



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 Offenders: Are Current Probation Strategies Effective?"

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, the Health Care Agency, and Social Services 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
Mike Ryan, Social Service Agency



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

“AB109 Offenders: Are Current Probation Strategies Effective?”

SUMMARY RESPONSE STATEMENT:

On June 30, 2015, the Grand Jury released a report entitled: “AB109 Offenders: Are Current Probation Strategies Effective.” This report directed responses to the Orange County Board of Supervisors, the Probation Department, Health Care Agency and Social Services Agency. The combined County responses to the findings and recommendations are listed below.

FINDINGS AND RESPONSES:

F.1. Orange County Probation Department’s Policies and Procedures Manual is consistent with professional standards for use of risk assessment tools and determination of classification levels for each AB109 offender.

Response: Agrees with the finding.

F.2. Orange County Probation Department’s Policies and Procedures Manual is not consistent with professional standards for development of supervision plans for AB109 offenders, including frequency and types of contacts.

Response: Disagrees partially with the finding.

There is a lack of universal professional standards for probation supervision. While community supervision of AB109 offenders is valuable in maintaining public safety, supervision, alone, does not prevent re-offense. According to available research, the most effective way to reduce recidivism is to address criminogenic needs in higher risk offenders with treatment programs that have demonstrated effectiveness, such as cognitive behavioral therapies to change criminal thinking or drug and alcohol treatment programs. After administering a risk and needs assessment instrument, the Deputy Probation Officer then functions as case manager to support the offender through treatment by monitoring engagement, continually enhancing motivation, preventing drop-out, and sanctioning when appropriate for failure to comply with

treatment requirements. The training, supervision and experience of the Deputy Probation Officer allows the prescriptive interventions as appropriate for the individual needs of the offender. The Probation Department policies and procedures allow for this professional application of offender supervision.

F.3. Orange County Probation Department's Policies and Procedures Manual does not identify the maximum caseload size for Probation Officers supervision of AB109 offenders.

Response: Agrees with finding.

F.4. Orange County Probation Department's Policies and Procedures Manual does not provide adequate requirements for drug-testing classifications or frequency guidelines.

Response: Disagrees partially with the finding.

The Probation Procedures Manual does not provide requirements for drug-testing classifications or frequency guidelines, however, this is in recognition that drug-testing is only one type of offender surveillance, and the Deputy Probation Officer functions as case manager to support public safety through multiple means. The training, supervision and experience of the Deputy Probation Officer allows the prescriptive interventions as appropriate for the individual needs of the offender. The Probation Department policies and procedures allow for this professional application of offender supervision.

F.5. Orange County Probation Department's Policies and Procedures Manual does not provide adequate requirements to address the issue of drug-testing avoidance or recommend responses for AB109 probationers who attempt to avoid positive drug tests by failing to appear or by diluting their urine samples.

Response: Disagrees wholly with the finding.

Probation Procedure Manual Item 2-1-007 clearly addresses diluted and falsified or tampered samples. Additionally, failing to report for drug testing is a technical violation of the terms and conditions of probation and is included in Procedure Manual Item 2-3-002 for processing probation violations.

F.6. Orange County Probation Department does not incorporate current technology (refractometer) in its drug testing system. Including such

technology may assist in the ability to quickly detect diluted urine samples provided by probationers.

Response: Disagrees wholly with the finding.

A refractometer is not the most current technology for detecting diluted urine samples. The urinalysis vendor uses modern laboratory analysis to determine the creatinine levels in order to determine dilution or over-hydrated samples. This process is completed by a fully licensed and accredited laboratory which routinely surpasses judicial challenges. Further, many drug tests are conducted using an oral swab which collects saliva for testing, and precludes a dilute specimen.

F.7. The Orange County Probation Department and Health Care Agency have lost an opportunity to reduce recidivism by not increasing residential drug treatment options for AB109 probationers over outpatient treatment or incarceration.

Response: Disagrees wholly with the finding.

The Orange County Probation Department and the Health Care Agency have not lost an opportunity to reduce recidivism by not increasing residential drug treatment options for AB109 probationers over outpatient treatment or incarceration. Residential drug treatment is only one modality of treatment. Offender assessments, with the training, supervision and experience of the Deputy Probation Officer and Clinical Social Worker 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.

At the time of the Grand Jury investigation 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 AB 109 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 to residential treatment and Orange County has adequate treatment beds available to serve AB109 clients.

F.8. There exists a need for increased housing availability for AB 109 probationers who are homeless.

Response: Agrees with finding.

RECOMMENDATIONS AND RESPONSES:

R.1. Standards and guidelines for AB109 offender supervision, such as number of contacts, home visits, drug tests, and collateral contacts based on the risk-needs assessment should be included in the Orange County Probation Department's Policy and Procedures (F.1., F.2.)

Response: The recommendation has not been implemented but will be implemented in the future.

The Probation Department has convened several working groups to develop appropriate standards. The revisions to the procedures manual items are expected to be updated this calendar year.

R2. The Orange County Probation Department should take steps to lower caseload sizes consistent with American Probation and Parole Association standards of no more than a 40:1 ratio caseload per officer for high-risk offenders. (F.3.)

Response: The recommendation has been implemented.

As of May 2015, AB109 caseload sizes were less than 41:1 for high-risk offenders.

R3. Standards and guidelines should be included in the Policies and Procedures Manual to address failures to report for drug testing. (F.5.)

Response: The recommendation has been implemented.

This has previously been included in the Procedures Manual Item 2-3-002.

R4. The Orange County Probation Department should implement standards and guidelines in its Policy and Procedures Manual to address the frequently used technique of "flushing" to avoid drug detection and a refractometer or other dilution-measuring device should be used to improve the integrity of the drug-testing program. (F.4., F.5., F.6.)

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

A refractometer is not the most current technology for detecting diluted urine samples. The vendor uses modern laboratory analysis to determine the creatinine levels in order to determine dilution or over-hydrated samples. This process is completed by a fully licensed and accredited laboratory which routinely surpasses

judicial challenges. Further, many drug tests are conducted using an oral swab which collects saliva for testing, and precludes a dilute specimen.

R5. The Health Care Agency and the Probation Department should assess current funding priorities and options to seek additional residential drug treatment beds. (F.7.)

Response: The recommendation has been implemented

There is currently no waiting list for residential drug treatment beds. In February 2015, Health Care Agency (HCA) increased the AB109 residential and outpatient treatment budget from \$2,282,700 to \$2,475,970, an increase of \$193,270 for fiscal year 2014-15. This continue to be sufficient to meet the needs for residential and outpatient services. HCA, in collaboration with Probation, continually reviews service utilization to ensure clients have an appropriate level of care.

R6. The Social Services Agency should address the needs of the AB109 offenders who are homeless or who experience instability in housing. (F.8.)

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

While the Social Services Agency appreciates the recommendation, housing and homeless prevention services fall under the purview of OC Community Services division of OC Community Resources. However, it is recognized that housing instability is a significant challenge for this population. As a result, SSA worked with the Probation Department, OC Community Resources (OCCR) and Health Care Agency (HCA) to prepare a more comprehensive response. In order to appropriately address housing instability for AB 109 offenders, multi-agency collaboration is necessary. Probation, OCCR and HCA will be working together with the Commission to End Homelessness to evaluate the current policy and procedures related to housing for AB 109 offenders. These efforts will include the evaluation of discharge planning protocols as well as the assessment of connections to existing resources and the potential development of new resources, as applicable.

HCA has budgeted \$550,000 for sober living for FY 2014/15. Sober living is being utilized to provide additional support for AB 109 offenders who have completed residential drug treatment and for offenders actively participating in outpatient treatment and in need of housing. All sober living participants are required to be actively engaged in their recovery process and participating in outpatient services as a condition of their stay. The Budget Act of 2014 (Chapter 25, Statutes of 2014) allocated \$8 million for the Community Recidivism Reduction Grant as specified in Penal Code section 1233.10. The County of Orange is allocated \$500,000 in funds to be used for a competitive grant program, which the County has focused on provision of transitional housing. HCA and Probation are currently working to secure Transitional Housing Services in a sober environment with a focus on community recidivism and crime reduction to adult criminal offenders who have recently been

released from the Orange County Jails or other correctional facilities and who are under the supervision of the Orange County Probation Department. HCA and Probation are reviewing the proposals that were received in response to the Request for Proposals. Selected providers will receive a maximum of \$50,000 to provide these services.