



DATE: February 28, 2023

TO: ALL COUNTY CHIEF ADMINISTRATIVE/EXECUTIVE OFFICERS

SUBJECT: FISCAL YEAR 2022-23 QUARTER TWO FELONY INCOMPETENT TO STAND TRIAL (IST) GROWTH CAP PROGRESS REPORT

RE: IST GROWTH CAP AND PENALTY PAYMENTS-WELFARE & INSTITUTIONS CODE (WIC) 4336 DEPARTMENT LETTER: 22-003

On December 19, 2022, the Department of State Hospitals (DSH) released Department Letter (DL) 22-003 that provided information on recent statutory requirements included in Senate Bill (SB) 184 (Chapter 47, Statutes of 2022) that established a growth cap for all counties for individuals committed as Incompetent to Stand Trial (IST) on felony charges pursuant to Section 1370 of the Penal Code. Attached to DL 22-003 was a report identifying each county's baseline number of IST determinations for future penalty calculations and a report of each county's unreconciled data for the first quarter of Fiscal Year (FY) 2022-23.

Please find attached to this letter, a progress report of unreconciled data for the second quarter (October 1, 2022, through December 31, 2022) of FY 2022-23 provided in reference to the FY 2021-22 baseline numbers. A copy of the previously issued letter DL 22-003 and frequently asked questions are available on the DSH website at the following links:

- **[Felony IST Growth Cap DL 22-003](#)**
- **[Felony IST Growth Cap FAQs](#)**

Per DL 22-003, DSH will release progress reports within sixty days following the end of each new quarter. The intent of the progress reports is to provide counties with quarterly updates on how the current year trend of felony IST determinations compares to baseline trends, so counties have an opportunity to take action that could result in preventing cap overages and potential penalties. The attached Quarter 2 Progress Report compares each county's baseline and baseline monthly average from FY 2021-22 to the FY 2022-23 year-to-date and monthly averages. Additionally, the report displays the monthly average difference to assist in determining if the referrals are increasing or decreasing, as well as actual IST determination counts by quarter.

Counties are encouraged to monitor their referrals in comparison to the baseline numbers in anticipation of potential growth cap fines that will be issued in November 2023. If you have any questions or require additional information, please send inquiries to: [DSHISTGrowthCap@DSH.CA.GOV](mailto:DSHISTGrowthCap@DSH.CA.GOV).



Original Signed By

Stephanie Clendenin  
Director  
Department of State Hospitals

cc: All counties' Behavioral Health Directors  
All counties' Sheriffs  
All counties' Public Defenders  
All counties' District Attorneys  
All Presiding Judges of the Superior Courts of California

**Attachment(s):** Fiscal Year 2022-23 Quarter Two Progress Report