DO DRUG OFFENDER’S BELONG IN PRISON?
A POLICY PROPOSAL TO
MODIFY PROPOSITION 36 PROBATION
BY IMPROVING THE CURRENT PROCESSES

By

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A Policy Proposal Presented to the
Faculty of the Department of Public Policy and Administration
School of Business and Public Administration

CALIFORNIA STATE UNIVERSITY, BAKERSFIELD

In Partial Fulfillment of the
Requirements for the Degree

MASTER OF PUBLIC ADMINISTRATION

June 12, 2012

Approved:  

[Signatures]

[Dates]
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Abstract

Summary

Proposition 36 probation (Prop 36) is probation for first or second time nonviolent drug offenders who receive treatment in lieu of incarceration. The problem with Prop 36 is that there is a lack of communication and the lack of uniformity of the law’s implementation. Drug court judges are using discretion excessively and are placing a disproportionately large number of defendants on Prop 36. The original intent of Prop 36 is to provide treatment in lieu of incarceration for first- or second-time nonviolent, simple drug possession offenders. Since Prop 36 is not being implemented correctly, it is causing strain on the budget for the department of Probation and the department of Mental Health Gate Team. Many of the offenders have strong addictions and are in need of intensive treatment. Judges are sentencing the offenders to out-patient treatment instead of in-patient/residential treatment. This is causing a disservice to everyone involved with Prop 36.

This proposal contains four chapters. The introduction chapter states the problem, purpose, and importance of this study. The second chapter is the literature review that will compare and contrast existing research and discuss the noted problems within the program. The third chapter will thoroughly explain the integrated set of program modifications to increase program efficiency and effectiveness. And, the fourth chapter will end with a summary of major points and recommendations to improve Prop 36.

Conclusion

These modifications are needed to lower the number of offenders placed on Prop 36 probation, the probation department and the Gate Team will be able to focus on the offenders that actually want help. This will also alleviate the budget crises by ensuring that the public’s tax dollars are being spent appropriately. The Department of Mental Health Gate Team will be able to allocate proper services to those offenders who meet the qualifications. The Prop 36 probation officer would then be able to better prepare in helping the offender through the length of their probation and possibly recommend an early release from Prop 36 probation. This will in turn help the public feel safer because these individuals will be getting the help they need and there will be no need for new prisons.

Recommendations

The following recommendations are directed towards the implementation of Proposition 36 Probation and are determined to be beneficial to the efficiency and effectiveness of Proposition 36 probation across the State of California. This can also serve as a model for other states to form their own version of Prop 36 Probation.

1. It is recommended that Prop 36 administrators should adopt the modified process of Proposition 36 presented, which is illustrated by a flow chart (see Appendix H).
2. It is recommended that Prop 36 administrators should adopt the modified process of Proposition 36 revocation presented, which is illustrated by a flow chart (see Appendix I.) These recommendations will improve the communication and collaborations between the drug court judges, gate keepers, and probation officers.
Chapter 1: Introduction

The California Department of Corrections and Rehabilitation (CDCR) has a variety of problems within their organization, one of the largest problems is prison overcrowding. The CDCR studied their facilities to understand why their prisons are over capacity by looking at the types of crimes committed by the inmates (Jett, 2007). They found that there were a large number of inmates that were incarcerated due to a first or second non-violent drug possession offense. Those individuals were not violent and they did not have any prior criminal record. Those individuals were arrested for possession of drugs for their personal use. These offenders needed treatment not incarceration (Porter, 2007). This brought forth the question of whether or not drug offenders belong in prison. Many citizens agree that prison should be reserved for violent criminals that have committed serious crimes; it should not be a holding place for drug addicts. The state of California wanted to give these individuals a break and help them receive treatment for their addictions not a prison sentence.

California enacted the drug diversion program (CAL PENAL Code §1000), which allows treatment rather than prison for individuals charged with simple possession or being under the influence (Jett, 2007). This program is often referred to as the deferred entry of judgment program. To be eligible for this program the defendant must plead guilty or no contest to the drug charge(s) against him or her. Judgment is continued for eighteen months while the defendant completes a twelve week or longer narcotics abuse treatment program. If the defendant successfully completes the program and stays clean for eighteen months, the judge would dismiss the case. CAL PENAL Code §1000.4 states that upon successful completion the arrest upon which the judgment was deferred shall be deemed to have never occurred. Moreover, employers and state license boards may not be able to use the arrest against the person. The
disadvantage with CAL PENAL Code §1000 is that these benefits are lost if the defendant fails to comply with the program guidelines or the defendant gets re-arrested. The judge would then enter the criminal conviction and sentence the defendant with a felony or misdemeanor. The problem with CAL PENAL Code §1000, is that it did not solve the problem of having a large number of drug addicts in prison. The defendants are not monitored and they were not assessed to determine the levels of their addictions. California wanted a different program to solve the issues CAL PENAL Code §1000 could not address.

On November 7, 2000 California voters passed The Substance Abuse and Crime Prevention Act, ( also known as Proposition 36 Probation, Proposition 36, Prop 36, P36,) by 61% of the votes. The vote changed state law to allow first- and second-time nonviolent, simple drug possession offenders to receive substance abuse treatment instead of incarceration. Prop 36 was adopted into the California Penal Code in section 1210.1. The defendant would be placed on probation and into a substance abuse treatment program lasting up to three years. Their prison sentences can be suspended upon successful completion of the program. Some of the requirements to be placed on Proposition 36 probation are: (1) the defendant cannot have any serious or violent felony cases pending or convictions on their record; (2) the defendant cannot be charged possession with intent to sale; (3) the defendant must be evaluated by a Gate Keeper from the Department of Mental Health to assess the level of their addiction and recommend a treatment program for the defendant; and (4) the defendant must plead guilty to all charges (Percival, 2004). If the defendant does not meet the terms and conditions of probation, it may result in a revocation of probation and the previously suspended prison sentence shall be enforced. Proposition 36 has been implemented for over ten years, but through the years the courts have lost sight of the original intent.
Statement of the Problem

The problem with Prop 36 is that there is a lack of communication within the departments involved and the lack of uniformity of the law’s implementation. Drug court judges are using discretion excessively and are placing a disproportionately large number of offenders on Prop 36. The original intent of Prop 36 is to provide treatment in lieu of incarceration for first- or second-time nonviolent, simple drug possession offenders. Since Prop 36 is not being implemented correctly, it is causing strain on the budget for the department of Probation and the department of Mental Health Gate Team. Many of the probationers have strong addictions and are in need of intensive treatment. Judges are sentencing the offenders to out-patient treatment instead of in-patient/residential treatment. This is causing a disservice to everyone involved with Prop 36 as the program was not designed to serve such large numbers and was not designed to treat those with strong addictions that don’t want treatment.

Purpose of the Study

The Substance Abuse and Crime Prevention Act of 2000 (Prop 36), is a program that offers treatment and probation in lieu of incarceration. To be eligible for Prop 36, the offender must be a first or second-time simple non-violent drug possession offender. Unfortunately, this program is not working to its full potential. Due to the discretion of the court, many non-eligible offenders are placed in Prop 36. This is causing the program to fail because these offenders are not getting the proper treatment due to crowded treatment facilities. The purpose of the study is to offer a program proposal that would help make the program work efficiently and be more effective. This will require the author to:

1. Use existing data from previous evaluations conducted on Prop 36 to compare the change in completion and recidivism rate for Prop 36.
2 Review the current practices of Prop 36 from the three parties involved with the program: California Drug Courts, Department of Probation, and Department of Mental Health.

3 This study will then offer an integrated set of program improvements to increase program effectiveness.

This study is based on the Substance Abuse and Crime Prevention Act of 2000 that was passed in the state of California but it will focus on the departments within Kern County.

**Importance of the Study**

The importance of this program proposal is to modify the current program to relieve all the departments involved who must deal with the overwhelming number of offenders. With less offenders placed on Prop 36 probation, the probation department and the Gate Team will be able to focus on the offenders that actually want help. This will also alleviate the budget crises by ensuring that the public’s tax dollars are being spent appropriately. The Department of Mental Health Gate Team will be able to allocate proper services to those offenders who meet the qualifications. The Prop 36 probation officer would then be able to better prepare in helping the offender through the length of their probation and possibly recommend an early release from Prop 36 probation. This will in turn help the public feel safer because these individuals will be getting the help they need and there will be no need for new prisons.

This study will contain a total of four chapters. The introduction chapter explained Prop 36 by stating the problem, purpose, and importance of this study. The second chapter is the literature review that will compare and contrast existing research and discuss the noted problems within the program. The third chapter will thoroughly explain the integrated set of program improvements to increase program effectiveness. The fourth chapter will end with a summary of
major points and recommendations to improvement Prop 36 to work more efficiently and effectively.
Chapter 2:  
Literature Review

The following review will include background information of Proposition 36 Probation (Prop 36). Then it will compare and contrast existing research and evaluations that have examined Prop 36 that work with Prop 36 offenders. Then this literature review will discuss the noted problems within the program.

In December 1972, California legislature codified a program in sections 1000 - 1000.8 of the California Penal Code that gave defendants convicted of certain drug offenses the opportunity to rehabilitate themselves rather than go to jail (Porter, 2007). According to Porter (2007), the deferred entry of judgment program allowed eligible defendants to be referred for education, treatment, and/or rehabilitation for a period of six months to two years and upon successful completion of the program their charges could be dismissed. The problem with PC 1000 is that there was no legislation requiring courts to assign defendants to diversion programs. On November 7, 2000, California enacted the Substance Abuse and Crime Prevention Act (SACPA) of 2000, (also known as Penal Code 1210.1 or Proposition 36 Probation) in response to that concern and expands the proposal of treating and rehabilitating first and second time non-violent drug possession offenders (Percival, 2004). The act is a noteworthy state law change and significantly changes California’s judicial processes and substance abuse treatment systems.

According to Jett (2007), SACPA was designed to: (1) preserve prisons for serious and violent offenders; (2) enhance public safety by reducing drug-related crime; and (3) improve public health by reducing drug abuse through proven, effective treatment strategies. According to Klain, Miller, Noble, and Speiglmn (2004), the drafters of Proposition 36 stated that they
intended to provide treatment as an alternative to prison and to address substance abuse as a
matter of public health rather than criminal justice. California’s Prop 36 is a work in progress
because a statewide initiative that size will take several years to become established and operate
as intended (Farabee, Hser, Anglin, & Huang 2004). The theoretical perspective behind
Proposition 36 is rehabilitation which assumes that people are not permanently criminal and that
they can have a life in which they contribute to themselves and to society. According to
Browning, Halcli, and Webster (2000), a goal of rehabilitation is to prevent criminal recidivism
and to help, by means of education and/or therapy, to bring a criminal to a more normal state of
mind. To ensure that this goal of rehabilitation is being reached several research studies have
been conducted to show whether or not the program is achieving this goal.

**Proposition 36 Evaluations**

The taxpayers of California have kept a watchful eye on Prop 36 because they want to
make sure that the tax dollars are being used properly and that the program is reaching their
goals. Because of this, Prop 36 has gone through several evaluations focusing on the
implementation of Prop 36 across the state. Before reviewing the evaluations, you need an
understanding of the processes. The process of Prop 36 from start to finish is fairly easy. First, an
offender applies for Prop 36 probation (Appendix A shows an example of the application for
Prop 36). If the offender is eligible, the judge will sentence him or her to Prop 36 probation. The
second step is to meet with the Department of Mental Health gatekeeper to be assessed on the
level of their addiction. Once the offender has been categorized in one of the six levels, (with one
being low risk and 6 being high risk); the offender will then be assigned a probation officer.
Third, the offender must meet with the probation officer to sign the terms and conditions of their
probation requiring them to go to treatment (Appendix B shows a sample of the terms and
conditions of Prop 36 probation). The offender must comply with the terms and conditions of his or her probation for their entire sentence. The final step is to enter and complete treatment ranging from 30 days to 12 months. (Appendix J shows a list of treatment levels). If the offender relapses (or violates) probation, they have a total of three chances before being removed from Prop 36. After the third relapse (or violation), the offender would be sent to prison to complete the remainder of their sentence. Now that you have an understanding about the process of Prop 36, this study can continue the review of the evaluation studies. The following will briefly explain what the authors found and their suggested improvements.

**Evaluation 2002**

This report was the first evaluation conducted after Proposition 36 was implemented on July 1, 2001. This report was first published on July 7, 2003 and it covered from the date Prop 36 was implemented to June 30, 2002 and it focused on the implementation of Prop 36 during the aforementioned dates. According to Urada, Teruya, Hardy, Hser, Predergast, and Ettner (2003), there was a total of 53,697 offenders that were eligible for prop 36 and of that total 82 % choose Prop 36 and show rate was 69% of that percentage entered treatment. They reported what the offenders described as their primary drug: 50 % methamphetamine, 15% cocaine/crack, 12% marijuana, and 11% heroin. On average, Prop 36 clients had a longer drug history than non-Prop 36 clients. Most SACPA clients (86%) were placed in outpatient drug-free programs, and 10% were placed in long-term residential programs… this was the first drug treatment opportunity for over half of all SACPA clients (Urada, et al, 2003). Almost all of the Prop 36 clients received as least 90 days of treatment in either outpatient drug free programs or long-term residential treatment.
This study found rising concerns about the sufficiency of Prop 36 from the courts, treatment, and county administrators because of the number of offenders who entered Prop 36 was greater than expected which in turn caused a much larger workload. Despite these concerns, they were able to work together and reported favorable views of the implementation. They did find inconsistencies across counties in the type of offenses regarded as Prop 36-eligible. All counties reported that drug possession and being under the influence of drugs were Prop 36-eligible. Possession of drug paraphernalia and transportation of drugs were cited as Prop 36-eligible in most counties but not all. Some counties, but not most, treated vehicle offenses such as driving under the influence of drugs as SACPA-eligible (Urada et al, 2003). They suggested that Prop 36 should assess the offenders in one visit to prevent the offender from losing interest on the program. They suggested that future research should cover the cost savings associated with Prop 36 (Urada et al, 2003). I found that this study failed to address or emphasize the need to clarify what offenses are or should be regarded as Prop 36-eligible. The entire state should be identical in the way Prop 36 is implemented.

**Evaluation 2003**

This evaluation was first published on September 23, 2004 and it covered the implementation of Proposition 36 from July 1, 2002 to June 30, 2003. According to Longshore, Urada, Evans, Hser, Prendergast, Kawken, Bunch, and Ettner, (2004), there was a total of 54,140 offenders that were eligible for Prop 36 and of that total 92 % choose Prop 36 and the show rate was 71.4% of that total entered treatment. That is an increase of 9.4 % from the first evaluation. This report states that 34.4 % of the offenders who entered the treatment actually completed treatment. The findings were similar to the previous report is regards to primary drug choice: 53 % methamphetamine, 13.2 % cocaine/crack, 12.1% marijuana, and 10.2% heroin. There were
growing concerns regarding the treatment system’s ability to meet clinical challenges presented by these large number of drug addicts and they began to question why the numbers were growing rapidly. Longshore et al (2004) found that most Prop 36 offenders (approximately 90%) were placed on probation when they were sentenced or were already on probation and that the remaining 10% were parolees with a new offense or drug related parole violation.

The counties tried different approaches to manage the large number of Prop 36 offenders. These strategies included: locating assessment centers in or near the court, co-location of probation and assessment staff, allowing assessment by walk-in as well as (or instead of) appointment, allowing a longer time (number of days) for offenders to report for their assessment, completing assessment in one visit, and adoption of one or more drug court procedures. The assumption underlying each strategy was that it might help to maximize the show rate at assessment, treatment, or both. Offender management strategies varied across counties for reasons such as availability of office space, expected volume of SACPA offenders, and number of assessment staff available (Longshore et al, 2004). They used thesis strategies assuming that it would increase the show rate during assessment. This study noted that there was a growing problem with communication because each county continued to implement Prop 36 from what they interpreted from the law. This study failed to offer strategies to increase communications. However, it did identify what the Prop 36 eligible offenses are, (as shown in Appendix C). They state that future studies should focus recidivism rates before and after Prop 36 and an analysis of Prop 36’s fiscal impact.

**Evaluation 2004**

This study was the first published on July 23, 2005 it covered the implementation of Proposition 36 from July 1, 2003 to June 30, 2004. According to Longshore, Urada, Evans, Hser,
Prendergast, and Kawken (2005), there were a total of 51,033 offenders eligible for Prop 36 and a total of 37,103 (72.6%) entered treatment. Methamphetamine continued to be the top primary drug and there was no increase from the previous study. They did find that the first-time clients had been using their primary drug for over 10 years (Longshore et al, 2005). Roughly, 84.4 percent of the clients were placed in outpatient and roughly 11.2 percent were placed in long-term residential programs. They found a completion rate of 34.4 percent and state that offenders with no prior treatment experience were most likely to complete treatment. There are clinical concerns in regards to Methamphetamine users because they had much more mental health problems and do not participate in treatment (Longshore et al, 2005). This has been noted in previous evaluations.

This study also covered what the offenders outcomes were after participating in Prop 36 treatment. Longshore et al (2005) stated that:

“Outcomes during the initial 12-month follow-up—new arrests, drug use, and employment—were most favorable among first-year Prop 36 offenders who completed treatment, compared to those who were referred to Prop 36 but did not enter treatment and those who entered treatment but did not complete it. This comparison shows outcomes in relation to offenders’ degree of participation in Prop-36 (2005).”

The degree of participation is crucial for the success of the offender to be free of his or her addiction. They need to be willing to change and put forth the effort to get clean. With this in mind, one in five Prop 36 offenders entered probation revocation procedure and had their previous suspended prison sentence reinstated. This study failed to mention what types of
violations would cause Prop 36 probation revocation. It also failed to mention any strategies to bridge the gap of communication between all entities involved with Prop 36.

**Evaluation 2005**

This study was first published on April 13, 2007 and covers the implementation of Prop 36 from July 1, 2004 to June 30, 2005. According to Longshore, Urada, Evans, Hser, Prendergast, and Kawken, (2007), there was a total of 48,473 offenders eligible for Prop 36, a total of 36,285 entered treatment, and the show rate rose to about 45 percent. The primary drug remained methamphetamine. As in the previous report, a majority of Prop 36 offenders (84.31%) were placed in out-patient treatment and a few (10.9%) were placed in residential treatment. They found that Prop 36 is not associated with an increase of crime rates. Longshore et al (2007) found that placements into residential care were much lower for Prop 36 offenders than for Non-Prop 36 offenders. The reason for that they explained was caused by an increase of treatment admissions of Non-Prop 36 clients, which were given priority. Longshore et al (2007) stated that:

> “the placement of heavy-using SACPA clients into residential care is related to criminal justice outcomes. Although true for all primary drugs, the effect of treatment placement (residential or outpatient) on criminal justice outcomes was most dramatic for SACPA treatment client reporting methamphetamine as their primary drug. SACPA clients entering residential treatment who had been daily users of methamphetamine had significantly fewer arrests during the thirty-month follow-up period compared with methamphetamine users placed into outpatient treatment. This suggests that expanded use of residential treatment for heavy users, in particular methamphetamine users, should be prioritized.”

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It took these evaluations four years to realize that there was a huge problem with growing number of Methamphetamine daily users. It is very clear that residential treatment is would be the best option. But then the question on everyone’s mind is, how much is that going to cost us? Luckily, this study included a benefit-cost analysis for the four years since Prop 36’s implementation.

The benefit-cost analysis showed the yield cost savings to state and local governments. First, using a pre-Prop 36 era comparison group taxpayers saved nearly $2.50 for every $1 invested. Second, Prop 36 offenders who complete treatment saved a total of $4.00 for every $1 allocated. Longshore et al, 2007) concluded that prop 36 reduced incarceration costs, it resulted in cost saving and that Prop 36 can be in proved to achieve even better cost savings. They then proposed a performance improvement to expand residential treatment options to be able to allow more Prop 36 offenders to that option. This was the first time communication was mentioned. They stated that collaboration and coordination among court, probation, parole, and treatment systems should continue to be improved with the goal of admitting offenders into appropriate treatment in the shortest possible time while maintaining appropriate levels of oversight and supervision (2007). But they failed to mention strategies on how to do collaborate or coordinate.

Evaluation 2008

This study covers the implementation of Prop 36 from July 1, 2005 to June 30, 2006. According to Urada, Hawken, Conner, Evans, Anglin, Yang, Teruya, Herbeck, Fan, Rutkowski, Gonzales, Rawson, Grella, Prendergast, Hser, Hunter, and Poe (2008), state there was a total of 50,732 offenders eligible for Prop 36, a total of 36222 (71.4 percent) entered treatment. The primary drug continues to be Methamphetamine. The majority of Prop 36 clients were placed in out-patient care. Since the finding were similar to the previous evaluations, this study focused on
recommendations to prepare Prop 36 offenders for post-treatment. They said rehabilitation is great and we should be happy with the high completion rates, but these offenders must face reality. Many recommendations were mentioned before but they did not offer any steps how to achieve them. Only one recommendation made sense in regards to Prop 36 offenders seeking employment. Many employers are not willing to hire individuals with prior criminal records. Urada et al (2008) recommend that Prop 36 should offer employment assistant by doing the following: provide a list of felony-friendly employers; provide counseling on how to address offender’s disclosing criminal history; Provide social events/career days; and make prop 36 requirements flexible to accommodate the schedule of those employed. While reading these recommendations, you may be thinking, who should be responsible for this implementation, where will the funding come from, and which offenders should be eligible to participate? This study failed to mention who should be responsible for implementing the aforementioned recommendations.

**Evaluation 2009**

The goal of this study is to provide information to aid in the decisions making process regarding about Prop 36 practices and funding. Urada, Evans, Yang, Conner, Campos, Brecht, Anglin, Fan, Hunter, Rutkowski, Teruya, Gardiner, Gonzales, Grella, Rawson, Prendergast, Tiburcio, Lowe, Shaw, and Hser (2009) stated that the state of California has considered lowering funding for Prop 36, which receives $120 million in funding annually. The found that, since Prop 36 was implemented, there was no increase in violent crimes. But, they did find that the 25 percent of offenders from the first few reports did relapse and re-entered treatment (Urada et al, 2009). This report focused on treatment options. They did mention that restructuring was needed in the way the offenders were being assessed which would allow offenders ample time to
report to treatment (Urada et al, 2009). But they did not offer any suggestions on how to restructure. They also neglected to mention, as in all previous evaluations, anything about the lack of communication within the process of Prop 36 between drug court judges, probation officers, and mental health gatekeeper.

**Potential Solutions**

The research mentioned above did a great job in explaining the need for Proposition 36 probation because it showed the amount of addiction present and the primary choice of drug. You can now have a better understanding of why Prop 36 exists to rehabilitate offenders. But all of the above mentioned studies neglected to discuss the problems with the process of Prop 36 or and solutions. Many forget that there are four components to Prop 36: drug court/judges, probation officer, gate keepers, and treatment facilities. The focus has been on treatment facilities because this is an important element, but this is the only component that is not directly connected to state taxpayer dollars. The problem is not treatment facilities; they are doing the best they can. The problem is directly linked to the lack of communication between the drug court/judges, probation officers, and gate keepers. The problem with Prop 36 is that it is considered to be one large organization of treatment; but, this can also be part of the solution. If they are considered as one, then they should act as one and hold constant communication. A potential solution is for Prop 36 to restructure their process, In the next chapter, this paper proposes a modification to the current process that will be illustrated by a flow chart to show the path of an offender who decides to participate in Prop 36.
Chapter 3:

Program Proposal

The Substance Abuse and Crime Prevention Act of 2000 (Prop 36), is a program that offers treatment and probation in lieu of incarceration. To be eligible for Prop 36, the offender must be a first or second-time simple non-violent drug possession offender. Unfortunately, this program is not working to its full potential. Due to the discretion of the court, many non-eligible offenders are placed in Prop 36. This is causing the program to fail because these offenders are not getting the proper treatment due to crowded treatment facilities. The purpose of the study is to offer a program proposal that would help make the program work better and be more effective. This will require the author to:

1. **Use existing data** from previous evaluations performed on Prop 36 to compare the change in completion and recidivism rate for Prop 36.

2. **Review the current processes** of Prop 36 from the three parties involved with the program: California Courts, Department of Probation, and Department of Mental Health.

3. **This study will then offer an integrated set** of program improvements to increase program effectiveness.

This study is based on the Substance Abuse and Crime Prevention Act of 2000, (Prop 36), that was passed in the state of California but it will focus on the departments within Kern County.

**Completion and Recidivism Rates**

Proposition 36 Probation has received much criticism since it was enacted in 2001. Many Californians are losing interest in Prop 36 because they feel it is not working due to the belief that the departments are creating more drug addicts and there is still a large prison population.
But this assumption is not valid, because Prop 36 is helping reduce the amount of drug offenders in prison. According to Urada et al (2009), there are fewer re-arrests of Prop 36 offenders and the drug offender population in California prisons has dropped while the population incarcerated for crime against persons increased (there was approximately 15,000 more crimes against persons for every one drug offender in prison). Prop 36 is allowing prison cells to be reserved for violent criminals. Appendix F shows a chart of the completion and recidivism rates for five years. The definition for completion from Prop 36 is when an offender successfully completes a treatment program and has complied with all of the terms and condition of their probation. The chart shows that the completion rate stayed at about 32 to 35 percent. In the instance, the definition for recidivism is crime committed or drug relapse by the Prop 36 offender who completed treatment. The chart shows that the recidivism rate stayed between seven to eight percent. There is still room for improvements as Prop 36 is a work in progress. Prop 36 is the evolution of criminal justice policy regarding the drugs/crime connection. But as many policy, it has interpreted differently across the state. In order to make any changes, you need to know the current processes.

**Current Processes**

The following will discuss the current processes and practices of the Proposition 36 program as followed across the state from the beginning to the end. Prop 36 applies to offenders with new convictions, nonviolent probation violators and nonviolent violators. Appendix C shows a list of the current Prop 36-eligible offenses. The initial step for an offender to be considered for proposition 36 is to complete the application. (Figure 3.1 shows the application for Prop 36.) The probation officer assigned to the case completes a pre-sentencing investigation report (PSI). The PSI contains information regarding the offender from demographics to criminal history to details
of the current offense. The PSI is submitted to the judge for his or her consideration in placing
the offender on Prop 36.

**Drug Courts**

The courts will first review the PSI and pay close attention to the offender’s criminal
history. Based on the criminal history and the current charges that are presented in court, the
judge is able to decide whether the offender can be sentenced into Proposition 36 probation. To
qualify for Proposition 36 sentencing, the defendant must be substance in violation of the Health
& Safety Code Section 11550: "nonviolent drug possession offense"—using or being under the
influence of a controlled substance, or possessing or transporting a controlled substance for
personal use. Once sentenced to Prop 36, the judge informs the offender or his or her terms and
conditions of probations (see Appendix A). The offender is also informed that the prison sentence is
suspended as long as they complete treatment and abide by the terms and conditions of their
probation. The offender is then instructed to report to the gate keeper and probation officer
within 72 business hours after leaving court. The judge has discretion as to the length of time the
probation and treatment will last. But this is prior to the assessment of the gate keeper.

**Mental Health Gate Team**

The gate keeper will conduct an assessment to determine what level of the offender’s
addiction. The assessment asks numerous questions including but not limited to: primary drug
choice, length of addiction, and the treatment history. Gate keepers agree that the first step
towards successful treatment is for the person to realize he or she has a problem and wants help.
If the offender does not accept treatment, then he or she will have their previously suspended
prison sentence reinstatement and be sent to prison. The gate keeper will categorize the offender
from level one to level six with one being the lowest and six being the highest level. The gate
team has no procedure in place to inform the drug courts of the level six offenders. The gatekeepers have a system of care treatment levels for each type of offender (see Appendix J). After the assessment, the offender is assigned a probation officer.

**Proposition 36 Probation Officers**

When the offender meets with his or her probation officer, they are read their terms and conditions of probation and they must sign the form (see Appendix B). The probation officer also provides the offender with a list of treatment facilities and makes the offender choose one. The offender must show proof of enrollment in treatment. Three copies of the sign document are made; one is sent to the court, one is given to the offender and one is kept in the offender’s file. The probation officer informs the Prop 36 offender that he or she must report monthly (see Appendix D for sample form) or expect monthly home visits. The offender is allowed to violate probation three times before being removed from Prop 36 Probation. But after every violation the probation officer must recommend for the offender to be either removed or reinstated from Prop 36. Probation officers must be present for revocation proceedings to defend his or her decision. If the Prop 36 offender is reinstated, then the probation officer must re-instruct the offender of his or her terms and conditions of probation. The previous signed form must be re-signed and the copies are to be sent as before. Probation officers are responsible for ensuring the offender is abiding by his or her probation. If the offender successfully completes treatment, then the probation officer can submit a recommendation to drug court for early dismissal of probation. The probation officer is the one person that has the most contact with the offender. They have a sense of how the offender was before and how they are after treatment. Since they are able to compare the difference in behavior, they are able to make recommendation for early dismissal of
probation. Now that you are familiar with problem of Prop 36 and the current practices, this study can now provide details to the proposed modification of Prop 36.

**Proposed Program Modifications**

The problem with Prop 36 is that there is a lack of communication between the all parties involved (drug court judges, gate keeper, and probation officers) and the lack of uniformity in the law’s implementation. The intent of Prop 36 is to allow first- and second-time nonviolent, simple drug possession offenders to receive substance abuse treatment instead of incarceration. This means that Prop 36 wants to prevent a drug addict from going to prison. This is meant to be a wake-up call not a slap on the wrist. How can Prop 36 ever reach its full potential if it continues to a lack of communication? It is very easy to say change is needed but it is a very difficult task to try and make a change. The proposed solution is to restructure the current processes and practices of Prop 36. First, it will cover the modified roles of each department involved with Prop 36. And second, it will offer a set of process modifications, which will be illustrate with a flow chart.

**Drug Courts**

The problem with the current practice is that the judges have complete discretion and are making all of the decisions is regards to what is a Prop-36 eligible offense and the type of treatment the offender is ordered to attend. In order for Prop 36 to continue effectively the drug court judges need to collaborate with his or her team, which includes the Prop 36 probation officer and the gatekeeper. The judge is only one person and that is too much for one person to handle. The judge must share that burden and or responsibility with his team as Prop 36 is often times considered as one.
**Prop – 36 eligible offenses**

As many other laws, the California Penal code 1210 is very vague which has led to the confusion of what is a Prop-36 Eligible offense. Currently, there is no list of what the Prop 36-eligible offenses are. The drug court judges of Prop 36 must come together and decide what Prop 36-eligible offenders are in order to obligate uniformity across the state. The list show in Appendix C was developed during the 2002 evaluation report (Urada et al, 2003). This only included the types of offenses the person who were already in Prop 36. The judges should organize a meeting to determine what the Prop 36-eligible offenses are. There is no easy way to get judges together in one place because they are very essential to daily operations in the court room. The only possible days for all of them to come together are on the weekend. This meeting should be planned at least four months in advance. (Appendix G shows the timeline and step to take leading up to the meeting). At this meeting, the judges must agree on an official list of Prop 36-eligible offences. This list will be available to the public and also be dispersed to all involved with Prop 36, including but limited to, courts, lawyers, public defender office, probation department, and the department of mental health. Once every one is on the same page the system should run much more smoothly.

**Court-ordered treatment**

Currently, the judges decide the type of treatment the offender will be ordered to attend. The problem with that is judges have not been trained to determine the level of the offender’s addiction or determine their willingness to participate in Prop 36. If the offender is ordered residential treatment, he or she is expected to stay there for 12 months. This would not be a good option for an offender that is employed and has low level of addiction. If the offender is ordered
to outpatient, which is the most common choice, the judge makes the determination on how many days the offender should stay in treatment. Outpatient treatment is typically thirty, sixty, or ninety days of treatment. This would not be a good option for an offender who has a high level of addiction. The judge has no clue on how to determine what the best option of treatment is. This study proposes that the judge should refer the offender to the Gatekeeper prior to being allowed to enter Prop 36 probation. Once the judge receives the recommendation from the gatekeeper then the judge can make his or her decision to allow the offender to participate in Prop 36.

**Mental Health Gate Team**

Currently, the gate keeper has no communication with the judge prior to allowing the offender into Prop 36 treatment. The judge is not a trained profession to make a determination of the level of a person’s addiction. This study proposes that the gate keeper must assess the offender prior to being accepted to Prop 36 probation. The assessments ensure that the offender is enrolled in the correct level of treatment. The rationale of the offender being assessed first is the need of a trained professional to determine the level of addiction the offender has and his or her willingness to compile with treatment. In this case, the gate keeper is the trained professional that can make that determination. Another reason the court should refer the offender to the gatekeeper is because they are able to view the offender as a patient in need of assist first. After assessment, the gatekeeper must make a recommendation to the court for one of the following: (1) accept the offenders’ application for Prop 36; or (2) reject the offender’s application for Prop 36. The must include a detail explanation for their recommendation. This is to prevent the large waive of offenders into treatment facilities. We must remember that the treatment facilities also service patients who have enrolled themselves into treatment to clear themselves of addiction.
and regain their lives. It is not fair for an individual to be turned away from treatment because the facility is full due to the large number of Prop 36 offenders.

**Proposition 36 Probation Officers**

Currently, the probation officer is an officer of the court that follows the courts instructions. The current roles of the probation officer will remain the same. But, this proposal offers one additional role for the probation officer. First, the probation officer should provide the offender with a list of treatment facilities. In 2011, the Department of Mental Health and Human services developed a resources directory to assist the probation officers and the offenders in enrolling in treatment with a facility that has been approved by the state in their county (see Appendix K). The probation officer should then help the offender pick one facility that best fits his or her needs that were recommended by the gate keeper. The probation officer should still be able to make a recommendation to the court for early dismissal of probation for those who have successfully completed treatment and the probation officer has notice a positive change. The probation officer can also initiate court action if and when the offender violates the terms and conditions of his or her probation. However, the probation officers must attempt to create a trusting relationship with the offender because the primary importance of the Prop 36 probation officers is directed towards helping the offer attain sobriety and acquire employment, thus becoming a productive member of society.

**Prop 36 Probation: 10 Step Case Management**

The prologue to the ten step process modifications for Prop 36 Probations is the offender must have committed a Prop 36-eligible offense. Once the drug court judges decided what the Prop 36-eligible offenses are, these offenses will be easily recognized. The attorneys can then
inform their clients (the offender) of the options available to him or her. If the offender decides to participate in Prop 36, then the first step would be to apply to Prop 6 (see Appendix B) with the probation department. The second step is the probation department investigation unit must complete the Pre-Sentencing Report (PSI). This report includes demographics, criminal history and details of current the offense. Once the PSI is complete, the probation department will route the report to drug court judge. In step three, the Drug court judge will review the PSI to determine whether or not the offender is eligible of for Prop 36 (Eligible meaning that the offender did commit a Prop 36-eligible offense). If the offender is not eligible, the judge can send the offender to felony probation. If the offender is eligible, the judge will then refer the offender to be complete an assessment with the gate keeper.

In step four, the gate keeper conducts the assessment of the offender to make a determination of the level of willingness of the offender to participate in Prop 36, the level of the addiction, and what is the most appropriate treatment to fit the need of the offender. If the offender fails the assessment it means that the person is not willing to participate in Prop 36 and/or is denying he or she has a drug problem thus not wanting help. The gate keeper must send a recommendation back to the judge to reject the offender’s application for Prop 36 and refer them to felony probation. If the offender passes the assessment, it means that the person is willing to participate in Prop 36 and or he or she has admitted to have a form of drug addiction thus, wanting help. The gate keeper must send a recommendation back to the court to inform the judge to accept the offender’s application to participate Prop 36. In step five, the drug court judge must review the recommendations from the gate keeper. After reviewing the recommendations, the judge must then make a final decision. If the judge does not allow the offender into Prop 36, then offender’s options are felony probation or prison. If the judge does
allow the offender into Prop36, the judge will inform the offender of his or her treatment (whether outpatient or residential) and the terms and conditions of their probation. The offender then is instructed to report to his probation officer within 3 business days. The Judge must forward the recommendation from the gate keeper to the probation officer.

In step six, the probation officer must go through and thoroughly explain the terms and conditions of probation to the offender. (The terms and conditions of Prop 36 probation can be seen in Appendix A). The offender must first sign the terms and conditions of probation. Once signed, the probation officer must forward one copy to court, keep one in the offender’s probation file, and must provide a copy to the offender. Then the probation officer can provide the offender with a list of treatment facilities and select one with for the offender by following the recommendations from the gate keeper that was forwarded by the judge. In step seven, it is up to the offender to regularly attend treatment, abide by his or her terms and conditions of probation, and to report to his probation officer on a monthly basis. In step eight, the offender has completed his treatment requirement. If the offender does not complete treatment, then the offender will have his or her probation revoked and enter revocation proceedings or the possibility of being sent to prison. If the offender completes treatment, then the probation officer or offender may request a hearing to be dismissed from Proposition 36 Probation. In step nine, hearing the judge will decide whether or not the offender can be dismissed from Proposition 36 Probation. If the judge approves the request, the offender will no longer be on probation. If the judge denies the request the offender must complete the entire term of his or her probation. And finally step 10, is when the offender is free and no longer on probation. With this 10 step process, Prop 36 can work much more efficiently and effectively because it involves
communication and collaboration between the drug court judges, the gate keepers, and the Prop 36 probation officers.

**Prop 36 Probation Revocation: 7 Step Process Modifications**

In the ten step process modifications for Prop 36 Probations, step eight mentions that an offender who violates his or her probation or fails to complete treatment can go through revocation proceeding to reinstate probation. The current process only the probation officer and the judge send communications to each other. The offender is allowed to violate probation a maximum of three times and still be allowed back into Prop 36. After the third time, the offender’s probation is then revoked. There is no communication in this process either. The proposed modification is to include the gate keeper in the revocation process. The study offers a seven step process modifications for Prop 36 Probations Revocation.

In the first step, the probation officer must make a recommendation to the court to: reinstate the previously suspended prison sentence, place the offender felony probation, or to send the offender to be re-assessed by the gate keeper. In the second step, the judge must make a decision to either send the offender to: prison, felony probation, or to be re-assessed by the gatekeeper. In the third step, the gate keeper re-assesses to make a determination of the level of willingness of the offender to participate in Prop 36, the level of the addiction, and what is the most appropriate treatment to fit the need of the offender. If the offender fails the assessment, it means that the person is not willing to participate in Prop 36 and/or is denying he or she has a drug problem thus not wanting help. Gatekeeper must send a recommendation back to the judge to remove the offender from Prop 36. If the offender passes the assessment, it means that the person is willing to participate in Prop 36 and he or she has admitted to have a form of drug addiction thus, wanting help. The gate keeper must send a recommendation back to the court to
inform the judge to allow the offender to continue in Prop 36 and offer more intensive treatment, if applicable.

In the fourth step, after reviewing the recommendation from the gatekeeper the drug court judge must make a decision to either send the offender to: prison, felony probation, or reinstate Prop 36 probation. If the offender is reinstated probation the judge reinstruct the the terms and conditions of probation and the treatment requirement, if applicable. The judge must forward a copy of the gate keeper’s recommendations to the probation officer. In the fifth step, the probation officer must go over the terms and conditions of probation with the offender. The offender must sign the terms and conditions of probations under the reinstructed section of the original form. Send on copy to court, one to offender and one to the probation officer’s file. Once signed, the probation officer must forward one copy to court, keep one in the offenders probation file, and must provide a copy to the offender. Then the probation officer can provide the offender with a list of treatment facilities and select one with for offender to re-enroll in treatment by following the recommendations from the gate keeper that the judge forwarded, if applicable. In the sixth step, it is up to the offender to regularly attend treatment, abide by his or her terms and conditions of probation, and to report to his probation officer on a monthly basis until the end of his or her sentence. And finally the seventh step, is when the offender is free and no longer on probation. This seven step process modifications for Prop 36 Probations Revocation will increase communication and collaboration within Prop 36 this process.
Chapter 4: Summary

The problem with Prop 36 is that there is a lack of communication within the departments and a lack of uniformity of the law’s implementation. Drug court judges are using discretion excessively and are placing a disproportionately large number of defendants on Prop 36. The original intent of Prop 36 is to provide treatment in lieu of incarceration for first- or second-time nonviolent, simple drug possession offenders. Since Prop 36 is not being implemented correctly, it is causing strain on the budget for the department of Probation and the department of Mental Health Gate Team. Many of the offenders have strong addictions and are in need of intensive treatment. Judges are sentencing the offenders to out-patient treatment instead of residential treatment. This is causing a disservice to everyone involve with Prop 36 as the program was not designed to serve such large numbers of offenders and was not designed to treat those with strong additions that don’t want treatment.

This study offered an integrated set of program improvements to increase program effectiveness. The author did this by making modifications to the current processes of Prop 36 probation. First, the author modified the roles of all the departments involved. The court judges must first determine what Prop-36 eligible offenses are. The gate keepers must make a recommendation to the court for the level of addiction the offender has and his or her willingness to participate with Prop 36. The probation officers must help the offender choose a treatment facility by following the recommendations of the gate keeper. Second, the author offered a modification to the current practices of Prop 36 which is illustrated by the flow chart (see Appendix H). And third, the author offered a modification to the current practices of Prop 36 revocation which is illustrated by the flow chart (see Appendix I). The modifications were made
to move Prop 36 into its next level of evolution of criminal justice policy regarding the drugs/crime connection.

**Conclusion**

These modifications are needed to lower the number of offenders placed on Prop 36 probation, the probation officers and the gate keepers will be able to focus on the offenders that actually want help. This will also alleviate the budget crises by ensuring that the public’s tax dollars are being spent appropriately. The Department of Mental Health Gate Team will be able to allocate proper services to those offenders who meet the qualifications and are willing to participate. The Prop 36 probation officers would then be able to better prepare in helping the offender through the length of their probation and possibly recommend an early release from Prop 36 probation. This will in turn help the public feel safer because these offenders will be get the help they need to get sober. Considering the number of offenders that Prop 36 can help, there will be no need for the construction of more prisons. The taxpayer’s money will then be used for other more important areas, such as, education. The public views Prop 36 to be one whole system, which in the past, has been an issue. However, the study believes that assumption can be part of the Prop 36’s solution. Many individuals understand that a team is comprised of players and that those players must work to achieve the same goal and or outcome. Prop 36 is one big team. The players for team Prop 36 are the drug court judges, gate keepers, probation officers, and the treatment facilities. They all share the same goal, which is to help offenders with drug addictions seek help and become productive members within society. The drug court judges, gate keepers, and the probation officers must come together and work a one team. Once these players learn to be one team, they will be able to better assist the Prop 36 offenders and reach their goals and outcomes.
Recommendations

The following recommendations are directed towards the implementation of Proposition 36 Probation and are determined to be beneficial to the efficiency and effectiveness of Proposition 36 probation across the State of California. This can also serve as a model for other states to form their own version of Prop 36 Probation. The implementation recommendations are as follows:

1. It is recommended that Prop 36 administrators should adopt the ten step modified process of Proposition 36 presented, which is illustrated by a flow chart (see Appendix H). These modifications required the drug court judges, gate keepers, and the probation officers to work together. They must communicate and share information about the offender. First, the judge must refer the offender to the gate keeper. The gate keeper will assess the offender and send a written recommendation to the judge. The judge then informs the offender of the terms and conditions of his or her probation. Then, the offenders meets with his or her probation officer and signs the terms and conditions of probation. The offender must enroll in treatment following the recommendation from the gate keeper provided by the probation officer. The probation officer is able to initiate contact the judge regarding early dismissal of probation, violations, and/or status updates. These departments should be able to communicate with each other to share information about the offender. This is the best way for the offender to get the most attention possible and get the correct treatment for his or her addiction.

2. It is recommended that Prop 36 administrators should adopt the modified process of Proposition 36 revocation presented, which is illustrated by a flow chart (see
Appendix I.) These modifications required the drug court judges, gate keepers, and the probation officers to work together. They must communicate and share information about the offender. Revocation proceedings occur when the offender violates his or her probation. Once the violation is reported to the probation officer, he or she must initiate the revocation hearing by making a recommendation to the judge. The judge must then send the offender to the gate keeper to be re-assessed. Once the gate keeper has re-assessed the offender, he or she must send a recommendation to the court. The judge makes the ultimate decision to either reinstate or revoke the offender’s probation. This will allow for more communication within the departments to better serve the offenders needs.
Glossary

Assessment – This assessment measures the level of addiction and violence of the Prop 36 clients.

Drug court – Courts that handle drug-using offenders in an approach emphasizing treatment and close supervision; direct contact between judge and offender; and collaboration between judge, prosecutor, defense attorney, and treatment provider.

Outpatient Treatment – consist of a 30/60/90 day treatment regime where an offender is expected to attend daily to the program.

Probation Revocation Proceeding – This occurs when an offender violates his or her probation and their previous suspended sentence is reinstated. Typically, a Prop 36 offender has gets three strikes before revocation proceedings occur.

Pre-Sentencing Investigation Report (PSI) – This report is completed for an offender who has applied for Prop 36 and a probation officer in the investigation unit. This report lists the criminal history of an offender and details of their current crime and police reports. It is delivered to the drug court for the judge to determine the eligibility of the offender to participate in Prop 36.

Residential Treatment – This is a long-term in-house treatment for offenders with high drug addiction levels.

Sentence – conviction is made on the offender and a the offender is informed of his or her punishment.

Show Rate - Percentage of offender how are willing and present to complete assessment administered by the Department of Mental Health Gate Keeper.

Treatment – In order to address the issues of substance abuse, the client must participate in a certified treatment program, including initial assessment by the gatekeeper, and weekly contact.
with an Alcohol and Drug Program (ADP) certified counselor at the treatment facility for a minimum of one month. Thereafter, client must attend a relapse prevention/support program, at least weekly for a minimum of two months. If the client succeeds and completes treatment, the counselor can forward positive feedback the probation officer.
Appendices
Appendix A: Application for Prop 36

### Prop 36
#### APPLICATION FOR PROBATION
(SOLICITUD PARA LIBERTAD CONDICIONAL)

KERN COUNTY PROBATION DEPARTMENT  
1415 Truxtun Avenue, 4th Floor, Room 401  
Bakersfield, CA 93301  
Telephone: (661) 868-6453  
Teléfono: (661) 868-6453

Having pled guilty—or been convicted of—the offense with which I am charged in the Superior Court, and having been referred to the Probation Officer for supervision, I hereby submit the following answers to the questions below.
(En haberme declarado culpable—o haber sido condenado/a de—la ofensa en la cual fui acusado/a en La Corte Superior, y en haber sido referido/a un oficial de libertad condicional para supervisión, yo por este medio me someto a contestar las siguientes preguntas.)

<table>
<thead>
<tr>
<th>Your true legal name:</th>
<th>Maiden Name:</th>
</tr>
</thead>
<tbody>
<tr>
<td>(¿Su nombre legal?):</td>
<td>(¿Nombre de soñtera?):</td>
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<table>
<thead>
<tr>
<th>Other names you have used:</th>
<th>Nicknames/Street Names:</th>
</tr>
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<tbody>
<tr>
<td>(¿Su nombres utilizados?):</td>
<td>(¿Apodos/Nombres de la calle?):</td>
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<table>
<thead>
<tr>
<th>Your current home address:</th>
<th>Home(# de teléfono de casa)</th>
</tr>
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<tbody>
<tr>
<td>(¿Su dirección de casa actual?):</td>
<td>Phone#:</td>
</tr>
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<table>
<thead>
<tr>
<th>City (Ciudad)</th>
<th>State (Estado)</th>
<th>Zip (Código Postal)</th>
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<table>
<thead>
<tr>
<th>Major Cross Streets: (¿Cuáles son las cruzadas importantes cercanas a su casa?):</th>
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<tr>
<th>Mailing Address: (Dirección de correo)</th>
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<thead>
<tr>
<th>Fence (¿Cerca?):</th>
<th>Is it locked? (Está con llave?):</th>
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<tbody>
<tr>
<td>(¿Cerca?):</td>
<td>(Perros o otros animales ¿viciosos/encadenados?):</td>
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<table>
<thead>
<tr>
<th>Age (Edad)</th>
<th>Date of birth (Fecha De Nacimiento)</th>
<th>Birthplace/City (Lugar de Nacimiento)</th>
<th>State (Estado)</th>
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<thead>
<tr>
<th>Sex (Sexo)</th>
<th>Height (Altura)</th>
<th>Weight (Peso)</th>
<th>Hair Color (Color de Pelo)</th>
<th>Eye Color (Color del Ojo)</th>
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<tr>
<th>Marks, Scars, Tattoos (marcas, cicatrices, tatuajes)</th>
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<tr>
<th>Race/Ethnic origin (Origen de Raza/Etnico)</th>
<th>Citizenship (green card #: (Ciudadanía: Número de Tarjeta Verde)</th>
<th>Have you ever been deported? (¿Ha sido deportado/a en alguna vez?)</th>
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<table>
<thead>
<tr>
<th>When did you arrive in Kern County? (¿Cuándo llegó al Condado de Kern?):</th>
<th>State (¿A California?):</th>
<th>U.S. (¿A Los Estados Unidos?):</th>
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<table>
<thead>
<tr>
<th>Driver's License/ID No. (¿de Licencia para manejar/ de Identificación)</th>
<th>Issued by which state (¿Publicado por cual estado?):</th>
<th>SS #: (Número de Seguro Social)</th>
</tr>
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<tbody>
<tr>
<td><strong>Vehicle License No.</strong></td>
<td><strong>Make:</strong></td>
<td><strong>Model:</strong></td>
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<td>-------------------------</td>
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<tr>
<td>(Número de licencia de su vehículo)</td>
<td>(Hechura)</td>
<td>(Modelo)</td>
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<table>
<thead>
<tr>
<th><strong>High School graduate?</strong></th>
<th><strong>If not, highest grade?</strong></th>
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<tbody>
<tr>
<td>(¿Graduado de la preparatoria?)</td>
<td>(Si no, ¿Hasta cuál año llegó en la escuela?)</td>
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<table>
<thead>
<tr>
<th><strong>College graduate?</strong></th>
<th><strong>If not, number of years?</strong></th>
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<tbody>
<tr>
<td>(¿Graduado de la Universidad?)</td>
<td>(Si no, ¿asistió? ¿cuántos años?)</td>
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<tr>
<th><strong>Trade school?</strong></th>
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<tr>
<td>(¿Tiene escuela comercial?)</td>
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<tr>
<th><strong>Military service?</strong></th>
<th><strong>Branch?</strong></th>
<th><strong>Dates/honorable Discharge?</strong></th>
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<tbody>
<tr>
<td>(¿Servicio Militar?)</td>
<td>(¿Cuál cuerpo?)</td>
<td>(Fechas/¿Descarga honorable?)</td>
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<tr>
<th><strong>Describe health (good, fair, poor)</strong></th>
<th><strong>Communicable Diseases:</strong></th>
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<tbody>
<tr>
<td>(Describe su salud: Bueno, mediocre, pobre)</td>
<td>(Enfermedades Comunicables)</td>
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<table>
<thead>
<tr>
<th><strong>Do you have any debilitating condition which will prevent you from participating in substance abuse treatment?</strong></th>
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<tbody>
<tr>
<td>(¿Tiene cualquier condición de debilitación que le previene de participar en la rehabilitación del abuso del alcohol o las drogas?)</td>
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<thead>
<tr>
<th><strong>Are you taking any medications?</strong></th>
<th><strong>If so, what?</strong></th>
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<tbody>
<tr>
<td>(¿Está tomando medicaciones?)</td>
<td>(Sí es así, ¿cuáles?)</td>
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<tr>
<th><strong>Do you have any disabilities (hearing, vision, etc.)?</strong></th>
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<tr>
<td>(¿Tiene cualquier discapacidad: de audencia, visión, etc?)</td>
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<tr>
<th><strong>Do you have mental health diagnosis?</strong> (ex. Bipolar, paranoid, PTSD)</th>
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<tbody>
<tr>
<td>(¿Ha sido diagnosticado con una enfermedad mental: Bipolar, Paranoico, Transtorno de Tensión Posttraumática)</td>
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<table>
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<tr>
<th><strong>Who diagnosed you, when, what medications are you taking?</strong></th>
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<tbody>
<tr>
<td>(¿Quién lo/a diagnosticó? ¿Cuándo? ¿Cuáles medicaciones está tomando?)</td>
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<thead>
<tr>
<th><strong>How old were you when you began drinking?</strong></th>
<th><strong>Do you consider yourself to be an alcoholic?</strong></th>
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<tbody>
<tr>
<td>(¿A qué edad comenzó a tomar?)</td>
<td>(¿Se considera un alcoholico?)</td>
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<table>
<thead>
<tr>
<th><strong>Have you ever been a heavy drinker?</strong></th>
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<tr>
<td>(¿Tiene usted la costumbre de tomar fuerte?)</td>
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<tr>
<th><strong>How old were you when you first tried drugs?</strong></th>
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<tbody>
<tr>
<td>(¿Cuántos años tenía la primera vez que probó drogas?)</td>
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<table>
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<tr>
<th><strong>Which drugs have you tried?</strong></th>
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<tbody>
<tr>
<td>(¿Cuáles drogas ha probado?)</td>
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<tr>
<th><strong>How often were you using drugs and what type of drugs were you using at the time of arrest?</strong></th>
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<tbody>
<tr>
<td>(¿Tan seguido usaba drogas y cuáles drogas usaba al tiempo de su arresto?)</td>
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<table>
<thead>
<tr>
<th><strong>Do you consider yourself to be a drug addict?</strong></th>
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<tbody>
<tr>
<td>(¿Se considera adicto/a las drogas?)</td>
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</table>
What is your drug of choice?  
(¿Cuál es su droga preferida?)

What is your method of use?  (Inject, snort, etc.)  
(¿Cómo utiliza? Inyecta, inula, fuma, etc.)

Have you ever been in a residential substance abuse program?  
(¿Ha participado en un programa residencial para el abuso de las drogas o el alcohol?)

Who lives with you?  (Name and relationship)  
(¿Quién vive con usted? Nombre y relación)

Are you presently married?  
(¿Está casado/a?)

If you are married, what is your spouse’s name?  
(¿Cuál es el nombre de su esposo/a?)

What is your spouse’s address?  
(¿Cuál es la dirección de su esposo/a?)

Give names, ages, and the following information for your living children and/or unborn children with their estimated birth date.  (Please, also include other children in your home for which you are the primary caretaker (ex: grandchild, niece, nephew, cousin, etc.)  
(Dé los nombres, las edades, y la información siguiente de sus niños vivos, o fecha aproximada del nacimiento: incluya solamente niños en el hogar para los cuales usted es el consejero principal. Por ejemplo, nieto/a, sobrino/a, primo/a, etc.)

<table>
<thead>
<tr>
<th>Name (Nombre)</th>
<th>Age (Edad)</th>
<th>Mother’s Name (Nombre de la Madre)</th>
<th>Father’s Name (Nombre del Padre)</th>
<th>LW? (¿Con quién vive?)</th>
<th>Supported by (¿Cómo son mantenidos?)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tr>
</tbody>
</table>

Are any of these children on juvenile probation or a dependent child of the Court?  
(¿Están cualquiera de estos niños en libertad condicional juvenil, o un dependiente de la Corte?)

If so please provide name and status of each child  
(Si es así, provea el nombre y la condición legal de cada niño)

List social worker or probation officer for each child  
(El nombre del trabajador social o oficial de libertad condicional para cada niño/a)
List current employment record:

Date job started
(Fecha que empezó)

Name and address of employer
(Nombre y dirección del empleador)

Type of work
(Tipo de trabajo)

Salary
(Sueldo)

---

Do you have a juvenile record?       What county?
(¿Tiene historia penal de su juventud?)   (¿En cuál condado?)

Have you ever been to CEO, CYA, Juvenile Hall, Crossroads?
(¿Ha estado usted en cualquiera de los siguientes: CEO, CYA, Institución Juvenil, Crossroads?)

Have you been arrested as an adult in California?
(¿Ha sido arrestado en California como un adulto?)

Where?
(¿Dónde?)

Charges?
(¿Cuáles fueron los cargos?)

Have you ever served "jail time"?
(¿Ha servido tiempo en la cárcel?)

Have you ever been in prison?
(¿Ha servido tiempo en la prisión?)

Are you presently on probation?
(¿Está presente en libertad condicional?)

Are you on parole?
(¿Está en libertad condicional del estado?)

If yes, CDC:

Who is your parole agent?
(¿Cuál es el nombre de su agente de libertad condicional del estado?)

Have you ever been arrested in another state or county?
(¿Ha sido arrestado en otro estado o condado?)

Financial Status: (Income, spouse's income, assets, debts)
(Condición Financiera: Ingresos, Ingresos de su esposo/a, bienes, deudas)

How are you supported?
(¿Cómo se mantiene?)

How much money do you make a month?
(¿Cuánto gana al mes?)

If not employed, do you receive Social Security, Unemployment, AFDC, Veteran's Benefits?
(¿Si no trabaja, ¿Recibe beneficios de Seguro Social, Desempleo, AFDC, Beneficios Veteranos?)

How much do you receive?
(¿Cuánto recibe?)

Have you ever or do you currently pay child support?
(¿Ha pagado o paga mantenimiento para sus hijos?)
If ordered to pay restitution/fines/fees how do you plan to pay?
(¿Si le ordena el juzgado que pague restitución, multas, costos, como planea pagar?)

List any payments (monthly, weekly, etc.) You have:
(Lista de pagos que tiene: Mensual, semanal, etc)

<table>
<thead>
<tr>
<th>Rent or house (Renta o Pago de Casa)</th>
<th>$______</th>
</tr>
</thead>
<tbody>
<tr>
<td>Car (Carro)</td>
<td>$______</td>
</tr>
<tr>
<td>Medical (Médicos)</td>
<td>$______</td>
</tr>
<tr>
<td>Loans (Préstamos)</td>
<td>$______</td>
</tr>
<tr>
<td>Child Support (Mantenimiento de niño/s)</td>
<td>$______</td>
</tr>
<tr>
<td>Insurance (Aseguranzas)</td>
<td>$______</td>
</tr>
<tr>
<td>Credit card/charges (Tarjetas de crédito)</td>
<td>$______</td>
</tr>
<tr>
<td>Other (Otros)</td>
<td>$______</td>
</tr>
</tbody>
</table>

I certify that the above statements are true to the best of my knowledge.
(Yo certifico que las declaraciones arriba son verdaderas a lo más de mi reconocimiento.)

(Date) ____________________________
(Fecha) ____________________________

(Signature of Defendant) ____________________________
(Firma del acusado) ____________________________

(Signature of Probation Officer) ____________________________
(Firma del Oficial de Libertad Condicional) ____________________________

(If too little space for answer to any questions, write on back of the sheet.)
(Si necesita más espacio para contestar cualquiera de las preguntas, escriba/conteste al otro lado de esta forma.)

Prop 36 app
Appendix B: Terms and Conditions of Prop 36 CAL Penal Code § 1210.1 Probation

COUNTY OF KERN
PROBATION DEPARTMENT
ADULT SUPERVISION
(661) 868-4500

FELONY PC 1210.1
TERMS AND CONDITIONS
OF PROBATION

1415 Truxtun Avenue
4th Floor
Bakersfield, CA 93301

PROB #
CASE #

NAME ___________________________ SENTENCE DATE ______________ JUDGE ______________

ADDRESS __________________________ PHONE ______________ CT __________ DEPT __________

You were granted probation for a period of _____ year(s). Your probation will terminate on ______________

(X) 1. You are to report by written form on a monthly basis. The form must be delivered to the Probation Department by the

tenth of each month. It is your responsibility to get more forms when you run out. Each form must be filled out completely and

accurately. You are to deliver the report form in person or by mail. Do not send copies or faxes. Not reporting as directed is a

probation violation. You must report using the same name indicated above on this form.

(X) 2. You are to obey all laws, orders of the Court, terms of probation and directives of the Probation Officer.

(X) 3. You are not to associate with anyone on probation or parole, unless given prior specific approval by the Probation Officer.

(X) 4. If you are arrested or cited you must report this information to your Probation Officer immediately.

(X) 5. You are to remain gainfully employed, seek employment and/or complete schooling/vocational training as directed by your

Probation Officer and present verification of your efforts.

(X) 6. You must keep the Probation Department advised monthly as to the employment. This includes the name of your employer,

address, telephone number, how much you are earning and your work schedule. You must notify your Probation Officer of any

change in your employment status on your monthly report form.

(X) 7. You are to keep the Probation Department advised as to any motor vehicles you own or drive including make, model, year, color

and license plate number.

(X) 8. You must notify the Probation Department about a change in your reported residence in person or by telephone. Your residence is
defined as where you sleep.

(X) 9. Whether you are staying overnight or moving to a new residence, it must be reported before you go to the other residence.

(X) 10. You are not to leave Kern County, or the State of California without permission of the Probation Department.

(X) 11. You are not to leave the State of California without signing extradition waiver forms.

(X) 12. You are not to obstruct a Probation Officer in any manner from seeking entrance into your residence. You must advise everyone

with whom you reside of all search terms ordered as part of your probation.

(X) 13. You have been convicted of a felony. It is a State and Federal law, and a term of probation that you cannot have any firearms or

ammunition in your possession or under your control. This includes, but is not limited to, handguns, shotguns, and rifles. Possession of any
of these weapons will result in their seizure and your possible arrest. This is a permanent restriction unless you get a special waiver, pardon and or
Court order after you are off probation.

(X) 14. You are to successfully complete an appropriate drug treatment program, job training program(s), Adult Literacy classes or any

other appropriate program(s) as approved by the Probation Officer, obey all rules of the program(s) and continue with the program(s)
until successfully terminated by either the program(s) or the Probation Officer.

(X) 15. You are further advised you may be liable for reimbursement of the cost of your placement in the drug treatment program.

(X) 16. You have waived credit for the time to be served at a treatment center.
(X) 17. You are to absolutely refrain from the use and possession of, or have under your control, any narcotic, restricted dangerous drug, marijuana, or hallucinogenic drug. You are not to associate with or be with any such person who uses, possesses or has under his or her control any such substance. You are not to be around or about any place where any such substance is sold, supplied, stored or is present. You are not to take any prescribed medication unless it is prescribed to you by a doctor.

(X) 18. You are to submit to a drug and/or alcohol use detection test as directed by any Probation Officer, substance abuse treatment provider, drug test automated system or peace officer. You are to submit to such a test in a manner and at a time and location as directed by the officer.

(X) 19. You are to submit to a search of your person, residence, motor vehicle or possessions for:
   a. (✓) Narcotics, dangerous drugs and illegal substances
   b. (✓) Alcohol
   c. ( ) Other

   by the Probation Officer or any other peace officer at any time during your probationary term and without prior notice to inspect or search, or with or without reasonable cause.

(X) 20. You are to register pursuant to HS 11590 and provide verification within one week.

(X) 21. You are not to operate a motor vehicle if your license has been suspended by the Court pursuant to VC 13202.

(X) 22. You are ordered to provide two specimens of blood and/or saliva samples for DNA testing and a right thumb print and a full palm print impression of each hand pursuant to PC 296.

(X) 23. You are to attend Alcoholic/Narcotics Anonymous meetings a minimum of ______ time(s) per week until your probation is terminated and present proof of your attendance to the Probation Department as directed.

(X) 24. You are to abstain from the use and/or possession of intoxicating beverages or be in or about a place of business where the primary item sold is intoxicating liquor for consumption on the premises.

(X) 25. You are to submit to a blood, breath or urine test to determine the percentage of blood alcohol at the request of any Probation Officer or other peace officer.

(X) 26. You are to pay the following through the Probation Department:
   a. $200.00 restriction fine pursuant to PC 1202.4(b)
   b. $50.00 fee plus a $________ penalty assessment pursuant to HS 11372.5
   c. $100.00 fee plus $________ penalty assessment pursuant to HS 11372.7
   d. $________ pre-sentence investigation report fee
   e. $________ per month supervision fee, totaling $________ for ________ months
   f. $________ fine plus $________ penalty assessment
   g. $________ collection fee
   h. $20.00 fee pursuant to PC 1465.8
   i. $________ other

(X) 27. You are to pay a total of $________ in monthly payments of $________ starting and on the ________ of each month. Payments may be mailed to: P.O. Box 3309, Bakersfield, CA 93307-3309, or delivered in person to the Collection Division of the Probation Department, 2100 College Avenue, Bakersfield, CA 93305. Make checks or money orders payable to the Kern County Probation Department.

(X) 28. You may also be liable for an additional $200.00 revocation fine (PC 1202.44) if you violate your probation.

According to Section 1253.2 of the Penal Code, if at any time during your probationary period a probation officer has probable cause to believe that you have violated any term of your probation, you may be arrested and brought before the Court. The Court may revoke probation if it has reason to believe from the report of the Probation Officer or otherwise that you have violated any of the conditions of probation, or have subsequently committed other offenses, regardless of whether you have been prosecuted for such offenses.
Every defendant who fulfills the conditions of his/her probation shall be entitled to have a plea of not guilty entered and the accusation or information dismissed (Penal Code 1210.1(d)).

I acknowledge receipt of the above rules and Court orders and promise to abide by them.

_________________________________________ Date ______________

(Probationer)

By: ________________________________ Interpreter ________________________________

(Deputy Probation Officer)

David Kage
Chief Probation Officer

Reinstated by ________________________________ Probationer ________________________________ Date ______________
Appendix C: Currently Accepted Prop 36 - Eligible Offenses

Health and Safety Code

H&S 11170 (Prescribe, administer, or furnish a controlled substance)
H&S 11550 (Under the influence of controlled substance)
H&S 11350 (Possession of controlled substance)
H&S 11352 (Transportation for personal use)
H&S 11357 (Possession of cannabis)
H&S 11358 (Marijuana planted, cultivated, harvested, dried, or processed for personal use)
H&S 11360 (Transportation for personal use)
H&S 11363 (Plants, cultivates, harvests, dries, or processes peyote)
H&S 11364 (Paraphernalia)
H&S 11365 (Unlawful to visit or be in a room where controlled substances are being used)
H&S 11368 (Drug was secured by a fictitious prescription and is for personal use)
H&S 11377 (Possession Schedule III-V)
H&S 11379 (Transportation for personal use)
H&S 11590 (Failure to register)

Business and Professions Code

B&P 4140 (Possession of a syringe)
B&P 4060 (Possession of controlled substance)

Vehicle Code

V.C. 23152 (DUI)
V.C. 23153 (DUI) 2
V.C. 23222 (b) (Open container in vehicle)

Penal Code

P.C. 647 (f) (Public intoxication [drug])

Conditions of Parole

012 (Failure to participate in anti-narcotic testing)
019 (Violation of special conditions of parole if they are related to drugs)
024 (Failure to follow instructions from P&CSD where instructions are related to drug use)
025 (Failure to inform P&CSD of arrest if for a SACPA eligible violation only)
707 (Possession of heroin)
709 (Use of heroin)
717 (Possession of cocaine)
719 (Use of cocaine)
727 (Possession of marijuana)
729 (Use of marijuana)
737 (Possession of PCP)
739 (Use of PCP)
747 (Possession of any other illicit controlled substance)
749 (Use of any other illicit controlled substance)
750 (Possession of drug paraphernalia [related to drug use])
776 (Illicit possession of amphetamine/methamphetamine)
778 (Illicit use of amphetamine/methamphetamine)
779 (Loitering in an area of drug-related activity)
780 (Under the influence of a controlled substance)
793 (Other violations of law relating to drug use)
947 (Failure to register per H&S 11590)
## Appendix D: Monthly Report Form

**KERN COUNTY PROBATION DEPARTMENT**

**Adult Probationer's Monthly Report**

<table>
<thead>
<tr>
<th>Date</th>
<th>Name</th>
<th>Address</th>
<th>City</th>
<th>State</th>
<th>Zip</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Financial Statement**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Earnings</td>
<td>$</td>
</tr>
<tr>
<td>Other Income</td>
<td>$</td>
</tr>
<tr>
<td>Cash on Hand</td>
<td>$</td>
</tr>
<tr>
<td>Total Expenses</td>
<td>$</td>
</tr>
</tbody>
</table>

**Probation Officer**

**Probation #**

---

This report must be mailed to:

P.O. Box 3360, Bakersfield, CA 93381, or delivered in person to: 1415 Truxtun Ave., Room 410, Bakersfield, CA.

Failure to submit a monthly report is a probation violation.
Appendix E: Completion and Recidivism Table

<table>
<thead>
<tr>
<th>Year</th>
<th>Eligible</th>
<th>Agreed</th>
<th>Assessed</th>
<th>Entered</th>
<th>Completed</th>
<th>Recidivism</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>53,697</td>
<td>44,034</td>
<td>37,495</td>
<td>30,469</td>
<td>34.2%</td>
<td>7.6%</td>
<td>975</td>
</tr>
<tr>
<td>2003</td>
<td>54,140</td>
<td>50,335</td>
<td>35,947</td>
<td>35,947</td>
<td>34.3%</td>
<td>7.9%</td>
<td>973</td>
</tr>
<tr>
<td>2004</td>
<td>51,033</td>
<td>49,648</td>
<td>37,103</td>
<td>37,103</td>
<td>34.4%</td>
<td>7.5%</td>
<td>957</td>
</tr>
<tr>
<td>2005</td>
<td>48,473</td>
<td>45,501</td>
<td>36,486</td>
<td>36,285</td>
<td>32%</td>
<td>7.6%</td>
<td>882</td>
</tr>
<tr>
<td>2008</td>
<td>50,732</td>
<td>44,587</td>
<td>35,379</td>
<td>36,222</td>
<td>33.4%</td>
<td>7.8%</td>
<td>943</td>
</tr>
</tbody>
</table>

This table represents the information gathered from the Evaluation reports of 2002, 2003, 2004, 2005, and 2008 in regards to the number of offenders with in Prop 36.

1The offenders had Prop 36-eligible offenses declared by the drug court judge.

2The offender agreed to participate in Prop 36.

3The offender was assessed by the gate keeper from the Department of Mental Health.

4The offender accepted the terms and conditions of probation and has entered treatment.

5The offender has completed treatment.

6The offender has recidivated by either relapsing or committing another crime.
Appendix F: California Penal Code 1210.1 SUBSTANCE ABUSE AND CRIME

PREVENTION ACT OF 2000

SECTION 1. Title This act shall be known and may be cited as the “Substance Abuse and Crime Prevention Act of 2000.”

SECTION 2. Findings and Declarations The People of the State of California hereby find and declare all of the following:

(a) Substance abuse treatment is a proven public safety and health measure. Nonviolent, drug-dependent criminal offenders who receive drug treatment are much less likely to abuse drugs and commit future crimes, and are likelier to live healthier, more stable and more productive lives.

(b) Community safety and health are promoted, and taxpayer dollars are saved, when nonviolent persons convicted of drug possession or drug use are provided appropriate community-based treatment instead of incarceration. (c) In 1996, Arizona voters by a 2–1 margin passed the Drug Medicalization, Prevention, and Control Act, which diverted nonviolent drug offenders into drug treatment and education services rather than incarceration. According to a Report Card prepared by the Arizona Supreme Court, the Arizona law: is “resulting in safer communities and more substance abusing probationers in recovery,” has already saved state taxpayers millions of dollars, and is helping more than 75 percent of program participants to remain drug free.

SECTION 3. Purpose and Intent The People of the State of California hereby declare their purpose and intent in enacting this act to be as follows:

(a) To divert from incarceration into community-based substance abuse treatment programs nonviolent defendants, probationers and parolees charged with simple drug possession or drug use offenses;

(b) To halt the wasteful expenditure of hundreds of millions of dollars each year on the incarceration—and reincarceration—of nonviolent drug users who would be better served by community-based treatment; and

(c) To enhance public safety by reducing drug-related crime and preserving jails and prison cells for serious and violent offenders, and to improve public health by reducing drug abuse and drug dependence through proven and effective drug treatment strategies.

SECTION 4. Section 1210 is added to the Penal Code, to read:

1210. Definitions As used in Sections 1210.1 and 3063.1 of this code, and Division 10.8 (commencing with Section 11999.4) of the Health and Safety Code:

(a) The term “nonviolent drug possession offense” means the unlawful possession, use, or transportation for personal use of any controlled substance identified in Section 11054, 11055, 11056, 11057 or 11058 of the Health and Safety Code, or the offense of being under the influence of a controlled substance in violation of Section 11550 of the Health and Safety Code. The term “nonviolent drug possession offense” does not include the possession for sale, production, or manufacturing of any controlled substance.
(b) The term “drug treatment program” or “drug treatment” means a licensed and/or certified community drug treatment program, which may include one or more of the following: outpatient treatment, half-way house treatment, narcotic replacement therapy, drug education or prevention courses and/or limited inpatient or residential drug treatment as needed to address special detoxification or relapse situations or severe dependence. The term “drug treatment program” or “drug treatment” does not include drug treatment programs offered in a prison or jail facility.

(c) The term “successful completion of treatment” means that a defendant who has had drug treatment imposed as a condition of probation has completed the prescribed course of drug treatment and, as a result, there is reasonable cause to believe that the defendant will not abuse controlled substances in the future.

(d) The term “misdemeanor not related to the use of drugs” means a misdemeanor that does not involve

1. the simple possession or use of drugs or drug paraphernalia, being present where drugs are used, or failure to register as a drug offender, or

2. any activity similar to those listed in paragraph (1).

SECTION 5. Section 1210.1 is added to the Penal Code, to read:

1210.1. Possession of Controlled Substances; Probation; Exceptions

(a) Notwithstanding any other provision of law, and except as provided in subdivision (b), any person convicted of a nonviolent drug possession offense shall receive probation. As a condition of probation the court shall require participation in and completion of an appropriate drug treatment program. The court may also impose, as a condition of probation, participation in vocational training, family counseling, literacy training and/or community service. A court may not impose incarceration as an additional condition of probation. Aside from the limitations imposed in this subdivision, the trial court is not otherwise limited in the type of probation conditions it may impose. In addition to any fine assessed under other provisions of law, the trial judge may require any person convicted of a nonviolent drug possession offense who is reasonably able to do so to contribute to the cost of his or her own placement in a drug treatment program.

(b) Subdivision (a) does not apply to either of the following:

1. Any defendant who previously has been convicted of one or more serious or violent felonies in violation of subdivision (c) of Section 667.5 or Section 1192.7, unless the nonviolent drug possession offense occurred after a period of five years in which the defendant remained free of both prison custody and the commission of an offense that results in (A) a felony conviction other than a nonviolent drug possession offense, or (B) a misdemeanor conviction involving physical injury or the threat of physical injury to another person.

2. Any defendant who, in addition to one or more nonviolent drug possession offenses, has been convicted in the same proceeding of a misdemeanor not related to the use of drugs or any felony.

3. Any defendant who:
(A) While using a firearm, unlawfully possesses any amount of (i) a substance containing either
cocaine base, cocaine, heroin, methamphetamine, or (ii) a liquid, non-liquid, plant substance, or
hand-rolled cigarette, containing phencyclidine.

(B) While using a firearm, is unlawfully under the influence of cocaine base, cocaine, heroin,
methamphetamine or phencyclidine.

(4) Any defendant who refuses drug treatment as a condition of probation.

(5) Any defendant who (A) has two separate convictions for nonviolent drug possession
offenses, (B) has participated in two separate courses of drug treatment pursuant to subdivision
(a), and (C) is found by the court, by clear and convincing evidence, to be unamenable to any
and all forms of available drug treatment. Notwithstanding any other provision of law, the trial
court shall sentence such defendants to 30 days in jail.

(c) Within seven days of an order imposing probation under subdivision (a), the probation
department shall notify the drug treatment provider designated to provide drug treatment under
subdivision (a). Within 30 days of receiving that notice, the treatment provider shall prepare a
treatment plan and forward it to the probation department. On a quarterly basis after the
defendant begins the drug treatment program, the treatment provider shall prepare and forward a
progress report to the probation department.

(1) If at any point during the course of drug treatment the treatment provider notifies the
probation department that the defendant is unamenable to the drug treatment being provided, but
may be amenable to other drug treatments or related programs, the probation department may
move the court to modify the terms of probation to ensure that the defendant receives the
alternative drug treatment or program.

(2) If at any point during the course of drug treatment the treatment provider notifies the
probation department that the defendant is unamenable to the drug treatment provided and all
other forms of drug treatment, the probation department may move to revoke probation. At the
revocation hearing, unless the defendant proves by a preponderance of the evidence that there is
a drug treatment program to which he or she is amenable, the court may revoke probation.

(3) Drug treatment services provided by subdivision (a) as a required condition of probation may
not exceed 12 months, provided, however, that additional aftercare services as a condition of
probation may be required for up to six months.

(d) Dismissal of charges upon successful completion of drug treatment

(1) At any time after completion of drug treatment, a defendant may petition the sentencing court
for dismissal of the charges. If the court finds that the defendant successfully completed drug
treatment, and substantially complied with the conditions of probation, the conviction on which
the probation was based shall be set aside and the court shall dismiss the indictment or
information against the defendant. In addition, the arrest on which the conviction was based shall
be deemed never to have occurred. Except as provided in paragraph (2) or (3), the defendant
shall thereafter be released from all penalties and disabilities resulting from the offense of which
he or she has been convicted.
(2) Dismissal of an indictment or information pursuant to paragraph (1) does not permit a person to own, possess, or have in his or her custody or control any firearm capable of being concealed upon the person or prevent his or her conviction under Section 12021.

(3) Except as provided below, after an indictment or information is dismissed pursuant to paragraph (1), the defendant may indicate in response to any question concerning his or her prior criminal record that he or she was not arrested or convicted for the offense. Except as provided below, a record pertaining to an arrest or conviction resulting in successful completion of a drug treatment program under this section may not, without the defendant’s consent, be used in any way that could result in the denial of any employment, benefit, license, or certificate.

Regardless of his or her successful completion of drug treatment, the arrest and conviction on which the probation was based may be recorded by the Department of Justice and disclosed in response to any peace officer application request or any law enforcement inquiry. Dismissal of an information or indictment under this section does not relieve a defendant of the obligation to disclose the arrest and conviction in response to any direct question contained in any questionnaire or application for public office, for a position as a peace officer as defined in Section 830, for licensure by any state or local agency, for contracting with the California State Lottery, or for purposes of serving on a jury.

(e) Violation of probation

(1) If probation is revoked pursuant to the provisions of this subdivision, the defendant may be incarcerated pursuant to otherwise applicable law without regard to the provisions of this section.

(2) Non-drug-related probation violations If a defendant receives probation under subdivision (a), and violates that probation either by being arrested for an offense that is not a nonviolent drug possession offense, or by violating a non-drug-related condition of probation, and the state moves to revoke probation, the court shall conduct a hearing to determine whether probation shall be revoked. The court may modify or revoke probation if the alleged violation is proved.

(3) Drug-related probation violations

(A) If a defendant receives probation under subdivision (a), and violates that probation either by being arrested for a nonviolent drug possession offense or by violating a drug-related condition of probation, and the state moves to revoke probation, the court shall conduct a hearing to determine whether probation shall be revoked. The trial court shall revoke probation if the alleged probation violation is proved and the state proves by a preponderance of the evidence that the defendant poses a danger to the safety of others. If the court does not revoke probation, it may intensify or alter the drug treatment plan.

(B) If a defendant receives probation under subdivision (a), and for the second time violates that probation either by being arrested for a nonviolent drug possession offense, or by violating a drug-related condition of probation, and the state moves for a second time to revoke probation, the court shall conduct a hearing to determine whether probation shall be revoked. The trial court shall revoke probation if the alleged probation violation is proved and the state proves by a preponderance of the evidence either that the defendant poses a danger to the safety of others or is unamenable to drug treatment. In determining whether a defendant is unamenable to drug treatment, the court may consider, to the extent relevant, whether the defendant (i) has
committed a serious violation of rules at the drug treatment program, (ii) has repeatedly committed violations of program rules that inhibit the defendant’s ability to function in the program, or (iii) has continually refused to participate in the program or asked to be removed from the program. If the court does not revoke probation, it may intensify or alter the drug treatment plan.

(C) If a defendant receives probation under subdivision (a), and for the third time violates that probation either by being arrested for a nonviolent drug possession offense, or by violating a drug-related condition of probation, and the state moves for a third time to revoke probation, the court shall conduct a hearing to determine whether probation shall be revoked. If the alleged probation violation is proved, the defendant is not eligible for continued probation under subdivision (a).

(D) If a defendant on probation at the effective date of this act for a nonviolent drug possession offense violates that probation either by being arrested for a nonviolent drug possession offense, or by violating a drug-related condition of probation, and the state moves to revoke probation, the court shall conduct a hearing to determine whether probation shall be revoked. The trial court shall revoke probation if the alleged probation violation is proved and the state proves by a preponderance of the evidence that the defendant poses a danger to the safety of others. If the court does not revoke probation, it may modify probation and impose as an additional condition participation in a drug treatment program.

(E) If a defendant on probation at the effective date of this act for a nonviolent drug possession offense violates that probation a second time either by being arrested for a nonviolent drug possession offense, or by violating a drug-related condition of probation, and the state moves for a second time to revoke probation, the court shall conduct a hearing to determine whether probation shall be revoked. The trial court shall revoke probation if the alleged probation violation is proved and the state proves by a preponderance of the evidence that the defendant poses a danger to the safety of others or that the defendant is unamenable to drug treatment. If the court does not revoke probation, it may modify probation and impose as an additional condition participation in a drug treatment program.

(F) If a defendant on probation at the effective date of this act for a nonviolent drug offense violates that probation a third time either by being arrested for a nonviolent drug possession offense, or by violating a drug-related condition of probation, and the state moves for a third time to revoke probation, the court shall conduct a hearing to determine whether probation shall be revoked. If the alleged probation violation is proved, the defendant is not eligible for continued probation under subdivision (a).

SECTION 6. Section 3063.1 is added to the Penal Code, to read:

3063.1. Possession of Controlled Substances; Parole; Exceptions

(a) Notwithstanding any other provision of law, and except as provided in subdivision (b), parole may not be suspended or revoked for commission of a nonviolent drug possession offense or for violating any drug-related condition of parole.
As an additional condition of parole for all such offenses or violations, the Parole Authority shall require participation in and completion of an appropriate drug treatment program. Vocational training, family counseling and literacy training may be imposed as additional parole conditions.

The Parole Authority may require any person on parole who commits a nonviolent drug possession offense or violates any drug-related condition of parole, and who is reasonably able to do so, to contribute to the cost of his or her own placement in a drug treatment program.

(b) Subdivision (a) does not apply to:

(1) Any parolee who has been convicted of one or more serious or violent felonies in violation of subdivision (c) of Section 667.5 or Section 1192.7.

(2) Any parolee who, while on parole, commits one or more nonviolent drug possession offenses and is found to have concurrently committed a misdemeanor not related to the use of drugs or any felony.

(3) Any parolee who refuses drug treatment as a condition of parole.

(c) Within seven days of a finding that the parolee has either committed a nonviolent drug possession offense or violated any drug-related condition of parole, the Parole Authority shall notify the treatment provider designated to provide drug treatment under subdivision (a). Within 30 days thereafter the treatment provider shall prepare a drug treatment plan and forward it to the Parole Authority and to the California Department of Corrections Parole Division agent responsible for supervising the parolee. On a quarterly basis after the parolee begins drug treatment, the treatment provider shall prepare and forward a progress report to these entities and individuals.

(1) If at any point during the course of drug treatment the treatment provider notifies the Parole Authority that the parolee is unamenable to the drug treatment provided, but amenable to other drug treatments or related programs, the Parole Authority may act to modify the terms of parole to ensure that the parolee receives the alternative drug treatment or program.

(2) If at any point during the course of drug treatment the treatment provider notifies the Parole Authority that the parolee is unamenable to the drug treatment provided and all other forms of drug treatment, the Parole Authority may act to revoke parole. At the revocation hearing, parole may be revoked unless the parolee proves by a preponderance of the evidence that there is a drug treatment program to which he or she is amenable.

(3) Drug treatment services provided by subdivision (a) as a required condition of parole may not exceed 12 months, provided, however, that additional aftercare services as a condition of probation may be required for up to six months.

(d) Violation of parole

(1) If parole is revoked pursuant to the provisions of this subdivision, the defendant may be incarcerated pursuant to otherwise applicable law without regard to the provisions of this section.

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(2) Non-drug-related parole violations If a parolee receives drug treatment under subdivision (a), and during the course of drug treatment violates parole either by being arrested for an offense other than a nonviolent drug possession offense, or by violating a non-drug-related condition of parole, and the Parole Authority acts to revoke parole, a hearing shall be conducted to determine whether parole shall be revoked. Parole may be modified or revoked if the parole violation is proved.

(3) Drug-related parole violations

(A) If a parolee receives drug treatment under subdivision (a), and during the course of drug treatment violates parole either by being arrested for a nonviolent drug possession offense, or by violating a drug-related condition of parole, and the Parole Authority acts to revoke parole, a hearing shall be conducted to determine whether parole shall be revoked. Parole shall be revoked if the parole violation is proved and a preponderance of the evidence establishes that the parolee poses a danger to the safety of others. If parole is not revoked, the conditions of parole may be intensified to achieve the goals of drug treatment.

(B) If a parolee receives drug treatment under subdivision (a), and during the course of drug treatment for the second time violates that parole either by being arrested for a nonviolent drug possession offense, or by violating a drug-related condition of parole, and the Parole Authority acts for a second time to revoke parole, a hearing shall be conducted to determine whether parole shall be revoked. If the alleged parole violation is proved, the parolee is not eligible for continued parole under any provision of this section and may be reincarcerated.

(C) If a parolee already on parole at the effective date of this act violates that parole either by being arrested for a nonviolent drug possession offense, or by violating a drug-related condition of parole, and the Parole Authority acts to revoke parole, a hearing shall be conducted to determine whether parole shall be revoked. Parole shall be revoked if the parole violation is proved and a preponderance of the evidence establishes that the parolee poses a danger to the safety of others. If parole is not revoked, the conditions of parole may be modified to include participation in a drug treatment program as provided in subdivision (a). This paragraph does not apply to any parolee who at the effective date of this act has been convicted of one or more serious or violent felonies in violation of subdivision (c) of Section 667.5 or Section 1192.7.

(D) If a parolee already on parole at the effective date of this act violates that parole for the second time either by being arrested for a nonviolent drug possession offense, or by violating a drug-related condition of parole, and the Parole Authority acts for a second time to revoke parole, a hearing shall be conducted to determine whether parole shall be revoked. If the alleged parole violation is proved, the parolee is not eligible for continued parole under any provision of this section and may be reincarcerated.

SECTION 7. Division 10.8 (commencing with Section 11999.4) is added to the Health and Safety Code, to read:

DIVISION 10.8. SUBSTANCE ABUSE TREATMENT FUNDING

11999.4. Establishment of the Substance Abuse Treatment Trust Fund
A special fund to be known as the “Substance Abuse Treatment Trust Fund” is created within the State Treasury and is continuously appropriated for carrying out the purposes of this division.

11999.5. Funding Appropriation

Upon passage of this act, $60,000,000 shall be continuously appropriated from the General Fund to the Substance Abuse Treatment Trust Fund for the 2000–01 fiscal year. There is hereby continuously appropriated from the General Fund to the Substance Abuse Treatment Trust Fund an additional $120,000,000 for the 2001–02 fiscal year, and an additional sum of $120,000,000 for each such subsequent fiscal year concluding with the 2005–06 fiscal year. These funds shall be transferred to the Substance Abuse Treatment Trust Fund on July 1 of each of these specified fiscal years. Funds transferred to the Substance Abuse Treatment Trust Fund are not subject to annual appropriation by the Legislature and may be used without a time limit. Nothing in this section precludes additional appropriations by the Legislature to the Substance Abuse Treatment Trust Fund.

11999.6. Distribution of Monies from Substance Abuse Treatment Trust Fund

Monies deposited in the Substance Abuse Treatment Trust Fund shall be distributed annually by the Secretary of the Health and Human Services Agency through the State Department of Alcohol and Drug Programs to counties to cover the costs of placing persons in and providing (a) drug treatment programs under this act, and (b) vocational training, family counseling and literacy training under this act. Additional costs that may be reimbursed from the Substance Abuse Treatment Trust Fund include probation department costs, court monitoring costs and any miscellaneous costs made necessary by the provisions of this act other than drug testing services of any kind. Such monies shall be allocated to counties through a fair and equitable distribution formula that includes, but is not limited to, per capita arrests for controlled substance possession violations and substance abuse treatment caseload, as determined by the department as necessary to carry out the purposes of this act. The department may reserve a portion of the fund to pay for direct contracts with drug treatment service providers in counties or areas in which the director of the department has determined that demand for drug treatment services is not adequately met by existing programs. However, nothing in this section shall be interpreted or construed to allow any entity to use funds from the Substance Abuse Treatment Trust Fund to supplant funds from any existing fund source or mechanism currently used to provide substance abuse treatment.

11999.7. Local Government Authority to Control Location of Drug Treatment Programs

Notwithstanding any other provision of law, no community drug treatment program may receive any funds from the Substance Abuse Treatment Trust Fund unless the program agrees to make its facilities subject to valid local government zoning ordinances and development agreements.

11999.8. Surplus Funds

Any funds remaining in the Substance Abuse Treatment Trust Fund at the end of a fiscal year may be utilized to pay for drug treatment programs to be carried out in the subsequent fiscal year.

11999.9. Annual Evaluation Process
The department shall annually conduct a study to evaluate the effectiveness and financial impact of the programs that are funded pursuant to the requirements of this act. The study shall include, but not be limited to, a study of the implementation process, a review of lower incarceration costs, reductions in crime, reduced prison and jail construction, reduced welfare costs, the adequacy of funds appropriated, and any other impacts or issues the department can identify.

11999.10. Outside Evaluation Process

The department shall allocate up to 0.5 percent of the fund’s total monies each year for a long-term study to be conducted by a public university in California aimed at evaluating the effectiveness and financial impact of the programs that are funded pursuant to the requirements of this act.

11999.11. County Reports

Counties shall submit a report annually to the department detailing the numbers and characteristics of clients-participants served as a result of funding provided by this act. The department shall promulgate a form which shall be used by the counties for the reporting of this information, as well as any other information that may be required by the department. The department shall establish a deadline by which the counties shall submit their reports.

11999.12. Audit of Expenditures

The department shall annually audit the expenditures made by any county that is funded, in whole or in part, with funds provided by this act. Counties shall repay to the department any funds that are not spent in accordance with the requirements of this act.

11999.13. Excess Funds

At the end of each fiscal year, a county may retain unspent funds received from the Substance Abuse Treatment Trust Fund and may spend those funds, if approved by the department, on drug programs that further the purposes of this act.

SECTION 8. Effective Date

Except as otherwise provided, the provisions of this act shall become effective July 1, 2001, and its provisions shall be applied prospectively.

SECTION 9. Amendment

This act may be amended only by a roll call vote of two thirds of the membership of both houses of the Legislature. All amendments to this act shall be to further the act and shall be consistent with its purposes.

SECTION 10. Severability

If any provision of this act or the application thereof to any person or circumstances is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this initiative that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this initiative are severable.
Appendix G: Prop-36 Eligible Offenses Meeting Timeline

At least four months in advance:

1. The judge should designate a person to be responsible for implementing the planning process. (May be an outside facilitator, if desired).
2. Select the meeting date and confirm the attendance of all judges.
3. Reserve a location
4. Contact the
5. Send notice to Judge to submit a list of their proposed Prop-36 Eligible offenses. Require a two-month deadline for return. Send remainders every two weeks.

At least two months in advance:

1. Gather all of the list received from the judges into one master list and notate which ones are the most common first.
2. Send notice to any judges that have not responded. Require a two-week deadline for return.

At least one month in advance:

1. Compile the remaining list on to the master list.
2. Review all material to ensure every list has been posted in the master list.
3. Send out the master list to all judges for their review prior to the meeting.

At least two weeks in advance:

1. Prepare meeting packets to include: the master list of Prop 36 – Eligible offenses and pages for notes:
2. Make final preparations for the location which include: room set-up, overhead projection, refreshments.

Day of the Meeting:

1. Open the floor for discussion over the master list and reach a conclusion.
2. Judges must vote to accept or reject the offenses on the master list one offense at a time.
3. Once the official list is made it will be available for the public and be dispersed to all involved with Prop 36 probation, including lawyers and public defenders offices.
Appendix H: Modified Process of Prop 36 Probation: 10 Steps

1. Offender Applies for Prop 36
   - No
   - Yes

2. Pre-Sentencing Report (PSI)
   - No
   - Yes

3. Drug Court Judge
   - No
   - Yes

4. Gate Keeper
   - No
   - Yes
   - Fail
   - Pass

5. Drug Court Judge
   - Referral to Felony Probation (5A)
   - Terms & Conditions of Probation and Court Ordered Treatment (5B)

6. Probation Officer
   - Terms & Conditions of Prop 36 Probation Signed (6A)
   - Assist Prop 36 offender Enroll into Treatment (6B)

7. Offender

8. Complete Treatment
   - No
   - Yes
   - Prison or Revocation (8a)
   - May request hearing to be dismissed from Probation (8b)

9. Drug Court Judge
   - Free of Probation (9a)
   - Remain on Probation (9b)

10. Free of Probation
1. **Apply for Prop 36**: Offender applies for Proposition 36 probation at the Probation departments.

2. **Pre-Sentencing Report (PSI)** – To be completed by the probation department investigation unit. This report includes demographics, criminal history and details of current offense. Once complete route to drug court judge.

3. **Drug court judge**: The judge must review the PSI to determine if the offender is eligible for Prop 36.
   a. If not, the offender is sent to felony probation.
   b. If yes, the judge will refer offender to Gatekeeper to be assessed.

4. **Gate Keeper**: Determines the level of willingness of the offender to participate in Prop 36.
   a. **Assessment**: Gate keeper must assess the offender out his or her addictions
      1. **Fail**: If a person fails the assessment it means that the person is not willing to participate in Prop 36 and/or is denying he or she has a drug problem thus not wanting help. Gate keeper must send a recommendation back to the judge to reject the offender’s application for Prop 36 and refer them to felony probation.
      2. **Pass**: If a person passes the assessment it means that the person is willing to participate in Prop 36 and or he or she has admitted to have a form of drug addiction thus, wanting help. Gate keeper must send a recommendation back to the court to inform the judge to accept the offender’s application due to the offender’s willingness to participate and the level of the offender’s addiction.

5. **Drug court judge**: After reviewing the may then have make a final decision
   A. If no, option are felony probation or prison
   B. If yes, the judge will inform the offender of his or her treatment (whether outpatient or residential) and the terms and conditions of their probation. The offender is instructed to report to his probation officer within 3 business days. The Judge must forward the recommendation from the gate keeper to the probation officer.

6. **Probation officer**: Must go over the terms and conditions of probation with offender.
   A. **Sign T/C**: have offender sign the form. One copy to court, offender, and your file.
   B. **Enroll in Treatment**: provide offender a list of treatment facilities and select one with for offender by following the recommendations from the gate keeper.

7. **Offender**: Must regularly attend treatment, abide by his or her terms and conditions of probation, and must report to his probation officer monthly.

8. **Completion**:
   a. If the offender does not complete treatment: the offender will have probation revoked and sent be to prison.
   b. If the offender completes treatment: the offender or the probation officer may request a hearing to be dismissed from Proposition 36 Probation.

9. **Drug Court Judge**: In this hearing the judge will decide whether or not the offender can be dismissed from Proposition 36 Probation.
   a. If yes, the offender will no longer be on probation
   b. If no, the offender must complete the entire term of their probation.

10. **Free of Probation**: The offender is no longer on probation.
Appendix I: Modified Process of Prop 36 Probation Revocation: 7 Steps

1. Probation Officer
   - 1a Referral to Prison
   - 1b Referral to Felony Probation
   - 1c Referral to Gatekeeper

2. Drug Court Judge
   - 2a Prison
   - 2b Felony Probation
   - 2c Referral to Gatekeeper
   - 2d Reinstate Prop 36

3. Gate Keeper
   - 3A Assessment
     - Fail
     - 3A1 Reject Application
     - Pass
     - 3A1 Reject Application

4. Drug Court
   - 4a Prison
   - 4b Felony Probation
   - 2c Reinstate Prop 36

5. Probation Officer
   - 5A Re-instruction of Terms & Conditions of Prop 36 Probation Signed
   - 5b Assist Prop 36 offender Re-Enroll into Treatment

6. Offender
   - 6

7. Free of Probation
   - 7
The following procedure should be followed if an offender violates his or her probation.

1. Probation Officer: must make a recommendation to the court:
   a. Referral to Prison: The previous reinstate the previously suspended prison sentence.
   b. Referral to Felony Probation: To be moved to adult supervision in felony probation.
   c. Referral to the Gatekeeper: To send the offender to be re-assessed.

2. Drug Court Judge: Make a decision to:
   a. Send the offender to prison,
   b. Send the offender to Felony probation, or
   c. Send the offender to be re-assessed by the gatekeeper
   d. Reinstatement of Prop 36

3. Gatekeeper: Gate keeper: Determines the level of willingness of the offender to participate in Prop 36.
   Assessment: Gatekeeper must re-assess the offender out his or her addictions
   1. Fail: If a person fails the assessment, it means that the person is not willing to participate in Prop 36 and/or is denying he or she has a drug problem thus not wanting help. Gatekeeper must send a recommendation back to the judge to remove the offender from Prop 36.
   2. Pass: If a person passes the assessment, it means that the person is willing to participate in Prop 36 and he or she has admitted to have a form of drug addiction thus, wanting help. Gate keeper must send a recommendation back to the court to inform the judge to allow the offender to continue in Prop 36 and offer treatment.

4. Drug Court Judge: Will make the decision, with taking in account the recommendation from the Gatekeeper.
   a. Send offender to Prison
   b. Send the offender to felony Probation
   c. Reinstate Prop 36 probation and reinstruct the terms and conditions of probation and treatment, if applicable.

5. Probations Officer: Must go over the terms and conditions (T/C) of probation with the offender
   a. Offender must sign the T/C under the reinstructed section. Send on copy to court, one to offender and one to your file.
   b. Assist offender re-enroll in treatment following the recommendations of the gate keeper, if applicable.

6. Offender: Must complete treatment and must continue to abide by his or her terms and conditions of probation until the end of his or her sentence.

7. Free of Probation: The offender is no longer on probation.
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</table>
| 1     | 6 Months     | Individuals with no significant history of alcohol or other drug (AOD) use or incarceration. | 1. Individual interview for assessment and treatment planning.  
2. Individual counseling at mid-point to review progress.  
3. Individual counseling at discharge to develop discharge plan.  
4. 12 hours of group AOD education, to include information about effects of use of self and family; the addiction process and progression; alternatives to use; and personal consequences of use.  
5. 36 hours of group counseling.  
7. Attend a minimum of 6 self-help meetings. | 1. Client will examine and articulate negative consequences of AOD use.  
2. Client will articulate a plan to eliminate or reduce those consequences.  
3. Client will refrain from AOD use during the length of the program.  
4. Client will gain skills necessary to continue the gains made. |
| 2     | Up to 3 Months | A pre-treatment program for individuals demonstrating a significant AOD use history and need for treatment, but indicating a low level of motivation and receptiveness to treatment. | 1. Individual interview for assessment and treatment planning.  
2. Individual counseling once a week.  
3. 24 group counseling/education sessions (90 minutes each). Client to attend 2 group sessions per week with a focus on denial management and motivational enhancement.  
4. Attend a minimum of 3 self-help meetings.  
5. *Drug testing at client expense.  
6. Referral to appropriate treatment level. | 1. Client will recognize and articulate negative consequences of AOD use.  
2. Client will progress along the “stages of change” continuum, i.e., from “contemplation to action.”  
3. Client will demonstrate readiness to progress to more intense treatment. |
| 3     | 6 Months     | Individuals demonstrating a significant history of AOD use and a moderate to high level of treatment readiness. Individuals have a relatively stable and AOD-free living situation. | 1. A minimum of one (1) individual session for assessment and treatment planning;  
2. Individual counseling sessions no less often than once per month;  
3. A minimum of one (1) individual session at discharge for the purpose of discharge planning;  
4. Group counseling sessions at a rate of three (3) per week for two (2) months followed by two (2) per week for the next two (2) months,  
5. Advance treatment group services for two (2) months, at a rate of one (1) group per week, with a focus on relapse prevention and discharge/transitional planning;  
6. Attendance at a minimum of twelve (12) self-help meetings;  
7. *Drug testing at the client’s expense; and  
8. Assistance with vocational and literacy development as appropriate. | 1. Client will demonstrate an understanding of factors that have contributed to AOD use.  
2. Client will demonstrate an ability to deal with daily stressors without the use of AOD.  
3. Client will become engaged in fulfilling activities that support recovery.  
4. Client will demonstrate a commitment to abstinence. |
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<th>SERVICES PROVIDED</th>
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</table>
| 4     | 8 Months | Individuals who demonstrate a significant history of drug and/or alcohol use, including recent use severe enough to require detoxification. Individuals who qualify for this level of service may also be in need of a stable, drug-free environment with moderate supervision. | 1. Detoxification may be offered as needed;  
2. Sober Living Environment for up to three (3) months may be offered as optional services when available;  
3. Group counseling at a rate of four (4) per week; one (1) group daily for the first three (3) months, followed by an additional three (3) months of three (3) groups per week;  
4. A minimum of one (1) individual session for assessment and treatment planning;  
5. Individual counseling at a rate of one (1) per week to occur on a non-group day so that the client attends the program five (5) days per week, for the first three (3) months, followed by one (1) per month in the last three (3) months;  
6. A minimum of one (1) individual counseling session for the purpose of discharge planning;  
7. Attendance at a minimum of twenty-four (24) self-help meetings.  
8. Two (2) months of advanced treatment, consisting of one (1) group session per week, focusing on relapse prevention;  
9. Assistance with vocational and literacy needs; and  
10. The Department will pay for drug testing at the Office of the District Attorney's Crime Laboratory for the first ninety (90) days, and the client shall pay for drug testing thereafter. | 1. Client will demonstrate an understanding of factors that have contributed to AOD use.  
2. Client will demonstrate an ability to deal with daily stressors without the use of AOD.  
3. Client will become engaged in fulfilling activities that support recovery.  
4. Client will demonstrate a commitment to abstinence. |
| 5     | 45 Days (Average)† | Same as Level 4, except that these individuals will demonstrate a need for a highly structured and supervised living environment. | 1. Individual interview for assessment and treatment planning;  
2. Residential treatment, including detoxification, if needed;  
3. Upon stabilization, client will transition into services at Level 4, after provider assessment of client progress. | 1. Client will acquire a period of abstinence and stability, and will facilitate the ability to participate in an intensive outpatient treatment program.  
2. Client will demonstrate a commitment to abstinence. |
| 6     | 8 to 12 months (As necessary) | Developmentally disabled individuals who are referred for outpatient services under SACPA. Each individual must complete at least two, four-month open-entry cycles to complete the program. | 1. One individual, one skills building group and one group counseling session (each) per week;  
2. Attend a minimum of three self-help meetings.  
3. Additional services include social recreation activities, family support groups and higher education and employment counseling and referrals. | 1. Recognize, understand and verbalize the disease concept of alcohol and drug use.  
2. Develop new social supports and participate in alcohol and drug free activities.  
3. Develop, understand and verbalize new coping skills and strategies that promote sobriety.  
4. Understand and verbalize how the use of drugs and alcohol affects areas of functioning.  
5. Develop skills for maintaining sobriety. |

* County will pay for drug testing during the first thirty days of program participation for SACPA clients.  
** County will pay for drug testing for SACPA clients until the Probation Officer determines the client's ability to pay for it.  
† Eligibility for Perinatal-enhanced Drug/MediCal Residential Treatment Services continues as long as the resident is eligible for those services. Eligibility begins at pregnancy and continues until the end of the second month after the end of the pregnancy.
## Appendix K: Index to Providers of Court-Ordered Services

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<td>Anger Management</td>
<td>Child Chronic Neglect</td>
<td>Child Neglect/Endangerment</td>
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<tr>
<td>Action Family Counseling Inc.</td>
<td>See Listing</td>
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<td>Aegis Institute, Inc.</td>
<td>(661) 328-0245</td>
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<td>ALBA Counseling Center, Inc.</td>
<td>(661) 327-1345</td>
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<td>All About Recovery</td>
<td>(661)706-5618</td>
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<tr>
<td>Alliance Against Family Violence (Both)*</td>
<td>(661) 322-0931</td>
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<td>Alpha House</td>
<td>(661) 753-4357</td>
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<td>Alta Vida Counseling</td>
<td>(661) 477-5156</td>
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<td>Animal House-Men Only</td>
<td>(661) 861-9068</td>
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<td>Asi Counseling</td>
<td>* See Listing</td>
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<td>Awakening Sober Living-Men Only</td>
<td>(661)427-3993</td>
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<td>Bakersfield Adult School</td>
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<td>Bakersfield Recovery Services (Formally known as Jason's Retreat) Men Only</td>
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<td>Bakersfield Recovery Services/ Capistrano Community-Women Only</td>
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<td>Bakersfield Rescue Mission-Women Only</td>
<td>(661) 325-4665</td>
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<td>(661) 333-5545</td>
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<td>Better Choices Recovery Home-Men Only</td>
<td>(661)822-5127</td>
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<td>Bill Bowman</td>
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<td>Cathy Elder, LCSW</td>
<td>(661) 631-1763</td>
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<td>(760) 379-9194</td>
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<td>(661) 726-2788</td>
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<td>(661) 322-3276</td>
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<td>(661) 324-0983</td>
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<td>Ebony Counseling Center, Inc.</td>
<td>(661) 324-4756</td>
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<td>(760) 375-4357</td>
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<td>(661) 978-4826</td>
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<td><strong>Isaiah Sober Living Home-Men Only</strong></td>
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<td>(661) 747-4661</td>
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*FTP/LTP Provides counseling on how to protect children against abuse (sexual, physical, etc.)*

*Both Domestic Violence (victims) and Failure/Learning to Protect Counseling*

Court-ordered counseling requires at least two (2) hours per week of contact with the counselor/therapist for a minimum of six (6) months, followed by a positive recommendation from the counselor/therapist.*
L. IRB Approval Letter

Institutional Review Board for Human Subjects Research

Date: 06 June 2012

To: Cindy Zuniga, FPA Student

cc: Paul Newberry, IRB Chair
    Thomas Martinez, Public Policy and Administration

From: Steve Suter, Research Ethics Review Coordinator

Subject: Protocol 12-88: Not Human Subjects Research


I want to interview, survey, systematically observe, or collect other data from human subjects, for example, students in the educational setting. NO

I want to access data about specific persons that have already been collected by others [such as test scores or demographic information]. Those data can be linked to specific persons [regardless of whether I will link data and persons in my research or reveal anyone’s identity]. NO

Given this, your proposed project will not constitute human subjects research. Therefore, it does not fall within the purview of the CSUB IRB/HSR. Good luck with your project.

If you have any questions, or there are any changes that might bring these activities within the purview of the IRB/HSR, please notify me immediately at 654-2373. Thank you.

Steve Suter, University Research Ethics Review Coordinator
References


Cal PENAL Code §1000 – California Drug Diversion law


Departments of Alcohol and Drug Programs California Health and Human Services Angency.


Departments of Alcohol and Drug Programs California Health and Human Services Angency.


Departments of Alcohol and Drug Programs California Health and Human Services Angency.


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