



# Ventura County Probation Agency

Calvin C. Remington  
Director/Chief Probation Officer

August 13, 2004

RECEIVED  
VENTURA COUNTY SUPERIOR COURT

AUG 19 2004

The Honorable Bruce A. Clark  
Presiding Judge of the Superior Court  
Ventura County Hall of Justice  
800 South Victoria Avenue  
Ventura CA 93009

OFFICE OF THE  
PRESIDING JUDGE

Re: Ventura County 2003-2004 Grand Jury Final Report entitled Ventura County  
Proposition 36 Implementation

Dear Judge Clark,

Proposition 36 (Prop 36) is a clear mandate from the citizens of this State to reduce drug abuse through treatment rather than incarceration while preserving public safety. The Grand Jury has serious concerns with regard to the County's Prop 36 implementation and we echo many of those concerns. The findings made by the Grand Jury well articulate the issues and struggles faced in implementing and operating the Prop 36 program. It provides a strong foundation for working through these issues in a collaborative fashion.

This letter is a response to findings and recommendations of the above referenced report, specifically recommendations R-01 through R-12 as requested by the Grand Jury. Attached as well are our statistics and an analysis of those statistics regarding the Prop 36 cases handled by Probation during fiscal year 2003-2004.

Ventura County has consistently maintained innovative inter-agency programs to assist offenders in leading a law-abiding lifestyle while protecting the community from lawlessness. With effective oversight and a few operational changes, we believe the Prop 36 program can be effective in addressing some of the ravages of drug abuse while protecting the citizens of the County.

## Recommendation R-01

*The Board of Supervisors undertakes the reorganization of Prop 36 implementation within Ventura County in order to better accomplish the statutory mandates and scheme intended under Prop 36.*

## **Response:**

**Agree:** A reorganization appears to be in order to better define the roles of the players and how decisions are made to best accomplish the statutory mandates and scheme intended under Prop 36.

A structural difficulty identified early by the implementation committee was the decision-making process and oversight, particularly when consensus could not be reached. Justice Policy Council was identified as an existing group that could easily take oversight of Prop 36 but did not for a variety of reasons.

The implementation committee transitioned to the operations committee and the composition of the group changed somewhat as day-to-day operations staff joined; policy makers reduced their presence; and treatment and assessment staff were added to the program. Whether the lead Agency makes decisions when consensus is not reached has recently become a major issue.

It is clear that both an oversight group and an operations group are necessary to successfully implement the Prop 36 program.

### **Recommendation R-02**

*The Board of Supervisors withdraws the Lead Agency designation from BHD/ADP and designates the County Executive Office (CEO) as the lead Agency for Prop 36 management and oversight functions.*

### **Response**

**Neutral opinion:** While Probation is not opposed to the CEO becoming the lead Agency for Prop 36, we recognize that this may not be a role that the CEO must assume to ensure proper management and oversight functions. In most counties, BHD/ADP is the Lead Agency. We are not opposed to BHD/ADP continuing to function in that role as long as there is reasonable decision-making and oversight. If an appropriate oversight committee is established and operational procedures of the operations committee are agreed upon by all participants, a CEO representative on the oversight committee would be sufficient.

### **Recommendation R-03**

*Having assumed responsibility for leading Prop 36 treatment programs in the past, BHD/ADP may function as the county's expert in recommending treatment methods and the standards of successful treatment program completion.*

### **Response**

**Agree:** Public safety considerations and select effective treatment methods and protocols that tend to increase public safety appear necessary to ensure successful outcomes.

### **Recommendation R-04**

*The county should address the issue of "unamenability," as described in the statute and case law, with a view toward bringing the concept to bear in county practice.*

## **Response**

**Disagree:** In our opinion, amenability and unamenability are legal concepts and, therefore, under the purview of the sentencing Judge not the County. The Prop 36 Judge follows the law as written. Case law is still being made with Prop 36 cases as the program is relatively new. The operations committee should work closely with the Judge to build consensus in this area and look at how amenability and unamenability are handled by other jurisdictions throughout the state. Feedback to the Court and Probation from assessment and treatment providers regarding unamenability is essential in assisting the Court in making unamenability rulings.

### **Recommendation R-05**

*In order to organize and provide actionable information to the probationary supervision, top priority should be given to implementing an integrated information system designed for that purpose.*

## **Response**

**Neutral response:** BHD/ADP and treatment providers have information that should flow to Probation and to the Court in a timely and appropriate manner. Protocols must be agreed upon, in writing, and implemented reliably so all parties have confidence that the system is working. One example is that basic jail information is public record and, therefore, available to BHD/ADP for use in determining non-appearances for assessment and treatment appointments.

### **Recommendation R-06**

*Probation develops a basic risk management system or protocol to look at key indicators of a client's profile to determine the risk to society.*

## **Response**

**Agree in part:** The Prop 36 program and Probation have a basic risk assessment system in place. Felons, by and large, are the highest risk offenders and so they are placed on formal probation. Misdemeanor offenders who demonstrate that they are high risk offenders may be placed on formal probation. Approximately one-third of the Prop 36 offenders are on formal probation (approximately 800 offenders). These offenders are supervised in accordance with their risk level as determined by a risk assessment. Supervision is decreased or increased based on performance on probation and risk to the community. Supervision is reduced for offenders who comply with probation terms and conditions, and demonstrate stability. Supervision is increased for those who cannot or choose not to comply.

Drug offenders who are placed on probation prior to incarceration have proven to be an extremely active population and have higher violation rates than other offenders. Tripling the number of offenders placed on formal probation would require triple the resources to supervise. The implementation committee believed, and we agree, that

more resources needed to be allocated for treatment rather than probation supervision for all but the highest risk offenders. Those offenders are supervised on formal probation.

### **Recommendation R-07**

*The immediate establishment of a meaningful treatment completion standard in accordance with the spirit and intent of Prop 36.*

### **Response**

**Agree:** A well-reasoned and thoroughly documented completion procedure, requiring successful completion of all classes and supplemental treatment within a reasonable amount of time, is essential. While the large number of offenders preclude a formal graduation ceremony similar to Drug Court, recognition of success is certainly warranted. A hair follicle test, which would require a large capital outlay and significant training, as well as client ability to pay, seems onerous. We suggest instead that at least two random drug tests during the six-month period following the aftercare phase be initiated.

### **Recommendation R-08**

*The Operations and Oversight Committee be re-constituted as the representative body for all stakeholders.*

### **Response**

**Agree in part:** An operations committee and an oversight committee are each needed to perform separate functions. The operations committee is currently working toward adopting written operational procedures delineating the composition of the committee; roles and responsibilities; a meeting schedule; and rules of governance. Primary issues appear to relate to voting membership and the chair. Since Prop 36 is a criminal justice program it should fall within the purview of the existing Justice Policy Council as the oversight committee, with the Behavioral Health Director added to that group for purposes of Prop 36 decision-making.

We believe consensus is an important component in the decision-making of the operations group. If consensus cannot be reached, that group can forward the issue(s) and recommendation(s) to the oversight committee. The chair of the operations committee should be either the lead agency or the CEO, not a rotating member of the committee. They should be responsible for formal documentation of meeting minutes, with distribution to both the operations and oversight committee members.

### **Recommendation R-09**

*The drug testing protocol should be tightened immediately.*

## **Response**

**Agree in part:** The drug-testing protocol must be reliable and rigorous. It is important that BHD/ADP, as well as the client, understands and accepts that drug testing is a support tool in the decision to attain a drug-free lifestyle. Drug testing and the immediate sharing with stakeholders should be an accepted part of the treatment plan.

The Pass Point drug screening device has expensive up front costs and requires significant training. Therefore, it may not be the best method to achieve these results. There are a number of easy-to-administer, reliable and cost-effective drug tests that are available for use. We routinely use urine testing, various field presumptives and saliva samples depending on situational factors.

Probation also uses random testing very successfully as described, using a call-in number for drug testing schedules. If the client admits, perhaps the client could agree to complete a simple form admitting drug use. That form could be stipulated for use in Court, as necessary. This could be done in lieu of the recommendation that the County pay for the drug test by BHD/ADP if the client admits drug use.

### **Recommendation R-10**

*Though, by policy, drug testing is to be used for treatment purposes, public safety concerns require that Probation continue to conduct drug testing.*

## **Response**

**Agree in part:** Probation has no legal jurisdiction or authority over offenders placed on conditional and revocable release and cannot be involved in drug testing those cases. Probation receives no drug testing funds from SB 223 as those funds are allocated to BHD/ADP to recover their drug testing costs. Nevertheless, when offenders are placed on formal probation with drug terms, including all Prop 36 cases, they are tested for drug use by the Probation Officer according to existing protocol and determined by risk assessment.

### **Recommendation R-11**

*A goal of early and positive supervision experience should be pursued to initially set the tone for Prop 36 treatment.*

## **Response**

**Agree:** An early and positive supervision experience should certainly be pursued to initially set the tone for Prop 36 treatment. Locating assessment staff in the Prop 36 Courtroom or the Hall of Justice would be ideal. Our experience has shown that proximity and timeliness are key elements to success. For this population, allowing five days for a telephone contact and up to three weeks for an initial assessment will result in higher no-show rates.

**Recommendation R-12**

*The Operations and Oversight Committee should institute thoughtful and allowable sanctions for offenders who fail in treatment, submit positive drug tests, or who miss treatment classes.*

**Response**

**Agree:** Clients should be required to earn relaxed standards through a program history of positive behaviors and compliance with regulations rather than providing loose structure at the beginning of the program.

We firmly believe that the Ventura County Prop 36 Program can be improved and better success rates can be achieved with some hard work by all parties. Each member of the Prop 36 team must re-commit to working together, especially in regard to forming a stronger partnership between treatment and justice.

It is clear that both a policy oversight group and a day-to-day operations group are needed to handle issues as they arise. With the commitment of members from both of those groups, I am confident we can solve the difficult issues that must be successfully resolved. The Grand Jury's report provides an excellent guide to tackling these policy and operational stumbling blocks.

Thank you for the opportunity to address Prop 36 implementation. This is an important inter-agency justice program with significant ramifications in regard to public safety and drug abuse treatment. We look forward to reaffirming our commitment to our partner agencies to make this program work effectively and efficiently.

If you have any questions, please feel free to contact me at (805) 654-2100.

Sincerely,



Calvin C. Remington  
Director/Chief Probation Officer

Attachment

cc: ✓ Grand Jury  
County Clerk and Recorder (2)  
County Executive Office



**COUNTY OF VENTURA  
PROBATION AGENCY**



**MEMORANDUM**

**Date:** July 29, 2004  
**To:** Alan Hammerand, Adult Services Division Manager  
**From:** Bryan Wilson, Supervising Deputy Probation Officer  
**Subject:** Prop. 36 Yearly Statistical Analysis, July 03 to July 04

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**Supervision/Cases**

- Monthly Average Number of clients supervised: **784**
- Monthly Average of Misdemeanor Cases: **218**
- Monthly Average of Felony Cases: **826**
- Monthly Average of Courtesy Supervision Cases: **7**

**Violation Reports**

- Monthly Average of Violation Reports: **168**
- Monthly Percentage Average of clients with violation reports: **21%**
- Monthly Average of drug-related offenses : **48**
- Monthly Percentage Average of drug-related offenses: **6.1%**
- Monthly Average of non drug-related offenses: **22**
- Monthly Percentage Average of non-drug related offenses: **2.8%**
- Property offenses percentage\*: **45%**
- Violent offenses percentage\*: **15%**
- Other offenses percentage\*: **40%**

\*Percentage of non-drug related offenses monthly average

## **Drug Tests**

- Monthly Average of Urine Samples: **199**
- Monthly Average of Clients tested: **25%**
- Monthly Average of Positive Drug Tests (non-new offenses): **61**
- **Monthly Percentage Average of positive urines samples: 31%**  
**Methamphetamine Percentage: 76%**  
**Cocaine Percentage: 10%**  
**Heroin Percentage: 5%**  
**Other: 9%**

## **Field Contacts**

- Monthly Average of field contacts: **12**
- Monthly Percentage Average of field contacts: **2%**

## **Successful Completions (Court ordered)**

- Monthly Average of successful completions: **7**
- Monthly Percentage Average of successful completions: **.0089%**

## **Miscellaneous**

### **Prop. 36 Investigation Reports**

- Monthly Average of reports completed: **174.5**
- Monthly Average of unassigned pending cases: **23**

### **Adult Investigations (Post Prop.36 Reports)**

- Monthly Average of fall-off reports: **34**



# PROP. 36 Yearly Stats

July '03 to June '04

	July	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	Total
Number of Prop. 36 clients supervised	886	857	880	907	843	789	755	720	715	691	678	702	9403
Misdemeanor Prop. 36 cases	311	220	221	266	233	147	195	203	204	215	193	204	2612
Felony Prop. 36 cases	955	920	1087	890	821	840	817	773	768	710	655	674	9910
Courtesy Supervision cases	3	8	5	5	4	6	11	10	9	8	7	9	85
Number of clients with no drug violations recorded	682	501	732	750	738	611	581	570	563	396	541	508	7173
Violation reports (NOC, Declarations, etc.)	256	199	129	170	122	177	198	147	158	165	134	155	2010
<b>Types of Violations Filed</b>													
a. Failure to comply with Probation	238	131	136	108	82	144	168	108	121	79	136	122	1573
b. Failure to comply with ADP/Treatment	165	104	99	133	72	120	128	90	83	82	63	77	1216
c. New offenses (drug related)	58	47	32	40	29	68	82	44	39	41	40	58	578
d. New offenses (non-drug related)	13	31	22	6	30	27	40	22	22	32	15	8	268
* Property/Theft offenses	3	19	11	2	9	12	17	13	8	15	7	5	121
* Violent offenses	2	2	4	1	4	5	8	5	2	5	2	1	41
* Other offenses	8	10	7	3	17	10	15	4	12	12	6	2	106
e. Positive drug test(s) non-new offenses	74	58	47	52	45	53	74	51	85	63	55	75	732
* Methamphetamine	54	45	33	39	34	47	57	42	67	51	36	57	562
* Cocaine	10	5	5	4	7	4	6	2	8	1	11	6	69
* Heroin	6	3	2	1	1	0	0	2	4	3	3	8	33
* Other	4	5	7	8	3	2	11	5	6	8	5	4	68
Urine samples	124	143	162	168	167	215	196	212	239	331	210	220	2387
Field contacts	4	6	13	19	9	16	2	16	9	6	29	16	145
3rd Strike violations	79	79	36	59	26	41	31	39	31	29	29	33	512
Return on warrant reports	28	35	20	3	12	22	25	17	7	16	22	14	221
No. of clients who were revoked & incarcerated on Prop. 36	49	57	33	32	22	25	15	28	19	19	16	13	328
No. of clients who have absconded from Prop. 36 treatment	34	15	24	32	8	34	19	17	5	12	6	6	212
Bench warrants issued	58	25	27	34	16	28	31	22	18	11	32	21	323
Successful completions (Prop. 36 clients)	7	2	5	3	8	8	11	10	6	12	6	9	87
<b>Prop. 36 Investigations Unit</b>													
Total reports completed	187	217	208	236	101	155	159	140	173	181	163	174	2094
* Misdemeanor cases completed	201	260	227	259	135	157	162	143	163	207	154	223	2291
* Felony cases completed	60	52	59	74	18	42	44	27	43	41	43	58	559
Unassigned cases pending	34	29	17	0	24	5	6	34	20	25	36	51	281
<b>Adult Investigations</b>													
Prop. 36 Fall-Off (P/S) reports	46	48	53	37	30	29	28	31	36	20	27	28	413