



Ventura County Probation Agency

Calvin C. Remington
Director/Chief Probation Officer

August 23, 2006

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 2005-2006 Grand Jury Report entitled *Administration of Proposition 36 in Ventura County: A Review*

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 during the last three years. The program has experienced difficulties since its inception, resulting in a number of findings and recommendations from the Jury. Beginning in March 2006, significant changes were made to the administration and operation of Ventura County's program, resulting in improvements made in a number of areas of previous concern to the Jury.

This letter is in response to the findings and recommendations of the above-referenced report, specifically recommendations R-01 and R-02 as requested by the Grand Jury. It serves to provide an update on the current operation of Ventura County's Proposition 36 program and to document the progress being made toward recommendations presented in prior Grand Jury reports.

In March, 2006, Proposition 36 Lead Agency status was officially moved from Behavioral Health to the Probation Agency, following approval to do so by both the California Department of Alcohol and Drug Programs and the Board of Supervisors. Subsequently, the County's FY 2006-07 Proposition 36 Plan was approved by the State, the FY 2006-07 Proposition 36 Multi-Agency Budget was developed and adopted, and contracts with treatment providers were negotiated and approved by the Board for the new fiscal year. Effective July, 2006, all contracted out-patient treatment providers were required to be or become Drug Medi-Cal certified, thus offsetting the cost of treatment and allowing available Proposition 36 treatment funds to be spent more effectively.

Assessment services for Proposition 36 clients were moved to a new location in the Hall of Justice, and the previous assessment center on Ralston Street in Ventura was closed in June, 2006. Ralston staff who were no longer assigned to Proposition 36 were transferred to other positions within Behavioral Health, and staff who were to remain with the Proposition 36 program for case management and administrative purposes were relocated to existing Probation Agency offices on County Square Drive. Responsibility for the court filing of treatment violations on Conditional and Revocable Release cases (CRR) was shifted from the District Attorney to Probation effective July 1, 2006, and efforts to evaluate, design, and implement a comprehensive information system were expanded. Additional information concerning specific areas of interest of the Grand Jury is presented below.

Recommendation R-01

The Grand Jury requests feedback on progress towards completing those recommendations from prior reports that are still underway, specifically:

2003-2004 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 part: As noted in our prior response to this recommendation in 2003-04, it is our opinion that amenability and unamenability are legal concepts under the purview of the sentencing Judge and not the County. Case law and legislative law continue to be made on Proposition 36 issues, and information regarding the status of the law is shared among all partners as part of the Operations Committee process. The Judge routinely and consistently applies existing case law which allows participants who refuse or who are unavailable for participation in treatment to be excluded from the program. All partners in the Proposition 36 program are committed to providing feedback to the Court regarding defendants' amenability and suitability for the program in order to assist the Court in making its rulings. Additionally, recently passed legislation, SB1137, although currently tied up in legal challenges, further expands the Court's ability to exclude those defendants from the program who possess certain extensive prior records and present a danger to others or who would not benefit from drug treatment.

A comparison of the County's Proposition 36 Superior Court statistics between FY 2003-2004 and FY 2005-2006 appears to reflect a refining of the population participating in the program. Far fewer clients are being placed on Proposition 36 formal and conditional sentence grants (a 33% decline between FY03/04 and FY05/06), and greater numbers are being found ineligible for participation (a 20% increase), refusing participation (a 27% increase), and withdrawing from the program at their own request (a 31% increase). The number of unsuccessful terminations has increased from 34% to 38%, and at the same time, the percentage of successful completions has risen from 6% to 18%. It could be concluded from these statistics that the population

being placed in the program appears to be those more accepting of treatment, participants are being held accountable for their violations, and those remaining in the program are achieving a higher percentage of success in completing the program requirements.

Additionally, in the past, one of the greatest challenges for Proposition 36 treatment providers was to provide treatment to a wide range of defendants, including those with significant mental health problems. Clients presenting indicators of mental illness are often difficult to manage in the group drug treatment sessions that are a part of the Proposition 36 treatment protocol. Starting in FY 2006-2007, the County will be contracting with a dual diagnosis treatment provider to provide specialized services to our dual diagnosis population. With these specialized services available to meet their needs, dual diagnosis participants will be much more likely to be successful in treatment, potentially leading to more positive outcomes.

2003-2004 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

Agree: As lead agency, one of our top priorities is to implement an integrated information system that will be useful to all Proposition 36 stakeholders. We are in the midst of conducting a thorough assessment of the Proposition 36 component of Behavioral Health Department's Profiler information system, which is currently under development, to determine whether the system incorporates all of the components necessary to serve as an integrated system useful to all Prop 36 stakeholders, and to determine a realistic estimate of the implementation timeframe for Profiler. Preliminary assessment findings are positive, and it appears that the system may need only a limited amount of modification to enable it to meet the needs of the newly organized Proposition 36 program in Ventura County. Behavioral Health has devoted additional programming time to developing these modifications and to expedite the system's implementation. An implementation date has not yet been determined, but may be as early as Fall, 2006. In the interim, the Probation Agency is developing and has implemented modifications to existing systems to capture necessary data not currently being captured by the Behavioral Health CMS and Superior Court systems and partner agencies are sharing applicable data within their respective systems.

2003-2004 Recommendation R-08: The Operations and Oversight Committee be re-constituted as the representative body for all stakeholders; and

2004-2005 Recommendation R-03: Immediately disband the Proposition 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; Agree in part: Due to the need to provide a means to resolve issues at a policy decision level which cannot be resolved at an operations level, the Oversight Committee has not been disbanded, but its structure and that of the Operations Committee have been formalized. Both groups are now meeting on a regular basis, and procedures are in place to ensure that decisions that cannot be reached by consensus at the Operations level are referred to, reviewed and decided by the Oversight Committee.

The Operations Committee, which is a group comprised of representatives of all stakeholder members: the Court, District Attorney, Public Defender, Probation Agency, Behavioral Health, the Sheriff, and contract treatment providers, meets on a monthly basis to review and make decisions regarding operational issues. Minutes are taken, and all participants are free to place issues requiring discussion and/or decision on the monthly agenda. Should an issue requiring decision not be resolved, it would be referred to the Oversight Committee for resolution. A formalized documentation of the roles and responsibilities of the Operations Committee has been drafted and is in the process of review and adoption.

The Oversight Committee has been newly reorganized to become a sub-committee of the County's established Justice Policy Council (JPC), falling under the JPC's formal structure and by-laws. All of the existing JPC members, the CEO, Court, and department heads from the District Attorney, Public Defender, Probation, and Sheriff, serve on the sub-committee, and special members, the heads of Behavioral Health and the Health Care Agency, have been added for the purposes of Proposition 36 oversight only. The Director of the Probation Agency has been designated lead of the JPC Proposition 36 sub-committee. The sub-committee meets on a quarterly basis, minutes are taken, an update is given on all Proposition 36 activities, and any issues that may be referred by the Operations Committee for decision are resolved.

2003-2004 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 in part: Sanctions for Proposition 36 violations are limited by statute, and although recent legislation has included the option of incarceration as a sanction, the implementation of the legislation is currently restricted by legal challenges. As such, sanctions for Prop 36 treatment violations within Ventura County are imposed in accordance with the Substance Abuse and Crime Prevention Act as originally written.

In practice, the Court and other Operations Committee partners support the practice of consistently holding participants accountable for their actions throughout their participation in the program. Recent measures have been enacted to ensure that treatment violations are expeditiously reported by the treatment providers. Since July 2006, the Probation Agency has assumed responsibility for filing with the Court all treatment violations, on both formal probation and conditional sentence grants, and placing the violations on the Court's calendar within 15 days of the receipt of the notice of the violation from the treatment provider. (Average actual turn-around has been 8 Court days from receipt of the notice of treatment violation to the scheduled hearing date.) The Court considers the totality of the participant's behavior, both positive and not, when deciding upon an appropriate sanction within the limitations of the statute. Participants who are found in violation and re-referred to treatment are immediately directed to the on-site Quick Start Assessment Center in order to return them to treatment. The goal of expeditiously processing treatment violations and imposing swift sanctions is to catch the participants' attention, hold them accountable for their actions, and redirect them back to treatment before their negative behavior reaches the point of no return.

Recommendation R-02

Probation and BH/ADP should jointly ensure that appropriate psychological and psychiatric treatments are available to Prop 36 clients.

Agree: We acknowledge that there exists a wide range of opinion as to whether an individual's addiction is a consequence of his psychological or psychiatric condition or vice versa. Regardless of whatever cause is assigned, it remains a fact that individuals with dual diagnosis of drug dependency and mental illness are not appropriately treated in programs which address only drug dependency or only mental illness. A specialized treatment program which addresses all their needs is essential to their success.

Beginning in July 2006, changes have been made to the Prop 36 treatment component which will address the issues of dual diagnosis participants. The Quick Start Assessment Center, a participant's "first stop" in the road to treatment, is now supervised by a Licensed Clinical Social Worker who is trained in both drug dependency and mental health issues and who is able to assist in determining the appropriate treatment plan for all program participants, including those with a dual diagnosis. A contract to provide dual diagnosis out-patient Prop 36 treatment is being negotiated with Pacific Clinics, a provider who has a long history of providing such treatment. Dually diagnosed participants will be referred to Pacific Clinics for treatment, which should offer them a better opportunity for success in treatment and which also will allow the other providers to concentrate on the drug dependency issues of their remaining clients.

The Honorable John R. Smiley

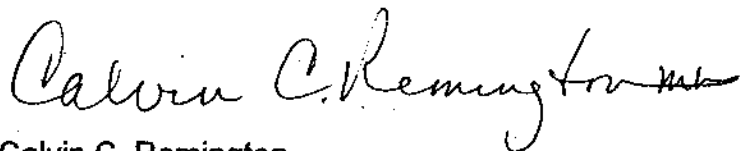
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Thank you for the opportunity to provide you with an update on the status of Proposition 36 implementation in Ventura County. Ventura County has a long history of successful interagency collaboration and innovative programs which are models for others to follow. It is our vision that the Proposition 36 program will become yet another one of these model programs.

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

Sincerely,

A handwritten signature in cursive script that reads "Calvin C. Remington".

Calvin C. Remington
Director/Chief Probation Officer

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