



# Ventura County Probation Agency

Calvin C. Remington  
Director/Chief Probation Officer

August 15, 2005

The Honorable John R. Smiley  
Presiding Judge of the Superior Court  
Ventura County Hall of Justice  
800 South Victoria Avenue  
Ventura CA 93009

Re: Ventura County 2004-2005 Grand Jury Report entitled *Ventura County Proposition 36: Administrative Reforms Examined*

Dear Judge Smiley,

Proposition 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 implementation and administration of the program in Ventura County has come under close scrutiny by the Grand Jury both last year and this year. The implementation and administration of the program has been difficult, particularly in that it is a criminal justice program operating as a treatment program through funding from the California Department of Drug and Alcohol Programs.

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. It also includes some comment on various findings and conclusions expressed by the Grand Jury.

Ventura County has consistently maintained innovative inter-agency programs to assist offenders in leading productive, law-abiding lifestyles without compromising community safety. We continue to believe that the Proposition 36 Program can be effective in addressing some of the ravages of drug abuse while protecting the citizens of the County. The Grand Jury has paved the way for a thorough review and assessment of changes that need to be made to strengthen the program.

## Finding F-93

The division between felons and misdemeanants was chosen as a convenient way to manage the large number of clients. In retrospect, Probation acknowledges that many misdemeanor offenders require as much or more supervision than felony offenders. The arbitrary division between felons and misdemeanants does not appropriately address criminality or actual need for probation supervision.

## Response

**Agree in part:** In the original implementation plans, formal probation was to be recommended and considered for all offenders who appeared to pose significant risk to the community, not by the nature of a felony or misdemeanor conviction. Unfortunately, the practice of formal probation for felonies and conditional sentence for misdemeanors became institutionalized very quickly. Despite that fact, we supervised an average of 218 misdemeanor cases monthly during FY04-05 as reported in our response to the Grand Jury report last year. When the Grand Jury report was released last year, we discontinued that practice and instituted formal written guidelines based on criminal history and risk to the community.

### Finding F-104

*Because BHD/ADP either failed to perform or determined that it was never required to perform supervision functions on clients of Prop 36, the Oversight Committee determined that the D.A.'s office could perform this probation function.*

## Response

**Disagree:** The District Attorney's office routinely handles filing violations of probation in conditional sentence matters. This is not a probation function. The issue in contention was more what BHD/ADP would and should report in the area of non-compliance. Last year, as a cost-efficient method of ensuring legal sufficiency, BHD/ADP agreed to report all non-compliance in conditional sentence cases to the District Attorney, rather than directly to the Court.

### Finding F-195

*Other than BHD/ADP, the stakeholders share the opinion that treatment providers have a competing profit motive that prevents them for (sic) being objective about compliance and non-compliance. This perception of the treatment providers has not been discouraged by BHD/ADP.*

## Response

**Disagree:** In our work with treatment providers in a number of venues, we have not found that they are any more or less objective than others when it comes to the issues of compliance and non-compliance. They may be more or less informed about various issues and have different or similar opinions based on their knowledge and expertise, but we generally find ourselves in agreement when all the facts are known.

### Finding F-225

*As described in this Board Letter, the intentions of BHD/ADP for FY 2004-05 are shown in Table 1.*

## Response

**Neutral Opinion:** In the table is a description from the June 8, 2004 Board letter. In that description, it indicates that the "remaining 25% of the allocation" is "\$832,835" that was allocated to the "Probation Agency to fund services for supervision and monitoring of offenders." BHD/ADP actually allocated the Probation Agency \$716,402, although our expenses were in excess of \$900,000.

## Finding F-232

*The 75% of the funds allocated to "direct treatment" services are seen in Table 3.*

## Response

**Neutral opinion:** In that table it indicates that in the May 17, 2005 Board Letter, 23 percent of the funds are allocated to criminal justice for a total of \$887,032. For FY 2004-05, the Probation Agency expects to receive \$750,000 for Prop 36 services and it is our understanding that \$150,000 will go to the District Attorney.

## Recommendation R-01

*Immediately remove BHD/ADP as Lead Agency of Prop 36. Contact the State Department of Alcohol and Drug Programs to coordinate an emergency halt to the submitted County Plan.*

## Response:

**Neutral Opinion:** The County Chief Executive Officer has advised County stakeholders that his office will take the lead in investigating the issues raised by the Grand Jury in their report. That office will interview parties and present a plan to the Board of Supervisors for review. The changes made as a result of the Grand Jury report from last year have only recently been implemented. Efforts toward better communication among stakeholders and more accountability of offenders have happened too recently to be fully evaluated.

## Recommendation R-02

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

## Response

**Neutral opinion:** The designation of a lead agency is a decision made by the Board of Supervisors upon a recommendation by the CEO. The Probation Agency will accept and support any decision made by the Board.

**Recommendation R-03**

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

**Response**

**Agree in part:** The Operations Committee is responsible for day-to-day coordination and oversight of the Prop 36 Program. Certainly there should be guidelines for the Operations Committee to operate in an organized fashion and make decisions, with approvals from department heads when necessary. This should, of course, include regular meetings and minutes of those meetings.

Nevertheless, the Operations Committee is not always able to reach consensus. It is then that the Oversight Committee (made up of stakeholder department heads) can come together to provide high level policy oversight as needed and resolve issues at a policy decision level.

**Recommendation R-04**

*Immediately initiate action to close the BHD/ADP Prop 36 CAC and free the funding and other resources for more direct treatment use.*

**Response**

**Neutral opinion:** A thorough analysis of the cost effectiveness and efficiency of the CAC should certainly be undertaken. We are in favor of additional monies going to direct treatment if it is reasonable.

**Recommendation R-05**

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

**Response**

**Neutral response:** In order to effectively provide supervision and case management of the Prop 36 cases that are placed on conditional sentence, we would need additional revenue. If effective and efficient oversight is provided by the CAC we do not believe formal probation for every Prop 36 offender is necessary.

When the program was initiated in this county, there was consensus among members of the Implementation Committee that placing all misdemeanor cases on formal probation would significantly raise the supervision level as those cases were previously placed on conditional sentence by the court. Additionally, it was believed that more

money would be available for direct treatment if offenders were placed on conditional sentence.

At this time, the District Attorney's office is providing the legal function of deciding when and if a violation of probation should be filed on conditional sentence cases. This is legally proper and consistent with the handling of all non-Prop 36 conditional sentence cases.

If, on the other hand, Probation is selected as lead agency by the CEO and Board of Supervisors, it would be more efficient for us to provide case management services on conditional sentence cases as well as formal probation cases. Formal probation provides us the legal vehicle to do so. As noted by the Grand Jury, this option would be consistent with the current handling of other types of cases in which offenders are placed on formal probation. Adult domestic violence cases are one example. Since those offenders have committed a violent offense, pose significant risk to victims and are required to complete a specified 52-week counseling program monitored by Probation, the court made a policy decision to place those offenders on formal probation.

#### **Recommendation R-06**

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

#### **Response**

**Agree in part:** As stated in our response last year, we believe that locating assessment/referral staff in the courtroom or Hall of Justice is ideal as our experience has shown that proximity and timeliness are key elements to success. We support moving assessment/referral staff to that location.

#### **Recommendation R-07**

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

#### **Response**

**Agree in part:** We believe the lead agency and treatment providers should determine, with input from Operations Committee, the best delivery model for treatment services and required communication.

#### **Recommendation R-08**

*Move the addiction specialists from the CAC to the county-operated treatment centers*

*and establish additional DMC reimbursed treatment capacity.*

**Response**

**Neutral opinion:** This is certainly an interesting idea and one to be investigated and evaluated more thoroughly.

**Recommendation R-09**

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

**Response**

**Agree in part:** We agree that the lead agency should provide financial accountability and oversight of all Prop 36 funds as approved by the CEO and Board of Supervisors. We also agree that the Operations and Oversight Committees should be fully apprised of and part of consensus decision making in funding recommendations made to the Board of Supervisors. These funding recommendations appear to be made by BHD/ADP at this time.

**Recommendation R-10**

*Encourage the Operations Committee to abandon 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**

**Agree:** We understand that the protocol issue has been resolved with the agreement to report all test and attendance results to Probation and the District Attorney. We agree that the Operations Committee should set, agree upon and maintain standards for case flow, data collection and other day-to-day operational issues.

**Recommendation R-11**

*Evaluate the contracts of the treatment providers to ensure 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**

**Neutral Opinion:** We assume County contracts are fair and made in good faith. We also agree that contract providers should be reasonably compensated for services.

**Recommendation 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**

**Neutral opinion:** While criminal justice is not an area of expertise for BHD/ADP, that agency is the County expert on mental health as well as drug and alcohol services for the County of Ventura. They are active partners with other agencies and community based organizations for many programs.

Thank you for the opportunity to address Proposition 36 administrative reforms examined by the Grand Jury. Prop 36 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

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