

TESTIMONY BEFORE THE LITTLE HOOVER COMMISSION
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Thank you for the opportunity to testify before this Commission on a topic of great importance to the Criminal Justice system as well as to the general public. When discussing the implementation of Proposition 36 in Santa Clara County, it is important to note that Santa Clara County, on the whole, has done a very good job. The implementation of Proposition 36 has been a collaborative effort among several county agencies. All involved agencies have worked diligently and tirelessly to make Proposition 36 work in our county. All concerned are committed to Proposition 36's successful implementation. We continue to work toward that goal.

In Santa Clara County we have provided more defendants with treatment services. We are proud that we have spent all Proposition 36 dollars allocated to our county. We purchased services that are now available to Proposition 36 defendants. From the Prosecution perspective, a major concern was a possible increase in the number of cases going to trial. Proposition 36 treatment is still available to an eligible defendant who chooses to exercise his/her right to a jury trial. We have not experienced an increase in the number of jury trials.

Additionally, Proposition 36 is still a relatively new law and as such its implementation is a work in progress. Santa Clara County agencies have exhibited flexibility and a willingness to make necessary modifications to our program. Overall Santa Clara County has done a good job in implementing Proposition 36. All the agencies involved in that implementation should be congratulated on their hard work and dedication.

Although Santa Clara County is doing a good job, there are some areas where we could improve. It is our hope that this Commission can assist our county and other counties in making necessary improvements. Not surprisingly, many of our concerns involve the need for more funding.

More funding is needed to provide treatment for defendants with mental health issues. Serving the needs of the mentally ill is a constant challenge. In addition to providing more resources for the severely mentally ill, we need more resources to assist those with emotional issues. For example, many substance abusers were child victims of physical or sexual abuse. This past abuse is a source of extreme emotional

pain. Often it is this emotional pain which led to the substance use and eventually abuse. Once the addict achieves sobriety, the emotional pain of the past returns to the surface. This then becomes a relapse trigger. Unless the recovering addict is provided with counseling to assist him/her with these issues, he/she may not maintain sobriety.

Reallocation of funding to the counties is an issue of great concern. The performance and the needs of each county should determine funding. An evaluation must be completed to determine which counties are in need of more funding. It is not wise to simply give each county the same amount of funding it received last year without an evaluation of how the previous year's funds were utilized.

More funding is required for all types of treatment. Proposition 36 was hailed by its proponents as a cost saving measure. In the long term, if it is successful, Proposition 36 will save California taxpayers a great deal. However, in the short term, Proposition 36 is a more expensive option than mere incarceration. If Proposition 36 is to succeed, it will require a large investment in the short term.

Treatment providers who do not have contracts with Santa Clara County experienced an unanticipated decrease in clients after Proposition 36 became law. Proposition 36 does not mandate that defendants with the financial ability pay for their own treatment. Many defendants were therefore manipulating the system by not disclosing their financial ability. They would then receive placement in a county funded bed. Recently, a group of these private pay providers have been working with our assessors to remedy this situation. Defendants who have the financial means must be required to pay for their own treatment. This will ensure more open county funded beds for those without financial means. In addition, it is well recognized that addicts who pay for their own treatment achieve more successful outcomes.

Another area of concern is education about Proposition 36. We need to educate the general public about the implications of Proposition 36. Although Proposition 36 was overwhelmingly approved by voters in Santa Clara County, we have experienced increasingly vehement neighborhood opposition to treatment programs in the community. The "not-in-my-backyard" sentiments are very strong. The public must learn that treatment for most drug offenders means treatment in the community. We also need to provide more training and education to police officers.

More funding is needed for probation. Probation is doing a good job but they could do an even better job if they had more resources. We need more testing and closer supervision of Proposition 36 defendants. We need more progress reports from probation and treatment providers.

More funding is needed for the courts. We would like a courtroom and judge dedicated to Proposition 36 cases so that we can apply the Drug Treatment Court model to all Proposition 36 cases. We need more appointments to fill up the vacancies on our bench. This would ease the burden on our current drug court judges thereby allowing more time and greater oversight in Proposition 36 cases. Having one Proposition 36 court would also provide for greater consistency in the handling of these cases.

Data collection is also an area of concern. A consistent statewide system of data collection would assist in evaluating the success of Proposition 36. It would also assist in the proper allocation of funds.

Finally some clarification in the law is needed; in particular in the area of violations of probation. A clear definition of what constitutes a drug-related versus a non-drug related violation of probation.

Thank you again for allowing the panel from Santa Clara County to testify about our experience in implementing Proposition 36.