Original date: March 26, 2025

Revised: April 17, 2025

To: Members of the California Legislature
From: Maria Rafael, Senior Research Associate, Vera Institute of Justice
Subject: **Calculating the 3.39 percent mental health diversion grant rate estimate[1]**

Vera estimated the mental health diversion grant rate of 3.39 percent for felony cases in California by dividing the number of felony petitions that were granted diversion (2,535) by the estimated number of diversion-eligible felony dispositions (74,849) and multiplying by 100.

The numerator of 2,535 represents the total felony petitions granted in calendar year (CY) 2023 (the most recent year for which four quarters of data are available), excluding data from 14 counties due to incomplete reporting.[2] Vera was able to ascertain the identities of these missing counties (Contra Costa, Glenn, Humboldt, Los Angeles, Madera, Modoc, Merced, San Diego, San Francisco, San Joaquin, San Luis Obispo, Santa Clara, Sutter, and Yolo) based on correspondence with the Judicial Council.[3]

To determine the denominator of 74,849 diversion-eligible felony dispositions, Vera started with the total number of felony dispositions (108,227) during fiscal year (FY) 2023 (the most recent year with available data) and made several adjustments/subtractions.[4] First, to improve the validity of the comparison, Vera subtracted 20,515 FY 2023 felony dispositions from the 14 counties excluded from the numerator.[5] Then, to eliminate any cases that would be statutorily ineligible for diversion, Vera subtracted 12,863 CY 2023 Department of Corrections (DOC) admissions for offense types that would be statutorily ineligible for diversion based on Penal Code § 1001.36(d).[6]

It is important to note several limitations in this calculation. The data used by Vera spans slightly different time periods (CY versus FY 2023), which may impact comparability. The exclusion of 14 counties (particularly populous ones like Los Angeles and San Diego) could meaningfully impact the overall rate. Additionally, the subtraction of DOC admissions for ineligible cases may not perfectly align with actual ineligible convictions, and the number of convictions is likely greater than the number of admissions.

Where possible and where necessary (due to inherent limitations of the available data), Vera erred on the side of subtracting more cases from the denominator to avoid overestimating the number of diversion-eligible cases and, as a result, underestimating the diversion rate. As one instance of this, the DOC admissions data reports on "offense groups" rather than specific offenses or penal codes. Within the

offense group called "manslaughter," only voluntary manslaughter is ineligible for mental health diversion. As it is impossible to disaggregate voluntary manslaughter from within this group, Vera subtracted the total number of manslaughter cases, which likely includes both voluntary and involuntary manslaughter offense types. The same note applies for the following offense groups, for which Vera similarly categorically excluded all cases, despite not knowing whether all admissions categorized under the general group were in fact ineligible for diversion under PC 1001.36(d): "Assault Deadly Weapon," "Other Assault/Battery," and "Other Sex Offenses." Additionally, because the DOC admissions data is only available as a statewide aggregate, there was no way to isolate out the 14 counties that were excluded from the numerator.

Finally, Vera removed the 14 counties that failed to report information for at least one quarter during CY 2023 from the felony disposition data provided by the Judicial Council of California. As the reports published by the Judicial Council do not disaggregate felony disposition data by quarter, Vera subtracted information corresponding with the 14 counties from the entire year of analysis.

Despite these limitations, Vera believes this calculation provides a reasonable estimate of the mental health diversion grant rate based on the available data.

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[1] An earlier version of this memo reported the estimated rate as 2.88 percent. Vera subsequently revised this estimate based on additional information received from the Judicial Branch of California identifying counties with missing data.

[2] California Courts, Judicial Branch of California, Reports to the Legislature, *2024 Mental Health Diversion Data Summary Report Supplemental Report of the 2019–20 Budget Act*, (San Francisco, CA: Judicial Council of California, 2024) https://courts.ca.gov/system/files/file/mental_health_diversion_data_summary_report_2024.pdf

[3] Vera requested from Judicial Council the identities of counties that failed to report data for CY 2023 on March 19, 2025. Vera received a response on April 2, 2025. The list represents counties that failed to report information for at least one quarter during CY 2023.

[4] Judicial Council of California, *2024 Court Statistics Report, Statewide Caseload Trends: 2013-14 Through 2022-23* (San Francisco, CA: Judicial Council of California, 2024), https://courts.ca.gov/sites/default/files/courts/default/2024-12/2024-court-statistics-report.pdf (see "Superior Courts Criminal Filings, Dispositions, and Caseload Clearance Rate," p. 81).

[5] Judicial Council of California, *2024 Court Statistics Report*, 2024, see "Total Criminal Dispositions, by County and Case Type," pp. 124-125. Because felony disposition data is not disaggregated by quarter, Vera subtracted for the entire CY 2023 information corresponding with counties that failed to report information for at least one quarter during that year. Los Angeles, San Diego, and San Francisco did not report data on felony dispositions and, as a result, Vera did not subtract data corresponding with those three counties from the total number of felony dispositions.

[6] California Department of Corrections and Rehabilitation, Office of Research, Offender Data Points, https://public.tableau.com/app/profile/cdcr.or/viz/OffenderDataPoints/SummaryInCustodyandParole (see "Admissions Population by Offense Group: Crimes Against Persons"). Vera marked all case types listed under "Crimes Against Persons" as ineligible, except for "Kidnapping," "Robbery," and "Vehicular Manslaughter."