



County of Orange
California

James D. Ruth
Interim
County Executive Officer

July 15, 2003


Honorable Frederick P. Horn
Presiding Judge of the Superior Court of California
700 Civic Center Drive West
Santa Ana, CA 92702

Subject: Response to Orange County Grand Jury Report, "A Shortfall in
Proposition 36 Support?"

Dear Judge Horn:

Per your request, and in accordance with Penal Code 993, enclosed please find the County of Orange response to the subject report as approved by the Board of Supervisors. If you have any questions, please contact Frank Kim at the County Executive Office who will either assist you or direct you to the appropriate individual.

Respectfully,


James D. Ruth, Interim County Executive Officer

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SUMMARY:

In April, the Grand Jury released a report titled "A Shortfall in Proposition 36 Support?." This report directs Findings 1 through 5 and Recommendations 1 through 5 to Health Care Agency, Public Defender and Probation Department. As the governing body for these Agencies, the Board of Supervisors is required to respond to the Presiding Judge of the Superior Court on their behalf. Enclosed, as Attachment 1 is the proposed response to Findings 1 through 5 and Recommendations 1 through 5.

The Sheriff's Department met with Probation, District Attorney, Health Care, and Public Defender, gave input, and understood Sheriff's comments would be part of a final compiled data response.

2002-2003 Orange County Grand Jury Report A Shortfall in Proposition 36 Support?

FINDINGS

- 1. In the Proposition 36 Court, the severity of drug addicted crimes and criminal sophistication are higher than projected by County planners.**

Response: Agree with the finding.

- 2. When an individual is determined to be eligible under the terms and conditions of Proposition 36 there is a need for immediate assessment, treatment, follow-up and drug testing to begin.**

Response: Agree with the finding

- 3. Crime rates in some Orange County Cities show increases since the inception of Proposition 36 that may be attributable to Proposition 36 or to other factors, such as economy downturns, and drug driven property crimes.**

Response: Disagree partially with finding

The Prop 36 committee reviewed this and finds no evidence to support. There are many factors that may have an impact upon an increase in crime rates in particular cities or within a County or state. Factors that may have an impact are the current economy, echo boom and the unemployment rate.

- 4. Funding is inadequate to support sufficient residential and intensive outpatient needs.**

Response: Agree with the finding.

- 5. County departments (Probation, District Attorney, Health Care Agency and Public Defender) involved with Proposition 36 are absorbing additional cost shortfalls not currently included in SACPA cost projections.**

Response: Agree with the finding.

RECOMMENDATIONS

1. Assess the factors related to Probation violations during participation in Proposition 36 and implement corrective measures. (Finding 1)

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

Probation Response:

The Probation Department has determined the factors relating to Probation violations include the sheer number of persons sentenced under Proposition 36, the level of criminal sophistication and the level of drug addiction. In response to the volume of cases the Probation Department requested a budget augmentation of 2.9 million dollars to add three additional supervision units. In as much as this request was denied the following strategies are being implemented, all cases are assessed for risk factors. Those cases posing a lower risk will be placed in banked caseloads to reduce the overall caseload size. The cases identified as active parole (prior prison sentence) will be transferred to High Control caseloads in our Special Supervision Division. By reducing caseloads to a more manageable level the Probation Department will be able to provide a higher level of supervision to those cases that would both warrant and benefit from that supervision. The target date for reducing caseloads is October 1, 2003.

Public Defender Response:

The Public Defender disagrees with the recommendation to the degree it suggests harsher treatment of defendants who do not succeed in treatment. Relapse is a part of recovery. Participants who ultimately fail at treatment are still guilty of nonviolent crimes involving personal drug use, who do not belong in prison, particularly given the cost of imprisoning someone in this state. Factors related to probation violations should be assessed with those principles in mind.

2. Continue efforts to increase treatment and provisions for expediting a timely assessment of the defendant to achieve immediate placement into treatment following sentencing. (Finding 2)

Response: The recommendation regarding timely assessment has been implemented.

The recommendation regarding increased treatment will not be implemented because it is not reasonable.

The Health Care Agency has expedited a timely assessment process to achieve immediate placement into treatment programs.

Under Proposition 36, funding for treatment is provided by the State of California, which is facing a fiscal crisis. Without additional treatment dollars or a shift of funding, we do not have the financial resources to increase treatment.

3. **Prepare a plan and implement action to increase testing and supervising of the participants under the terms and conditions of Proposition 36. (Finding 2)**

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

There is presently a severe strain on the finances of county programs due to the state fiscal crisis. As a result of this funding limitation, the Probation Department has set a goal of reducing the size of the average Proposition 36 caseload by 26% through the banking of cases that have the lowest risk scores. This will allow for more supervision of those cases remaining on active supervision and a subsequent increase in the frequency and randomness of testing. The target date for the reduction is October 1, 2003.

4. **Examine county and city arrest and incarceration records and statistical data of persons enrolled in Proposition 36 Court to determine the program's effectiveness relative to reducing criminal involvement in serious crimes. (Finding 3)**

Response: The Sheriff and District Attorney will provide the response to this recommendation

5. **Provide costs for current year (2002-2003) and project cost for future years (two), for departments for beds and personnel to support Proposition 36. (Findings 4& 5)**

Response: The recommendation has been implemented.

The following table represents the estimated Proposition 36 costs for FY 2002-03 through FY 2004-05 for the Health Care Agency, Public Defender, District Attorney and the Probation Department.

Forecast	FY 02-03	FY 03-04	FY 04-05
Health Care Agency	9,779,137	8,825,738	8,906,849
Public Defender	1,963,101	2,043,470	2,093,327
Probation Department	2,286,782	2,778,788	2,934,648
District Attorney	842,571	888,912	937,803
Funding From State	8,495,533	8,495,533	8,495,533
Shortfall in Funding	(6,376,058)	(6,041,375)	(6,377,094)