



County of Orange

County Executive Office

September 1, 2015

Honorable Glenda Sanders
Presiding Judge of the Superior Court of California
700 Civic Center Drive West
Santa Ana, CA 92701

Subject: Response to Grand Jury Report, "AB109-Realignment: Are the Public and Probation Officers at Greater Risk?"

Dear Judge Sanders:

Per your request, and in accordance with Penal Code 933, please find the County of Orange response to the subject report as approved by the Board of Supervisors. The respondents are the Orange County Board of Supervisors, Probation, and the Health Care Agency.

If you have any questions, please contact Jessica O'Hare of the County Executive Office at 714-834-7250.

Sincerely,

Frank Kim
County Executive Officer

Enclosure

cc: FY 2014-15 Orange County Grand Jury Foreman
Mark Denny, Chief Operating Officer, County Executive Office
Jessica O'Hare, Assistant to the COO, County Executive Office
Steve Sentman, Probation Department
Mark Refowitz, Health Care Agency



Responses to Findings and Recommendations
2014-15 Grand Jury Report:

“AB109-Realignment: Are the Public and Probation Officers at Greater Risk?”

SUMMARY RESPONSE STATEMENT:

On June 15, 2015, the Grand Jury released a report entitled: “AB109-Realignment: Are the Public and Probation Officers at Greater Risk.” This report directed responses to findings and recommendations to the Orange County Board of Supervisors, Orange County Probation Department, and Health Care Agency, which are included below as a combined response.

FINDINGS AND RESPONSES:

F.1. AB109 has not resulted in an overall increase in crime in Orange County.

Response: Agrees with the finding.

F.2. Although AB109 offenders must meet requirements for no convictions of serious, violent, or sexual crimes, this is only true for their latest offense. Many AB109 offenders do have prior convictions for serious, violent, or sexual crimes in their criminal background.

Response: Agrees with the finding.

F.3. AB109 offenders continue to pose a danger to the community at the current recidivism rate of approximately 30%, especially as it relates to property crimes.

Response: Agrees with the finding.

F.4. AB109 offenders are at a higher risk for reoffending with 88% of them having a drug abuse history. Orange County does not have adequate

residential drug treatment beds available for the number of AB109 offenders, thus limiting the use of this preventative alternative.

Response: Disagrees wholly with the finding.

The County disagrees wholly with the finding that Orange County does not have adequate residential drug treatment beds available for the number of AB109 offenders.

At the time of the Grand Jury report in October 2014, HCA capped the number of AB109 referrals at 25 per month due to possible overspending of the AB109 residential treatment budget for the fiscal year. Although admissions were capped for AB109 funded services, AB 109 clients continued to be admitted into residential treatment utilizing other funding. In brief, all AB109 clients who need residential drug treatment are referred and Orange County has adequate treatment beds to serve AB109 clients. There is currently no waiting list for residential drug treatment beds.

The County Residential drug treatment is only one modality of treatment. Offender assessments, with the training, supervision and experience of the Deputy Probation Officer allows the prescriptive interventions as appropriate for the individual needs of the offender. The availability of residential drug treatment options is welcomed in the continuum of services available for these offenders.

F.5. AB109 has placed Probation Officers at greater risk, however the Orange County Probation Department has placed a high priority on officer safety by providing adequate defensive tools to the officers including firearms, batons, pepper spray, and protective vests.

Response: Agrees with the finding.

F.6. OCPD has provided many additional tools to probation officers under AB109 to ensure officer safety, with the exception of a Taser.

Response: Disagrees partially with the finding.

The list of additional tools provided by the Grand Jury is not exhaustive; however it is correct that Probation does not deploy conductive electrical weapons, with one particular brand name being *Taser*.

RECOMMENDATIONS AND RESPONSES:

R.1. The Health Care Service Agency and/or the Probation Department should review the cost of services provided to probationers, and/or on enforcement actions, to determine if any of these services or actions provide less consistent benefits toward reduced recidivism than

residential treatment beds and, using funds that would otherwise be spent on those services or actions, increase the number of residential drug treatment beds. (F.4.)

Response: The recommendation has been implemented.

In February 2015, Health Care Agency (HCA) increased the AB109 residential and outpatient treatment budget from \$2,282,700 to \$2,475,970. This continues to be sufficient to meet the needs for residential and outpatient services.

Residential drug treatment is only one modality of substance abuse treatment. Probation and HCA staff and collaborators routinely produce reports of monthly statistics, quarterly analysis, and annual evaluations of AB109 program efficacy including service utilization to ensure clients have an appropriate level of care. Efforts are continuously applied in seeking the most robust and insightful data in order to support the prescriptive interventions as appropriate for the individual needs of the offender. The availability of residential drug treatment options is welcomed in the continuum of services available for these offenders.

R2. The OCPD should provide Tasers as an option for AB109 probation officers. (F.6.)

Response: The recommendation will not be implemented because it is not warranted.

It is within the realities of societal violence and demands for effective services that Probation addresses issues relating to office, facility, field, and staff safety. Staff safety remains a priority, and Probation employees are not expected to endanger themselves or others during the performance of their duties.

The presence of a defensive weapon should not be construed as giving the Deputy Probation Officer any additional authority or jurisdiction over unlawful or dangerous acts. Staff are trained to seek assistance from other peace officers when in potentially dangerous situations, such as effecting arrests, conducting searches, or halting the commission of an offense. These staff are to plan for and apply reasonable care and caution in all potentially dangerous situations, and to use good judgment in balancing the requirements of job performance and safety issues.

All staff deployed in the field supervision of AB109 offenders are extensively trained in field safety tactics and techniques. Further, the Chief Probation Officer retains under California Penal Code Sections 830.5 and 832, the discretion to set the type of weapons deployed and the training used to support those weapons. At this time, the Chief Probation Officer has determined that the deployment of conductive electrical weapons is not warranted.