

**OFFICE OF THE DIRECTOR
ATTACHMENT C**

Ref. DL 23-003: INCOMPETENT TO STAND TRIAL GROWTH CAP AND PENALTY
PAYMENTS-WELFARE & INSTITUTIONS CODE (WIC) 4336

IST Determination Methodology

The updated IST determination methodology below will be applied to the FY 2021-22 baseline year and all subsequent years unless otherwise noted.

1. Each county's felony IST growth cap is based on the total number of felony IST determinations accounted for in FY 2021-22 (Attachment A).
2. An IST determination that will be used to establish a county's baseline count and subsequent yearly referral counts is defined as a felony IST referral committed to DSH or a DSH-funded program. The IST determination will be based on the commitment order date to DSH or a DSH-funded program and will be counted within the respective fiscal year (July 1 to June 30). The IST data must have been received by DSH no later than August 31st to be represented in the count.
3. The 'Initial Count' column displayed on Attachments A and B reflects IST commitments made to DSH and excludes the following items to avoid duplication:
 - administrative errors
 - duplicative records
 - transfers between DSH or DSH funded programs
4. **Beginning with FY 2024-25, DSH applied a Population Growth Factor adjustment to the baseline IST determination numbers for counties with census growth from FY 2021-22 compared to FY 2024-25 based on estimated census data published by the Department of Finance. For more details, please refer to the following link: [FY24-25 Memo And Annual Report](#).**
5. The 'Updated Determination Count' column is displayed on the right-hand side of Attachments A and B. The updated count is the result of the 'Initial Count' minus the categories displayed under the 'FIST Commitments Removed from Count' section. The additional exclusions are defined as:
 - **Program Revokes** - these are FIST individuals who may have been committed to DSH and placed in a diversion, community-based restoration (CBR) or other conditional release program (CONREP) in a prior fiscal year then revoked from the program and subsequently re-referred to DSH (inpatient) on the same charge in the applicable fiscal year.
 - **Re-Commitments** - these are FIST individuals who have been re-referred to DSH on the same charge in the same fiscal year for another reason other than revocation from a community-based program.
 - **Deaths** that occur prior to admission/enrollment in a DSH or DSH-funded program
 - **Cancellations** - cancelled FIST commitments/referrals to DSH include FIST individuals who were committed to DSH and either competency was restored or case was dismissed while waiting in jail prior to DSH treatment or DSH evaluation.
 - i. Please note that cancelled commitments are excluded as one of

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the adjustments reducing the FY 2021-22 baseline count. For FY 2022-23 and all future years, cancelled commitments will be incorporated as an adjustment and reduced from the IST determination counts

- **Re-Evaluated 1372** – this category includes IST individuals who were re-evaluated by DSH’s Re-Evaluation Program and identified as competent (PC 1372) prior to admission to any DSH treatment program, including Early Access and Stabilization Services (EASS) and Los Angeles County "off-ramp" re-evaluations. **Beginning with FY 2024-25, DSH updated the methodology to eliminate this offset from the baseline year and subsequent FYs beginning with FY 2024-25. For more details, please refer to the following link: [FY24-25 Memo And Annual Report](#).**
 - **EASS 1372** - This category includes IST individuals who were found competent after enrollment in EASS and were removed from the DSH wait list prior to admission to a DSH program bed in a JBCT, State Hospital, Community Inpatient Facility, CBR, Diversion or CONREP.
6. For any county that had zero felony IST determinations in FY 2021-22, the county’s baseline is set at one individual.

Diversion/Community-Based Restoration (CBR) Credit

The last two columns on Attachments A and B to the far right hand side of the page display a Diversion/CBR credit that is calculated as a partial credit applied for individuals who were admitted into a DSH-Funded Diversion or CBR program. The partial credit recognizes that both the counties and DSH have a role in treating individuals in Diversion and CBR programs and that a subset of individuals who are treated in Diversion and CBR will be unsuccessful in the community and require treatment in the state hospital or community-based inpatient facility. The credit will be calculated as follows:

1. In the baseline year and subsequent years, DSH will count each individual that was found by the court to be IST and diverted into a DSH-funded diversion program or admitted into CBR within the year. For those individuals, DSH will apply a Diversion/CBR credit by multiplying the county’s Diversion count by the statewide Diversion and/or CBR success rate for the most recent 2-year cycle completed. DSH will then multiply the adjusted successful Diversion/CBR count by 50%.
 - a. For the 2021-22 baseline and 2022-23 determinations, the Diversion/CBR success rate from 2020-21 will be utilized.
2. The following is an example calculation for reference utilizing data available to date. For County A, 10 individuals were found IST and diverted within FY 2022-23.
 - 10 diverted ISTs multiplied by the statewide success rate for FY 2020-21 (currently 60% based on most recent dataset): $10 \times .60 = 6$
 - The total is then multiplied by 50%: $6 \times .50 = 3$
 - That number would then be credited to that county and deducted from their FY 2022-23 determinations for the final adjusted IST determination count.