



**Ventura County  
Behavioral Health Department**

Alcohol & Drug Programs  
Mental Health Services

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A Division of Ventura County Health Care Agency

August 16, 2004

Honorable Bruce A. Clark  
Presiding Judge of the Superior Court  
800 S. Victoria Avenue  
Ventura, CA 93009

Subject: 2003-2004 Ventura Grand Jury Report  
Behavioral Health Department Response

Dear Judge Clark,

This letter is in reply to the findings and recommendations contained in the 2003-2004 Ventura County Grand Jury report entitled, *Ventura County Proposition 36 Implementation*.

While in many ways the Behavioral Health Department agrees with the content of this report – there is much disagreement in regards to the tone and with some of the statements provided in the Executive Summary. Over the past 3 years, the Department along with our many partners in this area, has worked diligently at implementation of this law and while improvements can and are being sought, the Department remains committed to our efforts in providing services in accordance with the terms of Proposition 36 law.

There are three primary areas that BHD/ADP has already recommended or is recommending that should be highlighted. These three areas are referred to throughout this report and are the main substance of our response.

- 1) BHD/ADP believes that an Oversight Committee – which has never been designated should be created. This Oversight Committee should then meet and officially create an MOU which will provide clarity to the Operations Cabinet on implementation of this law.
- 2) BHD/ADP believes that many of the clients referred to Prop. 36 for treatment may not be appropriate for outpatient treatment. With a greater understanding of the patient population – BHD/ADP recommends a tighter protocol for the first 30 days of treatment. This protocol would include no absences and no “dirty” drug tests (unless the client – not missing any treatment admits to relapse prior to test.)

- 3) At this time, BHD/ADP and the contracted treatment providers are responsible for determining non compliance of clients. BHD/ADP would propose that non compliance be determined by the courts. BHD/ADP would report all activities of clients in treatment – including attendance and drug testing results. The courts would then be responsible for determining if these activities are violation and strikes or a normal part of treatment recovery. Recommendations from treatment, along with Probation and representation of the Public Defender and the D.A. would be included in this process. Details of implementation of this procedure could be determined in the MOU by the Operations Committee.

We have gone through each Finding and Recommendation and where we agree, we have stated our concurrence. Where we disagree or only partially agree, we have stated this with explanation. Throughout this response in those instances where the Department did not feel it was appropriate to comment or did not have sufficient knowledge to comment we have so noted. Where appropriate we have also used the responses as an opportunity to educate in an effort to provide a wider perspective on the issues.

Respectively submitted,

  
Linda Shulman  
Director

**Findings:**

F-01	<i>Concur</i>
F-02	<i>Concur</i>
F-03	<i>Concur</i>
F-04	<i>Concur</i>
F-05	<i>Concur</i>
F-06	<i>Concur</i>
F-07	<i>Concur</i>
F-08	<i>Concur</i>
F-09	<i>Concur</i>
F-10	<i>Concur</i>
F-11	<i>Concur</i>
F-12	<i>Concur</i>
F-13	<i>Concur</i>
F-14	<i>Concur</i>
F-15	<i>Concur</i>
F-16	<i>Concur</i>
F-17	<i>Disagree</i>

The jail programs and the work furlough Stages program are education programs only and not treatment programs. Not all offenders with substance abuse problems are eligible for these programs. Offenders must fill out a program screening form if they are interested in the Substance Abuse Program and have 30+days left. The Drug and Alcohol Abuse Education (DEUCE) program is only available to inmates in Quad

D of the Todd Road jail facility. Most of the offenders have experienced trauma in their lifetime and need more than education to deal with these underlying factors that play a major role in their addiction.

F-18 *Partially Concur*

Refer to response to Finding 17. The jail programs and the work furlough Stages program are education programs only and not treatment programs. Most PC 1000 Diversion Programs are considered education only. One Ventura County program offers prevention, education, and treatment.

F-19 *Partially Concur*

BHD/ADP concurs with the first two sentences, and disagrees with the last sentence (refer to Finding 17 response). The jail programs and the work furlough Stages program are education programs only and not treatment programs.

F-20 *Concur*

F-21 *Concur*

F-22 *Concur*

F-23 *Concur*

F-24 *Concur*

F-25 *Partially Concur*

Throughout the report the Grand Jury refers to the Oversight Committee. This is erroneous. The Implementation Committee evolved into the Operations Committee. An Oversight Committee was never formed. Final policy oversight rests with the Board of Supervisors.

F-26 *Concur*

F-27 *Concur*

F-28 *Unable to Comment*

F-29 *Unable to Comment*

F-30 *Concur*

F-31 *Concur*

F-32 *Concur*

F-33 *Concur*

F-34 *Concur*

F-35 *Partially Concur*

Probation and Parole are responsible for supervision. BHD/ADP and the treatment providers are responsible for case management.

F-36 *Concur*

F-37 *Unable to Comment*

F-38 *Concur*

F-39 *Concur*

F-40 *Concur*

F-41 *Partially Concur*

The MOA was drafted, but never submitted.

F-42 *Concur*

F-43 *Concur*

F-44 *Concur*

F-45 *Concur*

F-46 *Partially Concur*

BHD/ADP agrees with all except the last sentence. On a first violation persons are usually referred back to treatment, which may be more intensive.

F-47 *Concur*

F-48 *Concur*

F-49 *Concur*

F-50 *Concur*

F-51 *Concur*

F-52 *Concur*

F-53 *Concur*

F-54 *Unable to Comment*

F-55 *Unable to Comment*

F-56 *Concur*

F-57 *Unable to Comment*

F-58 *Concur*

F-59 *Concur*

F-60 *Concur*

F-61 *Disagree*

Providers recognize that some clients experiencing co-occurring mental health and substance abuse disorders cannot benefit from treatment until they have received psychiatric treatment and are stabilized on medications. Just as a client with an acute medical condition cannot benefit from substance abuse treatment until their medical condition is stabilized. Protocols have been developed for referring clients for psychiatric services. Clients with co-occurring or dual disorders have different treatment needs than clients having only an alcohol or other drug use disorder. The most frequently used treatment models include sequential treatment of each disorder, parallel treatment of each disorder,

and integrated treatment of both disorders. Several possible relationships exist between alcohol and drug use and psychiatric symptoms and disorders. Alcohol and drug use can induce, worsen, or diminish psychiatric symptoms, complicating the diagnostic process. (Center for Substance Abuse Treatment, "Assessment and Treatment of Patients with Coexisting mental Illness and Alcohol and Other Drug Abuse", Treatment Improvement Protocol Series 9.)

F-62 *Concur*

F-63 *Disagree*

BHD/ADP is unaware of any staff that made this statement.

F-64 *Disagree*

"Unamenable" is not a behavioral health term.

F-65 *Partially Concur*

The reference should be to a member of the Operations Committee not Oversight Committee. Refer to Finding 25 response.

F-66 *Unable to Comment*

F-67 *Disagree*

BHD/ADP is unaware of any staff that made this statement.

F-68 *Unable to Comment*

F-69 *Unable to Comment*

F-70 *Unable to Comment*

F-71 *Partially Concur*

BHD/ADP concurs with the first sentence. Refer to the response to Finding 61 regarding working with clients with mental health and substance abuse disorders. BHD/ADP disagrees with generalizing mentally ill clients as long-term criminals. The Diagnostic and Statistical

Manual (DSM IV) differentiates between persons with mental disorders and persons with personality disorders. The remainder of this finding appears to be referring to individuals with Antisocial Personality Disorder. There is also a difference between individuals being unable to engage in treatment and those unwilling to participate.

F-72 *Partially Concur*

It was originally understood that Proposition 36 was for non-violent drug offenders. However, the law has been interpreted to mean that the offender was not committing a violent offence at the time of the arrest. In fact, individuals with violent criminal histories and gang involvement are being referred to Proposition 36 by the criminal justice system. This is one of the flaws in the law. Treatment providers have safety concerns, and have done a good job in averting potentially violent situations.

F-73 *Concur*

F-74 *Partially Concur*

This may have been true prior to the high court decision filed 8/8/03. Penal code 1210.1 subdivision (b) sets forth five categories of defendants who are ineligible for Prop. 36; #5 states "have twice failed drug treatment as a condition of probation and been found not to be amenable to drug treatment". This high court decision includes defendant's who do not show up for assessment, treatment, or probation. Since the decision, the judge has been diligent in deeming defendants ineligible.

F-75 *Concur*

F-76 *Partially Concur*

The Court determines strikes, when a defendant strikes out, and when a defendant is unamenable.

F-77 *Partially Concur*

The protocol states, "Clients who are resistant to treatment and refuse to pay program fees may be determined to be non-compliant". Clients can not be deemed non-complaint for not paying their program fees alone. Title 9 also differentiates between the inability to pay and the refusal to pay.

F-78 *Concur*

F-79 *Concur*



F-80 *Partially Concur*

An Operations Committee exists, not an Oversight Committee. Refer to response to Finding 25.

F-81 *Unable to Comment*

F-82 *Partially Concur*

Refer to response to Finding 61. BHD/ADP does not refer to mentally ill clients as being unamenable to treatment. It is important to place clients in the right treatment. Other than MART, and the Juvenile Adelante Court, Ventura County does not have a designated mental health court.

F-83 *Concur*

F-84 *Concur*

F-85 *Unable to Comment*

F-86 *Partially Concur*

Prop. 36 eligible drug offenders with misdemeanor charges who opt out of treatment are usually sentenced to 90 days in jail. Every dollar invested in treatment yields a return of \$7 saved (Department of Alcohol and Drug Programs, CALDATA Report). According to the Justice Policy Institute, Ventura County taxpayers spent \$5.8 million in 1999 to imprison drug offenders, of which nearly two-thirds (\$3.7 million) was spent on prisoners sentenced for low-level drug possession charges.

F-87 *Unable to Comment*

F-88 *Concur*

F-89 *Concur*

F-90 *Concur*

F-91 *Concur*

F-92 *Partially Concur*

The Implementation Committee evolved into the Operations Committee not the Oversight Committee (refer to the response for Finding 25). A representative from the CEO's office was the original chairperson of the Implementation Committee and meeting minutes were published during

this time. When he stepped down in October 2001, the Committee voted a representative from the Public Defenders office as the new chairperson. When the second chairperson stepped down in August 2002, the Committee nominated and unanimously voted in a representative from the Lead Agency (BHD/ADP) as the chair.

F-93 *Concur*

F-94 *Partially Concur*

This is an Operations Committee not an Oversight Committee (refer to response for Finding 25). Numerous reminders of meetings and invitations have been extended to the Sheriffs Department and law enforcement council to attend the Operations Committee meetings, and statewide Making It Work Conferences.

F-95 *Partially Concur*

This is an Operations Committee not an Oversight Committee (refer to response for Finding 25).

F-96 *Partially Concur*

This is an Operations Committee not an Oversight Committee (refer to response for Finding 25).

F-97 *Concur*

F-98 *Concur*

F-99 *Concur*

F-100 *Concur*

F-101 *Concur*

F-102 *Partially Concur*

Clients who do not contact the assessment center within 5 days to schedule an assessment appointment are non-complied. During the first year, there were times when assessment appointments were booked out for three weeks. This was remedied by the second year and is no longer the case. Additional staff were hired and adjustments were made to the scheduling of appointments. The assessment calendar is closely

monitored to ensure timely appointments. Clients usually enter treatment the same week they are assessed.

F-103 *Concur*

F-104 *Concur*

F-105 *Concur*

F-106 *Disagree*

BHD/ADP reviewed various types of the ASI, including self-administered formats. As one of 10 Focus Counties selected to participate in the statewide evaluation of the Substance Abuse and Crime Prevention Act of 2000 (SACPA), UCLA who is conducting the evaluation, did not want us to use self-administered ASI's as the reliability and validity were not as good.

F-107 *Partially Concur*

The last sentence is incorrect. Proposition 36 mental health services are funded through the Substance Abuse Treatment Trust Fund (SATTF) allocation, and not a SAMHSA grant.

F-108 *Concur*

F-109 *Concur*

F-110 *Concur*

F-111 *Concur*

F-112 *Concur*

F-113 *Concur*

F-114 *Partially Concur*

50% of the Prop. 36 clients in Ventura County have not had any prior drug treatment. It is unknown whether they were previously offered an opportunity for treatment.

F-115 *Partially Concur*

Refer to response for Finding 102.

F-116 *Concur*

F-117 *Unable to Comment*

F-118 *Unable to Comment*

F-119 *Unable to Comment*

F-120 *Unable to Comment*

This is a broad generalization that does not apply to all people. Research has shown the different stages of motivation and stages of change that clients go through.

F-121 *Disagree*

BHD/ADP recognizes the importance of holding clients accountable through continual communication. Staff are trained to check out and verify information provided by clients.

F-122 *Concur*

F-123 *Partially Concur*

Probation and Parole supervise, BHD/ADP case manages.

F-124 *Concur*

As stated in the Second Year Report, 2580 initial assessments had been conducted since the inception of the program.

F-125 *Partially Concur*

Treatment providers submit CADDs, PSR and DATAR forms each month. A CADDs form is completed every time there is a change in a client's status (new enrollment, re-enrollment, transfer to another program, discharge). Therefore, a CADDs form is not completed on every client every month. Providers also submit units of service (outpatient programs) or bed days (residential providers) for each client on a monthly basis. Residential providers submit progress reports (treatment level reviews) each month. Outpatient providers report on clients the first 30 days and then submit progress reports every 90 days. Out patient providers submit attendance group logs on a daily basis to the assessment center. Drug test results from the lab come daily to the assessment center and are then

faxed to the various outpatient treatment providers.

F-126 *Partially Concur*

With the removal of the firewall in September 2003, there are no requirements for assessment center case managers to meet with clients face to face, as the treatment providers now contact probation officers directly instead of going through the assessment center.

F-127 *Partially Concur*

Site visits of both residential and outpatient providers are conducted.

F-128 *Concur*

F-129 *Concur*

F-130 *Partially Concur*

Positive lab results are placed in client charts. A record of all of a client's drug tests is printed and placed in the client's chart. Electronic submission of drug testing results from the lab and connected to the CMS database is projected to be completed by the end of the first quarter this year. We are waiting for outside vendor to complete work needed to implement.

F-131 *Concur*

It is the responsibility of the treatment providers to notify the assessment center of client compliance and non-compliance.

F-132 *Concur*

F-133 *Partially Concur*

A report is generated each month showing the number of negative drug tests and positive tests by drug.

F-134 *Concur*

F-135 *Partially Concur*

BHD/ADP has not been given full access to the criminal justice data system and the District Attorney's representative and representative's from Probation continue to not agree with providing information from their areas. Should BHD/ADP be given access and should be agreed upon

reporting from each area be provided, BHD/ADP has sufficient staff to analysis, report and provide information. A Statistician is not needed.

- F-136 *Concur*
- F-137 *Concur*
- F-138 *Concur*
- F-139 *Concur*
- F-140 *Concur*
- F-141 *Concur*
- F-142 *Concur*
- F-143 *Concur*
- F-144 *Concur*
- F-145 *Concur*
- F-146 *Concur*
- F-147 *Concur*
- F-148 *Concur*
- F-149 *Disagree*

According to the American Society of Addiction Medicine (ASAM) placement criteria not all clients need the same length of treatment and treatment plans should be individualized based on the needs of the client. The initial referral of 30 days is used as a checks and balances to insure that clients are progressing and getting the treatment they need, and not being kept in treatment just to keep a bed filled. Residential providers must submit a treatment level review form based on ASAM placement criteria on each client every 30 days.

- F-150 *Concur*
- F-151 *Unable to Comment*
- F-152 *Concur*

F-153 *Unable to Comment*

F-154 *Unable to Comment*

F-155 *Concur*

F-156 *Disagree*

BHD/ADP contracts require drug-free workplace and this is enforced.

F-157 *Disagree*

BHD/ADP contract monitoring and quality controls can and are increased whenever necessary.

F-158 *Concur*

F-159 *Concur*

F-160 *Concur*

F-161 *Concur*

F-162 *Concur*

F-163 *Concur*

F-164 *Concur*

F-165 *Unable to Comment*

F-166 *Partially Concur*

Refer to response for Finding 135.

F-167 *Concur*

F-168 *Concur*

F-169 *Concur*

F-170 *Partially Concur*

Protocols, including the satisfactory completion protocol were originally developed by the Implementation Committee. Some of the original

protocols were based on compromises with criminal justice, and research and evidenced based clinical practices. There would be chaos without standardized protocols. Treatment providers were not part of the Implementation Committee, but two representatives are now part of the Operations Committee. As the program has evolved from implementation, certain changes have been made and representatives from treatment programs have been involved in these changes. Treatment providers review and update treatment plans with clients and submit progress reports every 90 days on each client. One treatment provider developed a score card for each client to record individual progress. The Addiction Severity Index (ASI) and drug testing are administered at the time of discharge. Clients testing positive are not discharged, but remain in treatment. Changes and decisions are based on sound clinical, ethical, and legal decisions. Provider contracts were adjusted to units of service in order to better meet the needs of individual clients.

BHD/ADP has agreed to not include the treatment providers in the Operations Committee.

F-171 *Concur*

The Assessment Center liaison to the dedicated court has objected to offenders referred to Proposition 36 to no avail. BHD/ADP is concerned when cases involving drug dealers and gang members are pled down and these individuals have to be referred to treatment. Similar to the referral to mentally ill treatment, BHD/ADP would like to be involved in the assessment and appropriateness of clients prior to their being sentenced to Prop. 36 treatment. Also, refer to response for Finding 72. BHD/ADP has proposed stricter treatment protocols for the first 30 days of treatment to try and determine those who are serious about treatment from those who are not. BHD/ADP hopes that the other partners in criminal justice will also review their protocols to keep these people out of treatment.

F-172 *Concur*

F-173 *Concur*

F-174 *Concur*

F-175 *Concur*

F-176 *Concur*

F-177 *Disagree*



Under the sub-heading "Violation Criteria/Protocol" of the Non-Compliance Policy it states, "The Case Manager submits violation/non-compliance report with the Court/Probation within two business days of latest incident, utilizing the Non-compliance Form". A specific protocol is then listed for each violation.

F-178 *Concur*

F-179 *Unable to Comment.*

F-180 *Partially Concur*

The formula the State used to calculate each county's allocation for 2001-2004 was based on 50% county population, 25 % drug arrests, and 25% treatment case load. The formula that was used on 7/1/04 is based on 50% population, 40% caseload, and 10% drug arrests.

F-181 *Concur*

F-182 *Disagree*

The number of treatment completions are tracked monthly and provided in a report distributed to the BHD/ADP Directors, Operations Committee, and ADP Advisory Board. A copy of this report was given to the Grand Jury several times. As of the end of May 2004, 628 clients had satisfactorily completed treatment. Clients can request to have their cases expunged (removed from their court record) after completing treatment, paying all fines and fees, and complying with all terms of their probation. As of the end of May, 65 clients have had their charges expunged. BHD/ADP does not have access to recidivism information unless the offenders pick up another Prop. 36 related case.

F-183 *Unable to Comment*

F-184 *Disagree*

Treatment providers ask for volunteers who want to speak about their experience in treatment at the Board of Supervisors. These volunteers are not given a script or told what to say. Providers are not aware of what the clients are going to say. Various Board members even ask the clients questions. Volunteers also sign a waiver of confidentiality. Treatment providers and BHD/ADP receives unsolicited letters monthly from clients, family and employers thanking us for the treatment experience that changed client's lives.

F-185 *Concur*

BHD/ADP has repeatedly been denied access to this information.

F-186 *Concur*

F-187 *Concur*

F-188 *Concur*

F-189 *Concur*

F-190 *Concur*

F-191 *Disagree*

The standards and protocols are specifically quantified in the Non-Compliance Protocols. Treatment providers also provide the specifics to clients.

F-192 *Concur*

F-193 *Disagree*

BHD/ADP quoted Senate Bill 223 (SB 223) which states, "... testing is primarily used as a treatment tool".

F-194 *Concur*

F-195 *Disagree*

There is no longer a Drug Court in Ventura County. Comparing drug test results of Prop. 36 clients with Drug Court participants is not a valid comparison. There are several differences between Drug Court participants and Proposition 36 offenders. Drug Court was very exclusive in what offenders were allowed to participate, the caseloads were smaller, and offenders were more motivated. Proposition 36 on the other hand, is much more inclusive even letting in some who shouldn't be considered eligible (i.e. drug dealers, gang members, driving under the influence), the caseloads are much larger, and the offenders have more severe addictions, lengthier criminal histories, and lower motivation. Drug Court only administered random testing which is easier for clients to use drugs or alcohol in between tests versus regular drug testing done 2 to 3 times per week.

F-196 *Concur*

F-197 *Concur*

F-198 *Unable to Comment*

F-199 *Concur*

Drug Testing provided as a part of treatment is a treatment tool. Drug Testing – by Probation – can be used as a tool of compliance with the law. BHD/ADP would encourage a greater amount of drug testing and oversight by Probation of clients participating in Prop. 36

F-200 *Partially Concur*

Working drafts of proposed protocol changes were submitted for review to the Operations Committee not the Oversight Committee. Refer to response to Finding 25. Since marijuana can stay in the body for 30 days or more, a separate protocol was developed during the first year. If nanogram counts do not reduce or go up, clients are non-complied.

F-201 *Partially Concur*

This is an Operations Committee and not an Oversight Committee. Refer to response to Finding 25. Two major outpatient treatment providers drafted the drug testing protocol for 2004-2005. Combined these two providers provide treatment to over 500 Proposition 36 clients per year. These same providers also drafted the new attendance protocol, which is more restrictive than the original protocol, and which the specific details are not mentioned in the Grand Jury report.

F-202 *Partially Concur*

This is an Operations Committee and not an Oversight Committee. Refer to response to Finding 25. BHD/ADP recognized that a consensus was not going to be achieved, and that the new protocols were a clinical decision, and therefore should be incorporated without the approval of the Operations Committee.

F-203 *Partially Concur*

This is an Operations Committee and not an Oversight Committee. Refer to response to Finding 25. Previous copies of the proposed protocol changes were working drafts. The additional sentence regarding clients placed on a residential waiting list had been discussed throughout the

Operations meetings and was placed on the final format.

F-204 *Partially Concur*

This is an Operations Committee and not an Oversight Committee. Refer to response to Finding 25.

F-205 *Concur*

F-206 *Partially Concur*

This is why treatment providers requested that a new drug testing protocol be developed to give them more discretion in testing. Also, if clients test positive at graduation, they are not completed and must remain in treatment.

F-207 *Concur*

F-208 *Disagree*

Refer to the response to Finding 201.

F-209 *Partially Concur*

The drug testing protocol that went into effect July 1, 2004 was drafted by two treatment providers and was based on clinical decisions rather than a financial business decision. The state only allocates a certain amount of funding for drug testing (refer to Senate Bill 223). The original law does not allow funds to be used for drug testing. Since the Proposition 36 lead agency does not receive funding from the County General Fund, there is no where else to obtain additional drug testing funding. After the first year, the Assessment Center quit drug testing every client at assessment in order to allow more funding to go to the treatment providers and the increasing case loads.

F-210 *Disagree*

BHD/ADP has proposed a protocol with higher accountabilities in the first 30 days of treatment.

F-211 *Concur*

F-212 *Partially Concur*

The type of testing changed from the first year to the second year. During the first year on site amino assay tests (dipsticks) were used. Because of

the error rate and false negatives that can occur with on-site tests, all urine specimens were sent to a lab beginning in the second year. On site testing is conducted with pregnant clients and at discharge, and the specimen is also sent to the lab. This is the same lab that Probation uses.

F-213      *Partially Concur*

The table is showing lab tests only and does not include on-site amino assay (dipstick) tests at \$7.00 per test. The table also does not include the cost of supplies.

F-214      *Concur*

F-215      *Unable to Comment*

BHD/ADP has asked Probation for data and reports, and they have commented that they did not keep this information. Probation has not been able to provide UCLA with information they have requested.

F-216      *Partially Concur*

Various different statistics are kept by BHD/A JP. Clients are revolving in and out of treatment. They are non-complieed and returned to the court. A warrant will be issued for a client who has lost touch with the treatment provider. Some clients may be arrested right away and others may take longer. An analogy of being "on the tarmac" was given to explain pending clients that are in a holding pattern between assessment, treatment, and the court. BHD/ADP does not know when a client is in jail as access to the VCIJIS jail screen has been denied. After 30 days of no contact with a client, treatment providers are required to close the CADDs and discharge the client. Oversight of clients while in the Community is a function of the Probation department.

F-217      *Partially Concur*

The generalized statement that drug tests average three to four tests per client per month, or less than one test per week is incorrect. Clients are referred to different levels of treatment (Level I, Level II, or Level III) which have different drug testing protocols at different phases in the treatment process. Since the beginning, a Matrix to show the phases of testing in the different treatment levels was created, and shows more testing being done in the beginning of treatment and fewer tests at the end.

F-218      *Disagree*

Some client counts reported to the State are duplicates (i.e. CADDs) and some are unduplicated. Refer to response to Findings 180, 216, and 217.

F-219 *Disagree*

The BHD/ADP and Probation numbers cannot be compared as they are tracked differently. This is an incorrect way of figuring drug tests. Refer to response to Findings 216, 217, and 218.

F-220 *Concur*

This is why BHD/ADP have been trying to get electronic submission of drug results from the lab for over a year and a half. Plans have also been made to connect providers to the BHD/ADP computer database.

F-221 *Disagree*

The 21% positive rate is not extremely high when compared to similar programs. According to the Matrix Institute on Addictions, one of their program "success" completion measures is 70% urine samples drug free. This would be a 30% positive rate. The Grand Jury report mentioned Probation positive rates at 31% in Finding 222. Federal programs may have lower positive rates, but they are also very expensive programs to run, and Prop. 36 has not allocated enough funds to run this type of program. Other programs can have lower positive rates because they test on a random basis and not regularly. It is easier for persons to use when they are only tested randomly once a month.

F-222 *Concur*

F-223 *Concur*

Ventura County provider's believe in the importance of client's taking personal responsibility for their financial involvement in treatment, and therefore, use a sliding scale based on each individual's ability to pay. Title 9 differentiates between the inability to pay and the refusal to pay for treatment.

F-224 *Disagree*

Using this type of device would cost more than the allocation of \$175,274. \$3500 per month x 12 months = \$42,000 x 8 sites = \$336,000 plus the cost of sending positive tests to the lab for confirmation

F-225 *Disagree*

Hair follicle testing would not be practical for this type of program. Proposition 36 treatment providers need immediate results. They need a narrow and most recent window of detection, rather than 90 days. At the expense of this type of testing, fewer tests would be run, and there would be the problem of overlapping tests. Hair follicle testing works better with custody cases.

F-226      *Partially Concur*

Mandated clients often have higher long-term recovery rates than voluntary clients do, because it is harder for them to drop out of treatment.

F-227      *Concur*

F-228      *Concur*

F-229      *Concur*

The Grand Jury did not mention the high recidivism rate of parolees in California as reported by the Little Hoover Commission.

F-230      *Concur.*

F-231      *Concur*

F-232      *Concur*

F-233      *Concur*

F-234      *Concur*

F-235      *Concur*

F-236      *Concur*

F-237      *Concur*

F-238      *Unable to Comment*

F-239      *Concur*



F-240 *Partially Concur*

This is why the Standing Order was changed in May 2004 to allow BHD/ADP to release the Pre-sentence Probation Report to treatment providers. Probation had opposed releasing the report without having the order changed.

F-241 *Concur*

F-242 *Concur*

F-243 *Unable to Comment*

F-244 *Unable to Comment*

F-245 *Concur*

F-246 *Concur*

F-247 *Concur*

F-248 *Partially Concur*

Drug offenders who engage in predatory illegal acts that victimize others (assault, robbery, burglary, theft, forgery, fraud, embezzlement, and dealing in stolen property) are not eligible for Proposition 36.

F-249 *Concur*

F-250 *Concur*

F-251 *Concur*

Other counties report all drug tests to the Court or Probation, however, the tests are not sanctionable.

F-252 *Concur*

F-253 *Partially Concur*

BHD/ADP follows the instructions given by the Court. For each non-compliance submitted the most recent information is recorded. Usually the entire record is requested for a contested hearing.

F-254 *Concur*



F-255 *Concur*

F-256 *Partially Concur*

In his letter the District Attorney does not mention that his office can take up to a year to file charges, that it can take law enforcement officers several months to arrest non-complied clients on warrants, and the number of cases that are pled down. According to the Probation Pre-sentence Reports between November 2001 and June 23,2004, 70 DUI cases were pled down and the offenders were made eligible for Prop. 36. The Grand Jury failed to reference the Public Defender's response to the District Attorney's letter pointing out the errors and misinterpretations. Refer to Finding14 that states, "...trials and plea bargains can result in a conviction on the drug charge only, making the defendant eligible for Prop 36 probation".

F-257 *Partially Concur*

Prior to Prop. 36 offenders revolved in and out of jail without treatment. With Prop. 36 they are held accountable and referred back to court when they are not compliant.

F-258 *Concur*

These crimes are not supposed to be eligible for Proposition 36. It is very disruptive to treatment when these cases, especially those involving sales, are pled down and these individuals are allowed into Prop. 36. Having drug dealers in treatment seriously jeopardizes the safety and recovery process of other clients.

F-259 *Partially Concur*

Clients are non-complied when they no show to assessment and when they no show to treatment.

F-260 *Concur*

F-261 *Disagree*

Refer to response to Findings 256 and 258, A random review of Probation Pre-sentence Reports submitted to BHD/ADP between November 2001 and June 23,2004, revealed that 70 DUI cases were pled down and the offenders were made eligible for Prop. 36. At least one involved an injury with accident, and another involved some one driving into a garage at a high speed and almost striking children. Other counties, such as Santa Barbara County, charge offenders with DUI's.

F-262 *Partially Concur*

As stated previously, an Operations Committee exists, not an Oversight Committee. Refer to the response for Finding 25. The BHD/ADP chair of the Operations Committee was voted into the position and is the third chairperson. Refer to the response for Finding 92.

F-263 *Concur*

F-264 *Partially Concur*

Standards and outcomes are measured according to best practice guidelines. BHD/ADP reserves the right to make necessary clinical decisions based on the welfare of clients. BHD/ADP believe in quality improvement. Prop. 36 distributes quarterly client satisfaction surveys to clients in all County and contracted treatment programs.

F-265 *Partially Concur*

Standards and criteria have been developed in collaboration with treatment providers and the Operations Committee.

F-266 *Partially Concur*

Under the new drug testing protocol that became effective 7/1/04, treatment providers were given the discretion to increase or decrease the frequency of testing based on the individual needs of clients.

F-267 *Partially Concur*

The new attendance protocol that went into effect 7/1/04, was the first change since implementation, and was developed in collaboration with treatment providers and the Operations Committee.

F-268 *Partially Concur*

BHD/ADP has not neglected to track information, BHD/ADP cannot track information we are not given access to that the other agencies have readily available (i.e. VISION/VCIJIS). The Operations Committee sub-committee has not been able to come to an agreement or prioritize what information should be reported. BHD/ADP has collected and submitted all mandated information to the State, and as one of ten Focus Counties submits information weekly to UCLA.

F-269 *Partially Concur*

As the Lead Agency it is BHD/ADP's responsibility to submit all reports to the State of California. In compiling reports, written information and replies are gathered from the various members of the Operations Committee.

F-270 *Concur*

F-271 *Disagree*

The Grand Jury was given the same statistical reports given to the Operations Committee and the ADP Advisory Board. Refer to responses to Findings 216 and 273.

F-272 *Disagree*

As stated in Finding 279, 90% of assessed clients show up to treatment. Refer to responses to Findings 216 and 217.

F-273 *Disagree*

Refer to response in Finding 271.

F-274 *Disagree*

F-275 *Concur*

F-276 *Unable to comment.*

F-277 *Concur*

F-278 *Concur*

F-279 *Concur*

F-280 *Disagree*

The Probation Agency supplied the 1044 client count that is documented in the Second Year Report, which represents the number of clients on formal probation. Offenders are sentenced to 36 months or 3 years of probation. Considering 44% (592) of the 1345 clients assessed the first year, and 42% (519) of the 1235 clients assessed the second year, gives a total of 1111 that were on formal probation. The BHD/ADP number of 1111 does not figure in clients completing probation or having their probation revoked. These numbers are very close. Also, refer to responses to findings 215 and 219.

F-281 *Concur*

This is why the State contracted with CSU at Bakersfield to help define data reporting elements, and develop a users manual for the Lead Agencies. Training was conducted in September 2003. Refer to response to Finding 218.

F-282 *Disagree*

Not all clients who are eligible for services are referred to Prop. 36. Some offenders "opt out" or obtain other charges making them ineligible for Prop. 36.

F-283 *Disagree*

As stated before the 1044 client count represents the number of clients on formal probation. Offenders receive 36 months or 3 years of probation. It is erroneous to use this number to calculate drug tests per month. The Grand Jury attempted to apply simple mathematical calculations to a complex program with many factors involved. Refer to responses for Findings 213, 217, 219, 273, and 280.

F-284 *Partially Concur*

Refer to responses to Findings 216, 217 and 219.

F-285 *Partially Concur*

The Grand Jury received an un-audited version of the demographic report that contained a faulty formula. The 108% was in error and has been corrected to represent 100%. The table does not include clients entering prior to 7/1/03, those opting out, or those that have been non-complied.

F-286 *Concur*

F-287 *Disagree*

769 represents unduplicated new clients. This number does not include clients that started treatment prior to 7/1/03 or that returned to treatment. Refer to response to Finding 216.

F-288 *Disagree*

The 460-500 client count represented the number of clients with the two largest outpatient providers. It does not include clients in treatment at

other locations, out of county or in residential treatment. Refer to response to Findings 216 and 287.

F-289 *Concur*

Refer to response to Findings 216, 287, and 288.

F-290 *Concur*

Refer to response to Finding 215.

F-291 *Concur*

The same applies to clients missing from treatment.

F-292 *Concur*

Refer to response to Finding 216.

F-293 *Concur*

Refer to response to Finding 215.

F-294 *Partially Concur*

Refer to responses to Findings 219 and 273.

F-295 *Disagree*

Duplicated and unduplicated numbers cannot be compared in this manner. The non-compliance number is a duplicated number (clients are usually non-complied more than once), where as the monthly estimated number of clients in treatment per level is an unduplicated number. Refer to responses to Findings 219 and 273.

F-296 *Disagree*

The number of new assessments for clients on formal probation has been decreasing the last two years. FY 2001-2002 44% of the assessed clients were on formal probation, and 42% for FY2002-2003. FY2003-2004 32% of the clients assessed were on formal probation, 62% on conditional release, and 6% on parole. Also, refer to response to Finding 219.

F-297 *Disagree*

Refer to response to Finding 219, 273, and 283.

**Recommendations:**

- R-1 BHD/ADP believes that this recommendation can be accommodated if:
- a) The Oversight Committee is officially designated by the Board of Supervisors. BHD/ADP would suggest that members of the Committee should be the Chief Probation Officer, The District Attorney, The Public Defender, the Judge from the Operations Committee, the Director of Behavioral Health, a representative from the C.E.O.'s office and a member of the Board of Supervisors.
  - b) Once the Oversight Committee is officially designated, an MOU should be created that defines the various roles of each agency in the operation of Prop. 36.
- R-2 BHD/ADP believes that it should remain the Lead Agency and would Refer to comments in Recommendation 1.
- R-3 BHD/ADP does take the responsibility of leading Prop 36 treatment.
- R-4 BHD/ADP believes that increased requirements in the first 30 days of treatment as we are proposing and some additional review by the Criminal Justice components of this program as to who should be allowed to enter the program at all will address the concerns in this recommendation.
- R-5 BHD/ADP agrees with this recommendation and has made this same Recommendation in prior Annual Reports to the Board of Supervisors.
- R-6 BHD/ADP concurs.
- R-7 BHD/ADP does not agree with the statement "current ambiguous and weak Completion procedure and believes treatment completion is defined appropriately.
- R-8 See Comments with Recommendation 1.
- R-9 BHD/ADP established a new Drug Testing Protocol July 1, 2004. This was Prior to the Grand Jury report release. In addition, BHD/ADP has recommended new protocols for the first 30 days of treatment and BHD/ADP believes additional

oversight and drug testing by Probation will also be necessary.

R-10 BHD/ADP concurs.

R-11 BHD/ADP would be open to having office space in the courts. In addition, the new protocols for the first 30 days of treatment will also address this issue.

R-12 BHD/ADP believes that once established, the Oversight Committee can develop Protocols to meet this objective.