-based practices to reduce overdoses. SB 19 (Chapter 857, Statutes of 2023) was signed by the Governor on October 13, 2023.

[SB 75 \(Roth\) Courts: judgeships](#). This measure subject to an appropriation, authorizes 26 additional superior court judgeships and requires the Judicial Council to allocate the judgeships to the county superior courts, pursuant to specified standards for factually determining judicial need in each county. [CSAC supported SB 75](#) as it is critical that the state funds additional judgeships to meet the caseload demand in every county. SB 75 (Chapter 482, Statutes of 2023) was signed by the Governor on October 8, 2023.

[AB 479 \(Rubio\) - Alternative domestic violence program](#). This measure extends the sunset from July 1, 2023, to July 1, 2026, for the alternative domestic violence intervention programs in six counties: Napa, San Luis Obispo, Santa Barbara, Santa Clara, Santa Cruz, and Yolo. In 2017, former Assembly Member Mark Stone authored AB 372 to help advance domestic violence batterer intervention programs. CSAC co-sponsored this legislation, which authorized the six counties to pilot alternative interventions, focusing on creating opportunities for change to prevent future incidents of domestic violence. CSAC supported AB 479 and the continuation of the domestic violence batterer intervention pilot program. AB 479 (Chapter 86, Statutes of 2023) was signed by the Governor on July 21, 2023.

[AB 1329 \(Maienschein\) County jail incarcerated persons: identification card pilot program](#). This measure authorizes the San Diego County Sheriff's Department and the Department of Motor Vehicles (DMV) to implement a 5-year pilot program, similar to the California Department of Corrections and Rehabilitation and the DMV's California Identification Card program, which ensures that eligible incarcerated individuals are provided a valid identification card or driver's license when they are released from a San Diego County detention facility. [CSAC supported AB 1329](#) as it builds upon work from 2014 that was developed to meet the foundational needs of individuals reintegrating back into the community. AB 1329 (Chapter 472, Statutes of 2023) was signed by the Governor on October 8, 2023.

[SB 240 \(Ochoa Bogh\) Surplus state real property: affordable housing and housing for formerly incarcerated individuals](#). This measure adds affordable housing projects intended for formerly incarcerated individuals as a priority in the disposal of state surplus land and provide that these projects are a use by right. [CSAC supported SB 240](#) as it aligns with our AT HOME plan by improving state efforts to increase access to affordable housing options. SB 240 (Chapter 775, Statutes of 2023) was signed by the Governor on October 11, 2023.

[AB 58 \(Kalra\) Deferred entry of judgment pilot program](#). This measure extends the sunset date of the deferred entry of judgment pilot program for Alameda, Butte, Nevada, and Santa Clara counties from January 1, 2024 to January 1, 2026. [CSAC supported the extension](#) of the pilot program, which affords transition-age youth (18-25 years of age) greater opportunities to receive age-appropriate – intensive services, coordination, and planning – for employment, housing, and education, in lieu of time incarcerated in the adult system. AB 58 (Chapter 418, Statutes of 2023) was signed by the Governor on October 7, 2023.

[SB 564 \(Laird\) – Sheriffs and marshals: fees](#). This measure increases the fees sheriffs may collect for serving civil process. CSAC supported SB 564 as it would modestly increase and conform various fees that sheriff's offices are permitted to collect to fulfill their legal obligation and closer match the costs of providing services. This bill also preserves the existing fee waiver process for individuals who cannot afford the fee, ensuring that everyone in need can apply for relief and

access critical sheriff services. SB 564 (Chapter 29, Statutes of 2023) was signed by the Governor on June 29, 2023.

[SB 519 \(Atkins\) – Corrections](#). This measure makes records relating to a death incident investigation conducted by a local detention facility available to the public. Additionally, this measure creates the position of Director of In-Custody Death Review within the Board of State and Community Corrections to investigate inquiries of any death incident occurring within a local detention facility. SB 519 (Chapter 306, Statutes 2023) was signed by the Governor on October 4, 2023.

[SB 14 \(Grove\) – Serious felonies: human trafficking](#). Except in specified circumstances where the person who committed the offense was a victim of human trafficking at the time of the offense, this measure designates human trafficking of a minor for purposes of a commercial sex act as a “serious felony,” making it a strike for purposes of the Three Strikes Law. SB 14 (Chapter 230, Statutes of 2023) was signed by the Governor on September 25, 2023.

[AB 360 \(Gipson\) – Excited delirium](#). This measure prohibits “excited delirium” from being considered a valid medical diagnosis or cause of death in California. Also, the measure prohibits a coroner, medical examiner, physician, or physician assistant from stating on the death certificate or in any report that the cause of death was excited delirium. Additionally, the measure prohibits a peace officer from using the term “excited delirium” to describe an individual in an incident report. Lastly, the measure deems inadmissible in a civil action evidence that a person experienced or suffered excited delirium. This measure was a follow-up to AB 1608 from last year, which would have had a significant impact on 48 of our 58 counties, requiring the deconsolidation of all county sheriff-coroner offices. In response to our advocacy efforts and the failed attempt with AB 1608, the author took a more tailored approach this year, focusing specifically on medical diagnoses as opposed to stripping boards of supervisors’ authority and creating substantial costs for decoupling sheriff and coroner offices. AB 360 (Chapter 431, Statutes 2023) was signed by the Governor on October 7, 2023.

The below public safety bills were vetoed by the Governor:

[AB 304 \(Holden\) – Domestic violence: probation](#). This measure would have transferred the responsibility of approving domestic violence batterer’s intervention programs (BIP) to the Department of Justice (DOJ) from county probation departments; require DOJ to oversee BIP programs and require the Judicial Council to establish judicial training programs on all aspects of domestic violence. AB 304 was vetoed by the Governor on October 8, 2023 and the veto message can be found [here](#).

[AB 733 \(Fong, M\) – Firearms: sale by government entity](#). Beginning January 1, 2025, this measure would have prohibited state or local government agencies from selling firearms, ammunition, or body armor, within the state. AB 733 was vetoed by the Governor on October 8, 2023 and the veto message can be found [here](#).

[AB 912 \(Jones-Sawyer\) – Strategic Anti-Violence Funding Efforts](#). Contingent upon appropriation, this measure would have provided for the establishment, expansion, and funding for early-violence-intervention programs, school-based physical and mental health services, and youth-recreational activities. AB 912 was vetoed by the Governor on October 8, 2023 and the veto message can be found [here](#).

Administration of Justice (AOJ) 2024 Legislative Priorities & Year in Review
Attachment Four

CSAC Issue Brief: Incompetent to Stand Trial



Issue Brief: Incompetent to Stand Trial

What does it mean to be deemed Incompetent to Stand Trial (IST)?

According to state and federal law, all persons who face criminal charges must be mentally competent to assist in their legal defense. In other words, a defendant must understand the nature of their charge(s) and the court proceedings for their trial to continue. Therefore, an individual who is deemed incompetent to stand trial (IST) lacks the mental competency required to participate in legal proceedings.

What is the process for determining competency?

Penal Code §§1367 – 1376 establishes the process for determining competency. A doubt of competency can be declared pre-trial, throughout the duration of a trial, or prior to sentencing. When an individual is charged with a crime, a doubt of competency can be raised by the judge or defense counsel, typically due to a mental illness or intellectual disability. Once a doubt is raised, the court orders a hearing to determine the defendant's mental competence. The court is required to appoint a psychiatrist, licensed psychologist, or any other expert they deem appropriate – commonly referred to as an “alienist” – who examines the defendant and evaluates the nature and severity of their mental disorder. Following the evaluation, the alienist provides a report on the defendant's ability to understand criminal proceedings and whether neuroleptics (also known as “antipsychotics”) are an appropriate treatment.

If an individual is deemed competent – and the judge, defense, and prosecution agree with the findings – the criminal trial resumes. However, if the defense contests the finding, an additional hearing is held where the defense must prove by a preponderance of the evidence that the individual is IST. If an individual is deemed IST – and the judge, defense, and prosecution agree – the court orders a

placement evaluation conducted by the Department of State Hospitals (DSH) to determine the appropriate treatment, whether in a DSH inpatient facility or an outpatient program for “competency restoration.”

What happens after someone has been deemed IST? How is someone restored to competency?

Individuals deemed IST may be treated at the state or local level. After receiving a placement evaluation, they can be referred to DSH (or as it currently stands, added to the department's felony IST waitlist) for appropriate treatment to address mental health issues, medication needs, and training of criminal procedures; referred for local jail-based competency treatment, which mirrors DSH treatment; or receive early access to stabilization services (EASS) in participating counties, while waiting for higher level treatment placements. Defendants may also enter a local diversion or community-based restoration program upon a judge's order; if successfully completed, their charges may be dropped. Throughout the competency restoration process, court-imposed quarterly review hearings and competency re-evaluations may also take place. If an individual is restored to competency, criminal proceedings will resume. According to DSH, as of July 3, 2023, the IST waitlist consists of 871 individuals.

What government entities play a role in the IST process?

- **Behavioral Health** – provides mental health services to treat individuals with mental illness.
- **Courts** (judges, court-appointed alienists, staff) – judges are responsible for sentencing convicted criminal defendants, determining competency, ordering placement and treatment, and alienists conduct evaluations and provide reports to the court.
- **District Attorneys** – responsible for the prosecution of individuals charged with a criminal offense(s).
- **Public Defenders** – provide defendants with criminal defense services.
- **Sheriffs** – make arrests, participate in court proceedings, and operate local detention facilities.
- **Probation** – assists clients with rehabilitation and reintegration, prepares reports and recommendations for the court, and communicates with judges, counsel, health and behavioral health providers, and other partners.
- **Department of State Hospitals (DSH)** – manages the five state hospitals that provide mental health services to patients admitted by a criminal or civil court. DSH serves individuals who have been accused of or have committed an offense linked to their mental illness, including the IST population.

Problem: DSH waitlist – the state continues to experience a growing number of felony IST commitments, who are referred from trial courts and are awaiting admission to a state hospital. Concerns with the waitlist were at a high after the June 2021 *Stiavetti v. Clendenin* appellate court order, which requires DSH to provide substantive competency restoration services for all individuals deemed IST within 28 days of receipt of the commitment packet from the court.

How does the system and funding work?

The treatment process for the IST population is difficult to summarize as individuals may touch various county agencies such as behavioral health, probation, and sheriffs' departments. While the impacted governmental bodies previously referenced are eligible and receive varying levels of federal and state funding, many are funded through a county's general fund (with the exception of the courts). Accordingly, counties contribute significantly to the IST process and are deeply invested in reducing the IST population.

Two examples of agencies that play a critical role in the IST process are county behavioral health departments and public defender offices. County behavioral health agencies that provide critical treatment services receive funding through the Mental Health Services Act (MHSA), state sales taxes, income taxes, vehicle registration fees, Medi-Cal, and county general fund dollars. Public defender offices receive funding primarily through county general fund investments and access to federal and state grants. Recently, the state has significantly invested in the IST treatment process. However, these investments do not adequately cover the full cost incurred by counties to treat the rising demand of those deemed IST.

Last year, the Administration approved an "IST Solutions Package" to address the growing IST waitlist for DSH placement, which included:

- \$638 million General Fund annually, beginning 2025-26 to support: early stabilization and community care coordination; expansion of diversion and community-based restoration capacity; improve discharge planning and coordination; improve the quality of alienist evaluations.
- \$468.8 million in one-time grant funding to California counties to build, acquire, or develop residential housing settings for people who have been deemed IST.

Notably, the IST solutions package also included the establishment of a county growth cap and penalty program. As part of the solution to reduce both the state's wait times for treatment and the department's waitlist, DSH has been focusing on the expansion of diversion and community-based restoration within all counties. Counties that exceed their "cap" (based on IST commitments from previous years) must pay a penalty when the number of court IST determinations increase in a county. This approach is counterintuitive given that counties do not control IST determinations. If the IST population continues to rise, a cap and penalty program will simply result in reduced funding to effectively develop additional strategies and programs aimed at early intervention and prevention.