



Chambers of
THOMAS J. BORRIS
PRESIDING JUDGE

Superior Court of California County of Orange

700 CIVIC CENTER DR., WEST
SANTA ANA, CA 92702

Administrative Order No. 12/09

Providing Previously-Filed Probation Reports to Counsel of Record Upon Filing of Petition for Recall of Sentence Pursuant to Penal Code Section 1170.126 (Proposition 36 -Three Strikes Reform Act of 2012)

This administrative order is issued pursuant California Rules of Court, Rule 10.603, subdivision (a)(1), which authorizes the presiding judge to establish policies and allocate resources in a manner which “promotes access to justice for all members of the public, provides a forum for the fair and expeditious resolution of disputes, maximizes the use of judicial and other resources, increases efficiency in court operations, and enhances service to the public.” (CRC, Rule 10.603(a)(1))

One of the objectives of Proposition 36, the “Three Strikes Reform Act of 2012” is to restore the Three Strikes Law to the public’s original understanding of requiring life sentences only when a defendant’s current conviction is for a serious or violent crime. To promote this objective, Proposition 36 added section 1170.126 to the Penal Code, which permits eligible inmates serving indeterminate life terms under the former Three Strikes Law, who would not have received indeterminate life terms under the current law, to petition the court for recall of their sentences. Subject to the court’s discretion, eligible inmates may be resentenced to a shorter prison term.

Prior to any resentencing hearing, counsel for the parties must review the court file(s), including any previously-filed reports of the probation officer. Although such reports are sealed 60 days after judgment is pronounced, they may be inspected and copied by “any person authorized or required by law to inspect or receive copies of the report”. (Pen.Code § 1203.05(d).

Based on the number of indeterminate sentences imposed under the original Three Strikes Law, the Orange County Superior Court anticipates hundreds of eligible inmates will petition the court for resentencing under section 1170.126 within the two-year period following

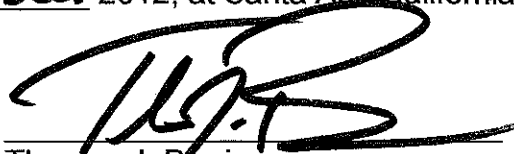
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its 11/7/12 effective date. To increase judicial efficiency with respect to such petitions, the court now orders:

1. When a formal, properly served petition has been filed in this court pursuant to Penal Code section 1170.126, the attorney for each party is deemed authorized by law, pursuant to Penal Code Section 1203.05(d), to inspect and receive a copy of any probation report(s) pertaining to the petitioner.
2. Upon the filing of such a petition, and without further order of the court, the clerk of the court shall provide to the petitioner's attorney of record and to the Office of the Orange County District Attorney, the following: Copies of any probation report(s) pertaining to the petitioner.
3. In each case in which such a petition has been filed, the docket shall reflect that the court clerk has provided copies of the probation report(s) to counsel for both parties pursuant to this administrative order.
4. The probation reports received by counsel pursuant to this order shall not be released to the public absent further order of the court.

This Administrative Order is made pursuant to Penal Code section 1203.05 and California Rules of Court, Rule (CRC) 10.603(a)(1)).

IT IS SO ORDERED this 11 day of Dec. 2012, at Santa Ana California.



Thomas J. Borris
Presiding Judge