



## County Executive Office MEMORANDUM

**DATE:** September 21, 2005

**TO:** Members, Board of Supervisors

**FROM:** John F. Johnston, CEO

**SUBJECT:** Board of Supervisors' and County Executive Officer's responses to Grand Jury Report #13 entitled: **Proposition 36: Administrative Reforms Examined**

**R-1 Immediately remove BHD/ADP (Behavioral Health Department/Alcohol and Drug Programs) as Lead Agency of Prop 36. Contact the State Department of Alcohol and Drug Programs to coordinate and emergency halt to the submitted county Plan.**

Response: The Board of Supervisors will continue to evaluate what the proper lead Agency should be. However, the Board feels that the BHD has fulfilled the lead agency's responsibilities as defined under the Prop 36 legislation. Including a submission of an Annual County Plan, monthly Operations Committee meetings with representatives from the program's required stakeholders, and submitted reports to the state as required. BHD has acted as a collaborator and facilitator rather than an executive decision maker.

To infer that all the problems of implementing Prop 36 are the fault of the lead agency is an oversimplification of the situation, since the planning and the protocols were a joint effort of all the stakeholders. This is also a relatively new program that was untested and unproven. The Board does not feel that the BHD is the sole cause of the flaws in the program. Many of the flaws Ventura County has dealt with have been experienced by most if not all California Counties. There has been a substantial increase in the cooperation between county departments and coordination of county services, especially in the area of juvenile services over the past year.

**R-2 Immediately designate Probation as the Lead Agency for Prop 36.**

Response: As stated in the response to R-1, the Board of Supervisors is evaluating whether a change in lead agency is likely to improve the effectiveness of the Program. That evaluation will include Probation Agency. The California Department of Alcohol and Drug oversees the program carried out by the counties. Therefore it was logical to initially set up the County Drug and Alcohol department as the lead agency since they already have a working relationship with the State. Only one county out of the 58 in California is using probation as the lead agency.

**R-3 Immediately disband the Prop 36 Oversight Committee and establish guideline for the Operations Committee to operate in an organized fashion and make decisions, with provisions to obtain approvals from department heads when necessary.**

Response: The Prop 36 Oversight Committee was established in response to the Grand Jury's FY 2003-04 report on Prop 36. The Oversight committee operates at a higher level with Department heads while the Operations Committee is at a working level. If the Oversight committee chooses it can combine the two committees, but it would seem more efficient to keep department heads at the higher policy decision level, whereas managers deal with the more technical issues at the Operations Committee. The Board believes that the Oversight Committee has fostered more collaboration among the stakeholders, and thus better decision-making. Nonetheless, consideration will be given to eliminating the Oversight Committee and expanding the responsibility of the Justice Policy Council to include Prop 36 oversight. Consideration will also be given to further re-structure and empower the Operations Committee.

**R-4 Immediately initiate action to close the BHD/ADP Prop 36 CAC (Case Assessment Center) and free the funding and other resources for more direct treatment use.**

Response: This recommendation would have to be evaluated in context of recommendation number one. The CAC currently provides case management and assessment services. Closing down the CAC would require finding an alternative provider of these services and could be more costly. To improve the effectiveness of the assessment process, the services will be re-located to the Hall of Justice where BHD and Probation will collaborate and streamline the intake unit accepting clients directly from the Court Room.

**R-5 Formally request through the courts that all Prop 36 offenders be placed on formal probation.**

Response: This recommendation would have to be evaluated in context of recommendation number one. The Board would have to evaluate whether this added workload could be absorbed both by Probation and the Courts. The BHD has estimated that it would cost the county about \$3 million to have all these clients on formal probation. This, in itself, would exceed the total annual budget of the Prop 36 program. Increased security could be accomplished through a more selective process. Putting every single Prop 36 client on Probation would be less efficient, and substantially more expensive.

**R-6 Allow Probation, as Lead Agency, to make arrangement for assessment and treatment referral at a location of their choosing, immediately after Court sentencing.**

Response: This recommendation would have to be evaluated in context of recommendation number one. Probation is not in the practice of providing case management services nor do they have the expertise to do assessments. Probation does support moving assessment/referral staff to the Court location as soon as practical.

**R-7 As the Lead Agency, allow Probation and treatment providers to determine, with input from the Operations Committee, the best delivery model for treatment services and required communications.**

Response: This recommendation would have to be evaluated in context of recommendation number one. Probation is not accustomed to providing drug treatment services. However as members of the Oversight and Operations committees they have the ability to provide program input.

**R-8 Move the addiction specialists from the CAC to the county-operated treatment centers and establish additional DMC (Drug Medi-Cal) reimbursed treatment capacity.**

Response: Not enough of the Prop 36 clients are Medi-Cal eligible, therefore there is a financial disincentive to implementing this recommendation. This scenario would increase the cost to BHD by removing Prop 36 reimbursement from the addiction specialists that are moved to the clinics. Conversely, BHD is encouraging treatment vendors to become Medi-Cal eligible so that they could draw down Medi-Cal payments directly.

**R-9 Under Probation leadership, provide financial accountability and oversight of all Prop 36 funds. Bring funding allocation decisions back to the Operations Committee.**

Response: This recommendation would have to be evaluated in context of recommendation number one. We do agree that more transparency in the budget process could aid in collaboration and cooperation among the members of the Operations Committee. However, the Board believes there is sufficient financial accountability and oversight within HCA. Because of the relationship between the State ADP and the County ADP, oversight and financial control is coordinated including annual audits by the State..

**R-10 Encourage the Operations Committee to abandon the pursuit of the perfect protocol and leave treatment decisions to treatment providers with Lead Agency oversight. Instead, focus Operations Committee efforts on obtaining actionable metrics so that recommendations can be made based on reality instead of perception and spin.**

Response: The Board agrees that treatment decisions should be placed into the hands of treatment providers and that the pursuit of the perfect protocol is futile. We believe that the Operations and Oversight Committees are working on improving protocols and communication among the stakeholders. The protocols modified had to do with reporting client's treatment results, drug tests, and adherence to the conditions of their probation back to the courts rather than treatment decisions.

**R-11 Evaluate the contracts of the treatment providers to ensure that the county is not taking advantage of treatment partners. Consider using hoarded BHD/ADP Prop 36 funds to reimburse the accounts receivable that these providers have accrued by being ordered to treat Prop 36 clients on a pro-bono basis.**

Response: The Board does not agree that BHD/ADP has been hoarding money. From year to year it is not unusual for adopted appropriations to be left unspent. This occurs in many budget units within the General Fund. There is no evidence that court ordered drug offenders are not being provided appropriate Prop 36 services due to the withholding of funds. Prop 36 funds can be carried over from year to year if not spent. BHD did not expend the state allotment, recognizing that the program would grow and more funding would be needed in the later years. There is no advantage for BHD to withhold Prop 36 funds, since they can only be used for Prop 36 program purposes and not for any other program.

Contracted providers have entered into contracts with the County to provide Prop 36 services. Contracts are updated periodically. In fact, the two contract providers are currently negotiating new contracts with the County. The County has a responsibility to the taxpayers to bargain a fair contract for the taxpayers as well as the providers. The providers are free to not enter into contract with the County if they feel the contract is not fair to them.

**R-12 In the interest of cost, efficiency, and treatment delivery, BHD/ADP should not be encouraged or even allowed to participate in leadership of any future court ordered treatment programs.**

Response: The Board respectfully disagrees with this recommendation and believes that BHD has a strong record of success in collaborating and implementing forensic services in our County. The Juvenile justice system program has significantly improved in the last couple of years. We acknowledge that the Prop 36 program has had problems, but these problems are occurring statewide, and are not necessarily unique to BHD. The CEO is working closely with the Courts, Probation, and Behavioral Health in an effort to resolve issues raised by the Grand Jury. If changes in organization and leadership can improve health and safety, further changes will be made.