

Ventura County Proposition 36 Implementation

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Summary

The Ventura County Grand Jury (the “Jury”) has concluded that Prop 36, in combination with specific Ventura County implementation policies, has created significant and verifiable problems within the criminal justice system, treatment community, and Ventura County at large. These problems are revealed through ineffective treatment, increased costs, and compromised public safety and health. It is the opinion of the Jury that Ventura County has exercised its discretion in a manner that has had far-reaching and long-term detrimental consequences for the citizens of the county.

With the exception of a single department, all government and private organizations contacted in this inquiry expressed a commendable desire to explore the causes of failure and to compromise with the common objective of achieving the best solution possible within the limits of the law.

The Substance Abuse and Crime Prevention Act of 2000 (SACPA), commonly known as California Proposition 36 (“Prop 36”), provides substance abuse treatment without incarceration for eligible drug offenders. The law states objectives of enhanced public safety, cost savings from incarceration avoidance, and public health benefits to be achieved by treating substance abusers.

Implementation of Prop 36 is a matter of statute-guided county discretion. The Ventura County Board of Supervisors (“Board of Supervisors”) has delegated most of this discretion to the Ventura County Behavioral Health Department’s Alcohol and Drug Programs (BHD/ADP).

The Jury has determined that BHD/ADP, as the lone agency continuing to declare itself victorious in the county’s war on drugs, has used its delegated authority in an attempt to weave success from failure by mischaracterizing statistics, sliding the benchmarks for successful drug treatment, and portraying program liabilities as assets.

The Jury further concludes that statewide reporting systems rely heavily on the self-disclosure by individual counties, and the mischaracterization and alteration of the standards and data within this county bring into question the integrity of future statewide claims by independent studies. If other California counties are impelled to conjure favorable results to the same extent as Ventura County, the entire statewide evaluation effort will be seriously compromised.

It is the opinion of the Jury that BHD/ADP’s policies have blurred the lines between treatment objectives and bureaucratic expediency. Showing an inexplicably tenacious support of failed policies, BHD/ADP has passed up opportunities to exercise effective leadership and sound management principles. They have, in effect, bypassed correction in favor of concealment. This apparent mishandling of discretion reflects badly on Prop 36 and it reflects badly on Ventura County.

Background

California voters passed, by 61 percent, the Substance Abuse and Crime Prevention Act of 2000; this law took effect on July 1, 2001. Since implementation, various criminal justice officials have raised concerns about the effectiveness of coerced treatment and the unintended consequences of allowing convicted drug offenders to remain free.

On September 10, 2003, the Ventura County District Attorney (the “District Attorney”) wrote a letter to the Chair of the county’s Prop 36 Operations and Oversight Committee (“Oversight Committee”) questioning the implementation and effectiveness of the act. The public safety issues raised in this letter were acknowledged in the county’s “Second Year Proposition 36 Report”¹ (the “Second Year Report”), published on November 4, 2003.

The District Attorney wrote an additional letter to the Director of Behavioral Health on March 3, 2004. In this second letter, the District Attorney objected to a proposed Prop 36 drug testing protocol, which would further relax the sobriety requirements of Prop 36 drug offenders.

While Prop 36 is a statewide initiative, implementation varies across counties depending on contextual factors, such as local treatment capacity, and “process” factors such as how closely offenders are supervised while on probation. This report will focus on the Ventura County implementation and administration policies and those areas in which the county has exercised discretion in balancing treatment and sanction decisions.

Throughout the investigation, it was noted early and often that all parties interviewed, with the exception of Ventura County BHD/ADP personnel, had similar understandings of relevant issues and factual information. BHD/ADP stood alone in many of its assertions, and their apparently inconsistent answers to verifiable information caused the Jury to regard most of their statements with skepticism. The Jury was often frustrated by its inability to pierce the protective shell of BHD/ADP, and the complexity and depth of this report is an attempt to establish the facts and reconcile the information that was presented by BHD/ADP.

The Jury recognizes and understands that it has no oversight or jurisdiction with respect to the Superior Court of California, Ventura County. However, the legislatively assigned court functions are the apex of the Prop 36 statutory scheme and, therefore, it has been necessary to touch on those functions within this report when relevant to Ventura County’s administration of Prop 36.

¹ Tovar, Luis A, and Sandra Nelles, “Second Year Proposition 36 Report,” Ventura County Behavioral Health Department, Alcohol and Drug Programs, November 4, 2003. (<http://www.vchca.org/bh/adp/prop36/2002-03YearEndReport.pdf>).

Methodology

This report highlights the discretionary aspects of Prop 36 implementation and makes recommendations on Ventura County policy decisions that directly influence the effectiveness, costs, public safety, and public perception of Prop 36.

Jury members read the “First Year Report, Substance Abuse Crime Prevention Act 2000, Proposition 36, July 1, 2001 – June 30, 2002”² (the “First Year Report”) and the Second Year Report, prepared by the Ventura County BHD/ADP. Members read the text of Prop 36 as well as the resulting statutes. They also reviewed numerous published opinions regarding the law and its implementation.

Prop 36 legislation provides funding for a long-term study to evaluate the effectiveness of the law. Ventura County is participating in this Statewide Evaluation Project, conducted by UCLA, beginning August 2002 and ending in June 2006. The Jury reviewed the “Evaluation of the Substance Abuse and Crime Prevention Act 2002 Report” (the “UCLA Report”) prepared by UCLA for the Department of Alcohol and Drug Programs (DADP) of the California Health and Human Services Agency.³

Voter intent is stated in the text of the bill and the law as passed. However, the statute legislation left many areas of implementation to the discretion of county officials. This Jury report focuses on local implementation decisions and the impact of those decisions on the citizens of Ventura County. With that purpose, members of the Jury interviewed various members of the Oversight Committee, including representatives from the probation agency (“Probation”), BHD/ADP, as well as the office of the Public Defender, and the office of the District Attorney. Data collection, record keeping, and reporting policies and documents of the various stakeholder agencies were reviewed as well. Members of the Jury also spoke with the judge of the Prop 36 dedicated court and the Behavioral Health medical director for Prop 36.

The Jury also visited the BHD/ADP’s Central Assessment Services (CAS) and several community-based treatment providers, reviewing treatment objectives and program compliance requirements. On protocol visits to jails and prisons, the Jury inquired about the drug treatment programs available to inmates and witnessed some of the behavioral modification classes in progress. Background information on best practices was obtained from the National Institutes of Drug Abuse (NIDA) publications, part of the National Institutes of Health.

During the preparation of this report, the Jury received two citizen complaints alleging mismanagement and other problems with contract treatment providers and the county’s oversight of those contractors. Contracts and policies were reviewed, treatment providers were interviewed, and facilities were toured in an attempt to learn more about the circumstances of those complaints.

² “First Year Report, Substance Abuse Crime Prevention Act 2000, Proposition 36,” September 2002 (<http://www.vchca.org/bh/adp/prop36/2001-02YearEndReport.pdf>).

³ Longshore, Ph. D., et.al., “Evaluation of the Substance Abuse and Crime Prevention Act 2002 Report,” UCLA Integrated Substance Abuse Programs, July 7, 2003 (<http://www.uclaisap.org/Prop36/reports.htm>).

This report first describes the Prop 36 legislation and stated voter intent, followed by guidelines for sentencing decisions, probation conditions, offender supervision, and the responsibilities and limitations of the criminal justice system. The report then describes the categories of probation violations and the court's requirements and use of discretion in handling each category. Because Prop 36 has been characterized as a choice between drug treatment and incarceration, the Jury researched the other treatment options available to convicted drug offenders. The purpose of reviewing treatment options was not to make evaluative judgments regarding effectiveness, but rather to determine what methods other agencies and treatment professionals are using and with what success. The Jury reviewed documentation and spoke with various officials regarding the drug court ("Drug Court") model as well as jail and prison-based drug treatment programs.

After describing the legislative and statutory foundations of Prop 36, the report outlines Ventura County's local efforts to apply this legislation. These efforts include designation of the Ventura County Prop 36 lead agency ("Lead Agency") and formation of a county Oversight Committee as well as the resulting processes and procedures put in place to provide treatment, client accountability, and program oversight. Activities of the Oversight Committee included sending representatives to various state conferences and workshops on Prop 36 implementation. The Jury reviewed proceedings from those meetings for additional insight.

In areas where the Jury felt that established or proposed policies were the result of discretion versus statute, further research was conducted to determine if methods in other counties might be available to Ventura County. This determination of discretion was considered when presenting the Jury's recommendations.

Parole offenders make up a small percentage, typically five to eight percent, of the Prop 36 population. For most purposes of this study, there are no significant differences between parole and probation terms and conditions of Prop 36, and the term "probation" will encompass both parole and probation. If there are relevant distinctions in supervision and reporting between the parole and probation agencies, these are noted.

Findings

Legislation

- F-01.** On November 7, 2000, California voters passed Prop 36, or Substance Abuse and Crime Prevention Act of 2000, mandating that eligible drug offenders receive substance abuse treatment services without incarceration for certain eligible drug offenses.
- F-02.** In Ventura County, there were 161,283 votes to approve Prop 36, or 60.4 percent of the total ballots cast in the county.
- F-03.** Prop 36 was followed on October 10, 2001 by a clarifying Senate Bill 223 titled "Substance Abuse Treatment and Testing Accountability (SATTA)." This emergency measure provided funding for drug testing as well as guidelines for testing and use of test results.

- F-04.** Prop 36 and SATTA are implemented via Penal Code section 1210.
- F-05.** Prop 36 legislation appropriated \$120 million annually for five years starting July 1, 2001. The State Substance Abuse Treatment Trust Fund (SATTF) administers these funds for the operation of drug treatment programs and ancillary services in all California counties. For drug testing, SATTA allocated \$8.4 million in fiscal year (FY) 2001-02 and placed future years' drug test funding in the state budget. For the current FY 2003-04, Ventura County is allocated \$2,762,667 under Prop 36 and \$175,275 under SATTA. Carryover funding from the previous FY increased the current year's Prop 36 availability to \$3,542,667.
- F-06.** When passed, Prop 36 limited the availability of funding with a five-year "sunset" clause. If Prop 36 is to continue after June 30, 2006, the county will be required to identify local replacement funding or state legislative efforts will have to provide funds for continued drug treatment services.
- F-07.** The California DADP states that SACPA (Prop 36) was designed to
- "Preserve jail and prison cells for serious and violent offenders;
 - "Enhance public safety by reducing drug-related crime; and
 - "Improve public health by reducing drug abuse through proven and effective treatment strategies."⁴
- F-08.** The First Year Report describes one of the major provisions of Prop 36 as, "Offenders convicted of 'non-violent drug possession,' are to be sentenced to probation and drug treatment instead of prison, jail, or probation without treatment."
- F-09.** Prop 36 sentencing mandates that, as of July 1, 2001, any person convicted of a nonviolent drug possession offense, and any parolee who is determined to have committed a nonviolent drug possession offense or violated any other drug-related condition of parole, will be granted probation and drug treatment of up to one year in one or more licensed or certified community-based drug treatment programs. To be eligible for Prop 36 treatment, the offender must not be disqualified by other factors.
- F-10.** "Nonviolent drug possession offense" is defined as unlawful possession, use, or transportation for a defendant's personal use of a controlled substance⁵ and the offense of being under the influence of a controlled substance.⁶ These offenses could describe felonies or misdemeanors.
- F-11.** Disqualification from Prop 36 probation generally occurs if the offender

⁴ California Department of Alcohol and Drug Programs, Fact Sheet: "What is Proposition 36?" (<http://www.adp.cahwnet.gov/SACPA/prop36.shtml>), January 2004.

⁵ Health and Safety Code sections 11054-58

⁶ Health and Safety Code section 11550

- Is convicted of possessing drugs other than for personal use (such as production, manufacture, distribution, or possession for sale);
- Is convicted of non-drug offenses in the same court proceeding with a drug possession offense;
- Is convicted of using a firearm while in possession or under the influence of heroin, methamphetamine, cocaine, cocaine base, or PCP;
- Previously has been convicted of a serious felony, and has not been free of custody or commission of felonies or dangerous misdemeanors within five years; or
- Has failed two prior Prop 36 treatment programs.

As differentiated from probationers, parolees may not have ever been convicted of a serious felony.

F-12. The courts are required to offer Prop 36 treatment probation terms to all non-violent drug offenders who meet specific eligibility requirements. The courts are not required to impose Prop 36 treatment terms on probation if an otherwise eligible offender is proven unamenable to all forms of available drug treatment.⁷

F-13. Case law has established that

- The crime of driving under the influence of drugs (DUI) is not considered a misdemeanor “related to the use of drugs” and is not eligible for Prop 36 sentencing.⁸
- Possession of drugs in jail is a disqualifying offense for Prop 36 probation.
- A drug offender who does not comply with the court order to report to a drug treatment program has, in effect, “refused” drug treatment as a condition of probation, rendering himself ineligible for drug treatment and probation under Prop 36.⁹

F-14. A typical Prop 36 defendant does not come to the attention of law enforcement based solely on the use of drugs. Very rarely are the police called for simple intoxication without an aggravating, underlying offense. Most defendants are involved in other activities such as disorderly conduct, domestic quarrels, or other misconduct. Defendants can have multiple criminal charges more difficult to prove in court; however, trials and plea bargains can result in a conviction on the drug charge only, making the defendant eligible for Prop 36 probation. Some defendants are discovered in possession of drugs or drug paraphernalia in the course of probationary searches.

F-15. If a non-violent drug offender chooses not to participate in Prop 36 treatment, another treatment option is available under the Penal Code. In the pre-plea diversion statute and program (“Diversion”), a defendant may plead guilty to a

⁷ Penal Code section 1210.1 (b)(5)

⁸ People v. Canty (2002) 100 Cal.App.4th 903

⁹ People v. Guzman (2003) 109 Cal.App.4th 341

non-violent drug usage offense and receive a “deferred entry of judgment” in order to obtain drug treatment. According to the statute, “The period during which deferred entry of judgment is granted shall be for no less than 18 months nor longer than three years.” The courts closely monitor the defendant’s progress, and the criminal charge or charges may be dismissed if the defendant successfully completes treatment.¹⁰

- F-16.** Compared to Diversion, Prop 36 eligibility does not require an admission of guilt. Prop 36 sentencing is also available after conviction in a jury trial. There will be a conviction on the record while in treatment, and a person cannot legally deny that a conviction occurred.

Sentencing and Supervision

- F-17.** Drug treatment has been and still is provided to drug offenders in Ventura County, regardless of sentencing. Without Prop 36 probation, there is still court-ordered Diversion to drug treatment for first- and second-time drug offenders. Additionally, for those offenders sentenced to jail, drug treatment and substance abuse counseling are provided while offenders are incarcerated.
- F-18.** Prop 36 is only one choice among four available drug treatment options: (1) drug treatment after sentencing and while incarcerated; (2) drug treatment through Penal Code section 1000 Diversion (3) drug treatment after sentencing and while on probation, or (4) drug treatment under Prop 36.
- F-19.** There are still many offenders who are sentenced to jail or prison because of Prop 36 ineligible offenses. Those offenders may still have drug abuse or addiction problems, but they must be sentenced to incarceration. Drug programs are currently provided in the jails for these offenders.
- F-20.** Before Prop 36, Ventura County’s dedicated Drug Court was initiated in 1995. It was designed for people who were facing up to one year in jail for being under the influence of narcotics. Diversion granted through the Drug Courts required the defendant to plead guilty and sign an agreement in order to enter a treatment program.
- F-21.** In typical Drug Courts, deputy district attorneys, public defenders, probation officers, and drug-treatment professionals work with the courts to provide resources, care, and follow-up needed to help drug abusers and addicts receive treatment, supervision, and support services.
- F-22.** The National Association of Drug Court Professionals maintains and publishes California Drug Court Standards. These standards highlight the importance of ongoing judicial interaction, with monitoring and evaluations to gauge effectiveness, frequent drug testing, and stakeholder cooperation.
- F-23.** The effectiveness of “therapeutic jurisprudence” popularized within the Diversion laws and the Drug Court system is often referenced when describing Prop 36 program objectives. The basis of therapeutic jurisprudence is the recognition that coerced treatment can be effective. Drug Courts provide a

¹⁰ Penal Code sections 1000–1000.8

combination of treatment (therapeutic) with court-imposed sanctions (jurisprudence) to ensure compliance with treatment objectives until the client becomes fully engaged in the program.

- F-24.** Between January 2000 and September 2001, the Drug Court Partnership Program in California documented a \$42 million Drug Court savings statewide due to avoidance of incarceration costs.¹¹
- F-25.** A dedicated court was opened in Ventura County on June 3, 2002, in order to manage only Prop 36 cases. Even though this court handles cases specific to drug use under Prop 36, members of the Oversight Committee have stated that Prop 36 court is not a Drug Court. According to BHD/ADP officials, a Drug Court provides oversight during the treatment process, and the only time the Prop 36 court sees a client is for initial sentencing and subsequent reported non-compliance.
- F-26.** Once the deputy district attorney and the defense counsel screen a potential Prop 36 defendant, Probation will conduct a criminal history review to determine whether there are disqualifying factors on the record. If all statutory conditions are met, the judge is mandated to make the determination to sentence a defendant to Prop 36 probation and treatment.
- F-27.** An offender convicted of multiple drug offenses can be sentenced to multiple grants of Prop 36 probation on the same date. The law specifically allows for one year of drug treatment services, followed by six months of continuing care services per grant of probation. Multiple offenses per grant do not accrue more treatment time.
- F-28.** Los Angeles County Department of Health Services, Public Health published policy states, “The Proposition 36 law specifically allows for one year of drug treatment services, followed by six months of continuing care (aftercare) services per grant of probation, with a maximum of two grants. Drug treatment providers’ and program participants’ compliance with the mandated time limits is being closely monitored by both the California DADP and the Los Angeles County Alcohol and Drug Program Administration (ADPA).”¹²
- F-29.** In Los Angeles County, if a Prop 36 client is arrested and placed on another grant of Prop 36 probation, the time remaining on the first grant is forfeited. The clock stops on the first grant of treatment when re-assessment takes place under the second grant. Successful completion of the second grant of Prop 36 treatment will fulfill the treatment requirement for both grants of probation.
- F-30.** Ventura County has recognized no statutory limits on the number of grants of Prop 36 probation an offender might accrue.
- F-31.** In some counties, all Prop 36 probationers are automatically placed on formal, supervised probation. In Ventura County, Probation does not have the personnel to supervise all Prop 36 probationers. This problem was addressed

¹¹ County of Marin, “What is Proposition 36?” (<http://www.co.marin.ca.us/depts/HH/main/adt/Prop36.cfm>).

¹² Alcohol and Drug Program Administration, “Treatment Services for Proposition 36 Participants,” ADPA Bulletin No. 04-03, March 17, 2004. (http://www.lapublichealth.org/adpa/bulletins/adpa_Bulletin_04-03.htm).

by dividing the probationers into the two natural categories of felony and misdemeanor offenders.

- Offenders with felony convictions are typically placed on formal probation under the supervision of Probation. In addition, any probationer on conditional release who is identified as posing a serious risk will be supervised by Probation.
- Offenders with misdemeanor convictions may be placed on summary probation, also referred to as conditional release, under the general administration of BHD/ADP.
- As differentiated from probationers, parolees in Prop 36 treatment fall within the supervision of the Parole and Community Services Division of the California Department of Corrections (“Parole”).

F-32. Persons placed on probation are subject to court-ordered rules of behavior, and Prop 36 probation is not an exception to this requirement. The only mandated probation terms under Prop 36 are the requirement for a drug treatment program and keeping the defendant free from incarceration. “The trial court is not otherwise limited in the type of probation conditions it may impose.”¹³

F-33. At the discretion of the courts, additional probation conditions may be established to ensure and monitor the offender’s progress. These conditions may include regular check-ins with a probation officer or appearances before the court, requirement to pay a share of treatment and drug testing costs, and various other restrictions on the person’s place of residence, associations, or lifestyle. Participation in vocational training, family counseling, and literacy training can also be required. The courts may mandate the intensity of drug treatment, and they may impose community service.

F-34. In Ventura County, the standard Prop 36 probation terms for both formal and conditional release include participation in the assigned treatment program, consent to release of information between the probation officer and the treatment program, a waiver of confidentiality rights to allow court supervision and assessment of treatment, consent to a search without warrant or reasonable cause for controlled substances, abstinence from controlled substances, and consent to drug testing at any time. (Attachment I)

F-35. Probation, Parole, and BHD/ADP are responsible to the courts for their respective supervision to ensure each Prop 36 client is participating and in compliance with the drug treatment and other services to which they were referred.

F-36. When the courts are made aware of violations of these rules, the form of treatment and supervision may be intensified or, in some cases, probation or parole may be revoked.

F-37. Speaking before the National Association of State Alcohol and Drug Abuse Directors in June of 2001, the Director of the California Department of Alcohol

¹³ Penal Code section 1210.1(a)

and Drug Programs, stated that Prop 36 was a “boon” to those who believe addiction should be addressed as a public health problem, adding that, “I could never have convinced our legislators to give me \$120 million for treatment and take [sentencing] discretion away from prosecutors and judges.” The manager of the California Department of Alcohol and Drug Program's Drug Court office, explained, “We got ourselves into trouble in drug courts because we overused incarceration as a sanction. That irritated drug-policy reform advocates, and led to Prop 36.”¹⁴

- F-38.** Prop 36 expressly prohibits incarceration as a condition of probation, but it expressly allows incarceration if probation is revoked.
- F-39.** A client's drug treatment information is normally protected by confidentiality laws. A defendant must waive confidentiality rights to allow treatment information to be shared with Probation in order to receive Prop 36 sentencing. This waiver of confidentiality rights relates to treatment participation, progress, and compliance as a court-ordered condition of probation. A defendant who does not agree to this term of probation will not be sentenced to Prop 36 probation. (Attachment I, #19)
- F-40.** When assessed, the defendant may be presented with forms titled, “Consent for Release of Confidential Information,” “Authorization for Use and Disclosure of Substance Abuse Records,” and “General Consent for the Release of Confidential Information.” These forms establish that treatment records are protected under Title 42, Code of Federal Regulations, Part 2, and cannot be disclosed without written consent. These forms explain that the disclosure of treatment information is to permit agencies to monitor compliance and progress. The forms also state that the purpose of the information disclosure may be to permit the modification or revocation for treatment non-compliance.
- F-41.** The Implementation Committee Report refers to a memorandum of agreement (MOA) that should contain the details of the confidentiality forms. The MOA is said to address the consents and notices required to comply with federal laws. The Jury attempted to locate this MOA but was unable to do so.

Probation versus Treatment Violations

- F-42.** Prop 36 establishes a clear distinction between drug-related and non-drug-related probation violations and defines how these two types of violations can be addressed in the courts.
- F-43.** Non-drug probation violations are processed in the same manner as non-Prop 36 violations. On hearing the facts of the case, a judge will rule on revocation or modification of probation. An arrest for a non-drug-related offense or a violation of a non-drug-related condition of probation can result in immediate revocation of probation and immediate incarceration.

¹⁴ Curley, Bob, "California Seeks Role for Drug Courts Under Prop 36." Join Together Online (<http://www.jointogether.org>), May 25, 2001.

- F-44.** Drug-related conditions of probation include abstinence from drugs, the drug treatment regimen, employment, vocational training, educational programs, and counseling.
- F-45.** Sanctions for drug-related Prop 36 probation violations fall within a three-tiered scheme, depending on whether the violation is the defendant's first, second, or third. The criteria used in making a ruling include the number of previous probation violations, the nature and impact of the current violation, and public safety concerns. When the courts record a probation violation, it is commonly referred to as a "strike" against that grant of probation.
- F-46.** The Prop 36 statute provides that, on the first violation of probation on a non-violent drug possession offense, a determination is made as to whether the defendant poses a danger to the safety of others. If not, a strike is recorded and the offender is returned to drug treatment. On a first violation, probation may only be revoked if the alleged probation violation is proved in a hearing and the state establishes by a preponderance of the evidence that the defendant poses a danger to the safety of others.¹⁵ Typically, though, the first probation violation will result in the court ordering the person into a more restrictive treatment program.
- F-47.** The statute states that, on the second violation of probation on a non-violent drug possession offense, if the probation is not revoked, a strike is recorded and the offender is returned to treatment, possibly more intensive treatment. On a second violation, probation may only be revoked if the alleged probation violation is proved in a hearing and the state shows by a preponderance of evidence that the defendant poses a danger to others or is unamenable to drug treatment.¹⁶ The probationer may be transferred to a more rigorous treatment program.
- F-48.** Finally, the statute provides that, on the third violation of probation on a non-violent drug possession offense, if the offense is proved, probation may be revoked and the offender sentenced to non-Prop 36 sanctions, which may include incarceration or drug treatment.
- F-49.** Prop 36 also permits the courts to discontinue Prop 36 services if a client is shown to be unamenable to any form of available treatment. On a third probation violation, even if it is not shown that a defendant poses a danger to the safety of others or is not amenable to drug treatment, the court has full power to revoke probation and impose a sentence of incarceration.¹⁷
- F-50.** "Only after three violations of a drug-related condition of probation does a defendant lose the protection of Penal Code section 1210.1, subdivision (a), which requires participation in a drug treatment program and prohibits incarceration as a condition of probation. Then, however, the court has the full range of options otherwise available in a probation revocation proceeding,

¹⁵ Penal Code section 1210.1(e)(3)(A)

¹⁶ Penal Code section 1210.1(e)(3)(B)

¹⁷ Penal Code section 1210.1(e)(3)(C)

including imposing a term of incarceration as a new condition of probation or lifting the stay on a previously imposed term of incarceration.”¹⁸

- F-51.** According to the statute, parolees are provided the same benefits and conditions as described for offenders on probation with one exception. Parolees only get one “excused” violation for drug use whereas probationers get two.
- F-52.** The State of California Department of Corrections Memorandum entitled, “Revised Procedures for Proposition 36,” dated September 16, 2002 confirms that a non-violent drug possession offense can result in a strike against the parolee’s grant of Prop 36 treatment. Exclusion from Prop 36 can result if the parolee meets the criteria for exclusion as outlined in the procedure and the law.¹⁹
- F-53.** According to numerous sources, in Ventura County there is no theoretical limit to the number of grants of Prop 36 probation an offender may accrue. Even though a non-drug violation can terminate Prop 36 probation, drug-related violations will not likely terminate probation.
- F-54.** The courts in Ventura County appear to hold the position that a probationer with two or more drug-related strikes must also be found “unamenable” to treatment in order to terminate Prop 36 probation. The voter information guide’s “Analysis by the Legislative Analyst” did include the wording, “an offender who had two or more times failed the drug treatment programs required under this measure, and who was found by the court to be ‘unamenable’ to any form of drug treatment, would be sentenced to 30 days in county jail.” However, the statute did not implement this particular wording.
- F-55.** Ventura County keeps offenders on probation when not statutorily mandated. Because of local policy, offenders can have multiple grants of Prop 36 probation. It is no longer an exception, but the rule that clients have multiple grants of Prop 36 probation.
- F-56.** The Second Year Report states, “The lack of custody sanctions available for violations of probation has resulted in Proposition 36 offenders accruing multiple Proposition 36 cases. The ‘three strikes’ law further complicates this. One Proposition 36 client may have four cases. They may receive strike one on the first case, strike two on the second and third cases, and strike three on the fourth case. Another client may strike out on Proposition 36, but pick up a new case and be eligible for Proposition 36 again.”
- F-57.** An article in the May 9-15, 2003 issue of LA Weekly, Bill Zimmerman of the Campaign for New Drug Policies stated his opinion of public drug policies, “You have to draft something that people are willing to support.” Zimmerman, who chaired the effort to implement Prop 36 in California, was quoted as stating, “With Proposition 36, for example, giving people more than two chances at treatment was a breaking point for the voters we polled. If we had written the law with more than two chances, we would have lost significant

¹⁸ People v. Davis, 104 Cal.App.4th 1443 (2003)

¹⁹ Policy No. 02-11

support. There's no point in spending millions of dollars on an initiative that's going to lose."²⁰

- F-58.** Treatment providers have the power to report to Probation a client who is non-compliant with the program rules. Non-compliance with treatment can be referred back to court, and hearings can follow the three-tiered scheme described above.
- F-59.** In contrast to the term “non-compliant,” if the treatment provider identifies the client with the term “unamenable,” Probation may take immediate corrective action. Probation may move the court to recommend an alternate drug treatment if it is believed that may improve the client’s outcome. If the treatment provider reports that the client is believed unamenable to any and all available treatment, Probation can move the court to revoke Prop 36 probation or remove the Prop 36 treatment term from probation.
- F-60.** The definition of “unamenable to treatment” is not clear in the statute and the term appears to present problems for local implementation. The Ventura County Proposition 36 Non-Compliance Policy describes “unamenability to drug treatment in that there has been a serious violation of rules, continues to refuse active participation, has repeatedly committed violations in program rules which inhibit their or others [sic] ability to participate or successfully complete treatment.” (Attachment II)
- F-61.** Treatment providers have stated that amenability can often be determined during or shortly after assessment. In addition, it was frequently stated by treatment providers that clients with severe mental health problems would not benefit from drug treatment until their mental health problems are addressed. These mentally ill clients are not considered amenable to drug treatment at the time they are presented for treatment, but they remain on Prop 36 probation while receiving mental health ancillary services.
- F-62.** The CAS staff do not to use the term “unamenable” and have indicated the term may be used by the courts.
- F-63.** BHD/ADP officials expressed to the Jury that, even though it can be used in the context of treatment prognosis, the term “unamenable” also has legal implications, and it would cost too much to be the test case. However, in the First Year Report prepared by BHD/ADP it is stated, “Some offenders are excluded, including those who refuse treatment and those who are found by the courts to be ‘unamenable’ to treatment.” The report also states, “There are sanctions for offenders found unamenable for treatment or who violate the conditions of probation or parole.”
- F-64.** A sheriff’s representative was asked about the term “unamenable” and responded that it was not a police term, but a behavioral health term. It was noted that the term might have been seen in the original legislation.
- F-65.** One member of the Oversight Committee stated that “unamenable” is a word the judge is allowed to use, but he is not aware of it ever being used.

²⁰ Domanick, Joe, “High on Justice, Lessons from Drug Court,” *LA Weekly*, May 9-15, 2003.

- F-66.** Another member of the Oversight Committee, when asked about “unamenability,” stated that, as used in the statute, “unamenable” has no meaning. That person added that it would only be used in the context of a contested hearing to exclude someone from treatment, expressing the opinion that no one is prepared “to go there,” and concluding that it was fairly easy to be removed from Prop 36 with non-compliance issues, by testing dirty, or not going to classes.
- F-67.** A BHD/ADP official stated with regard to the concept of unamenability that there are some people who use drugs and turn to crime to support their addiction; however, there are some people who are criminals who happen to use drugs. It might take a while for treatment providers to assess the criminality of the client.
- F-68.** One contract treatment provider stated that use of the word “unamenable” was not permitted by BHD/ADP or the judge.
- F-69.** One treatment provider believed he was professionally qualified to determine that a client was unamenable; however, he thought the courts were reluctant to go forward with the determination of unamenability based primarily on the opinion of the treatment providers without objective evidence to support the claim.
- F-70.** When one treatment provider was asked if he had unamenable clients, he stated that he did; however, he is only permitted to call them “non-compliant.”
- F-71.** Contract treatment providers stated that referred clients might have serious mental health problems that prohibit them from engaging in treatment. They state that many clients are serious, long-time criminals who exhibit the attitude that they are simply attending treatment classes to “do the time” until treatment is over or until they get picked up for another crime, whichever comes first. It is the stated opinion of some treatment professionals that these offenders should be considered unamenable to treatment.
- F-72.** Treatment providers in Ventura County must take all referred clients, regardless of their opinions of unamenability. Since Prop 36 inception, there have been significant threats as well as incidents of violence in the treatment sessions due to the high degree of criminality present in the treatment population.
- F-73.** It has been noted repeatedly that violent and disruptive incidents detract from the quality of treatment provided to those clients who are actively engaged in the treatment program.
- F-74.** Since the inception of Prop 36, no clients in Ventura County have been evaluated and recommended as unamenable to treatment, and there have been no revocation hearings for Prop 36 based on unamenability recommendations of contract treatment providers.
- F-75.** Non-compliant clients can be discharged by the treatment providers and returned to court for disposition. These clients will typically return to Prop 36 treatment.

- F-76.** In welcoming a discharged client back into treatment, BHD/ADP's Prop 36 "Program Reinstatement Agreement" form states that, "you are allowed few strikes until you are considered unamenable to treatment and subject to the full force of the law." Neither this form nor the non-compliance policy states how many strikes are allowed or what agency is responsible for making the determination that a client is considered unamenable to treatment.
- F-77.** The "Ventura County Proposition 36 Non-Compliance Policy" has a single offense that specifically applies to unamenability by heading: "UNAMENABLE TO TREATMENT WITH PERSISTENT NON-PAYMENT OF FEES." (Attachment II)
- F-78.** According to the Penal Code, "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."²¹
- F-79.** A California State Senate review of Prop 36 states, "treatment professionals acknowledge that persons in drug treatment are likely to make mistakes despite their best intentions. Such mistakes are part of the treatment process. This bill clarifies that a non-dangerous person should remain in treatment and on parole through his or her initial drug related violation. On a second violation, a person must be excluded from Proposition 36 treatment if unamenable to treatment or dangerous, however."²²
- F-80.** All queried members of the Oversight Committee advised the Jury that the problem with the concept of "unamenability" is that there is no case law and it has never been used.
- F-81.** In the "Making It Work!" technical assistance conference held in February 2003, a Sacramento County judge stated that he has had treatment providers conclude that certain clients are unamenable to treatment. The judge reported that, in those instances, he calls members of the treatment team into court to discuss the issues. Sometimes another treatment provider is willing to try working with the client, but in most cases, the judge goes along with the treatment team's recommendations. After 18 months of Prop 36 in Sacramento County, ten of 560 total clients had been reported as unamenable by treatment providers.
- F-82.** In the same "Making It Work!" conference, there was discussion with judges regarding dually diagnosed and mentally ill who may be potentially be found unamenable for substance abuse treatment. A judge in Santa Barbara County noted that it was possible to move "from one treatment modality to another,"

²¹ Penal Code section 1210.1 (e)(3)(B)

²² Senator Bruce McPherson, Chair, Senate Committee on Public Safety, "Drug Treatment for Non-Violent Drug Possession Drug Testing and Probation Revocation Standards," SB 223 (Burton), April 17, 2001.

and seriously mentally ill clients can be moved from Prop 36 court to mental health court.

- F-83.** There is judicial authority that expresses probation violations and amenability in these terms: “A defendant who violates probation by committing non-violent drug possession offenses is given two opportunities to reform. The commission of a third such offense, however, renders the defendant ineligible for probation.” This opinion goes on to note that, “Proposition 36 seeks to provide treatment only when an offender is amenable to treatment, and uses a defendant’s criminal history as a means of determining amenability. A first-time offender is conclusively presumed to be amenable to treatment. A second-time offender also is presumed to be amenable to treatment, but that presumption may be rebutted. A third-time offender is conclusively presumed to be unamenable to treatment and is ineligible for probation. For purposes of determining amenability to treatment, there is no reason to distinguish between persons who have tried and failed on probation prior to July 1, 2001, and those who have tried and failed on probation only after July 1, 2001.”²³
- F-84.** This same judicial opinion further states, “Proposition 36 was enacted to benefit the state’s taxpayers. Voters were told that the costs of incarcerating nonviolent drug offenders far exceed the costs of rehabilitating them, justifying the expense of rehabilitation. (See Voter Information Guide, Gen. Elec. (Nov. 7, 2000) Legislative Analyst’s analysis of fiscal effect of Prop. 36, pp. 24-25.) There are no cost savings, however, in prolonging the probation of defendants who have proven themselves unamenable to rehabilitation, and for whom incarceration is inevitable. Returning such a defendant to probation only postpones the costs of that person’s incarceration, while adding to the costs of maintaining the defendant on probation until he or she commits another crime.”
- F-85.** In a data “snapshot” of April 28, 2004, the Ventura County jails housed a total of 1,560 inmates. Of that total, 623 were sentenced prisoners (the remainder in pre-sentencing or pre-trial detention). Of those 623 sentenced inmates, 271 (over 43 percent) were serving a sentence for non-violent drug charges (possession, use, and under the influence) after failing various stages of court-ordered drug treatment. The sheriff’s department estimated that the cost of incarcerating a convicted drug offender is \$26,894 annually.
- F-86.** According to BHD/ADP, the average drug offender is sentenced to 60 to 90 days in jail. Based on the rates provided by the sheriff’s department, this would be a cost to the county of approximately \$6,700 per offender.
- F-87.** The sheriff’s department states that, after 60 to 90 days of abstinence and drug treatment classes, the offender typically leaves jail drug-free with probation terms to continue drug abuse treatment or Narcotics Anonymous meetings.

²³ People v. Williams, 106 Cal.App.4th 694; 131 Cal. Rptr. 2d 546 [Feb. 2003].

Ventura County Lead Agency and Oversight Committee

- F-88.** Prop 36 is a state mandate; however, its implementation and administration has been delegated to the individual counties of California. Each county develops customized treatment protocols and non-compliance sanctions based on penal code, evolving case law, offender demographics, treatment options, county resources, expert opinions and guidance, and local interpretation of voter intent.
- F-89.** DADP is the lead agency for California at the state level. Additionally, the state requires each county to designate a local lead agency to accept and administer the state funding.²⁴ The majority of counties designate Alcohol and Drug Programs or Behavioral Health as their lead agency. Other agencies selected include Health and Human Services, Probation, Health Care Administration, or the County Executive Office (CEO).
- F-90.** On February 27, 2001, the Ventura County Board of Supervisors designated the BHD/ADP as the county's Lead Agency for Prop 36.
- F-91.** On June 5, 2001, the "Report of the Proposition 36 Implementation Committee" (the "Implementation Committee Report") stated that, "As the designated lead agency, ADP will have the statutory responsibilities to: 1) coordinate the county plan; 2) provide or contract for drug treatment programs; 3) administer Prop. 36 funds; 4) coordinate data collection and quarterly reporting through existing DADP systems; and 5) coordinate evaluation of the services and treatment provided." The report also states that policy oversight would be "vested in a committee."
- F-92.** The Oversight Committee evolved from the Prop 36 Implementation Committee. There is no charter or procedural rules, but most members believe it is chaired by the Lead Agency (BHD/ADP) with the Prop 36 judge as possible co-chair. The BHD/ADP chair stated that any charter or rules would have been in existence before she joined. Although the meeting notification may contain an agenda, the Oversight Committee publishes no minutes.
- F-93.** According to the Implementation Committee Report, "the exact composition of the oversight committee was not agreed on...." This report also stated, "It was recognized that the treatment sessions and drug testing performed as part of treatment will provide significant levels of monitoring, and therefore the overall supervision and monitoring of drug offenders will increase through the combined efforts of Probation and ADP under the plan."
- F-94.** Prop 36 recommends substantial collaboration among criminal justice, treatment, and county administrators. In Ventura County, the Prop 36 Oversight Committee is composed of representatives from BHD/ADP Prop 36, the Ventura County Superior Court, office of the District Attorney, office of the Public Defender, Probation, and Parole. Prop 36 state guidelines refer to these representatives as "stakeholders." The sheriff's department and county executive officer have attended past meetings, but no longer attend.

²⁴ California Code of Regulations, title 9, division 4, chapter 2.5, section 9515(b)(1)(A)

- F-95.** Oversight Committee members who were interviewed by the Jury prior to April 28, 2004, stated that they were not sure if a vote were required to make a policy decision. Most stated that they thought a consensus or a vote was a requirement before a decision could be made. Members felt that the Prop 36 judge was very influential in the meeting and played the most significant role in shaping the county's Prop 36 policy.
- F-96.** The Implementation Committee Report stated that decisions are "reached by consensus through informal discussion." It did not state whether this would be majority consensus or absolute consensus. Oversight Committee members interviewed did not understand the procedure for overcoming a committee deadlock.

Client Assessment

- F-97.** At sentencing, Ventura County Prop 36 clients are ordered to report to the BHD/ADP's Central Assessment Services (CAS) within five days for assessment and placement in a treatment program. Some counties provide this evaluation while the client is still incarcerated or before they leave court. This is the client's first step in the treatment process.
- F-98.** The First Year Report stated concerns over the inability to place CAS in the Hall of Justice complex due to lack of office space. It was reported that, "It appears that earlier concerns expressed by program officials has [sic] not materialized," stating that, "following court referral, 86% percent [sic] or 2,709 clients scheduled appointments for assessment." However, "of those clients who scheduled appointments, 22% failed to show" for their appointment.²⁵
- F-99.** The Second Year Report tempers the optimism of the First Year Report and states that, during the first year, only 56 percent of offenders actually made it to the assessment center and, during the second year, the county improved that rate to 72 percent by changes in staffing and procedures. In the UCLA Report, 85 percent of offenders referred statewide were assessed. The county's goal for 2003-2004 is to increase its assessment average to match or exceed the state average.
- F-100.** The UCLA Report attributes three strategies with higher "show" rates at assessment: (1) placing Probation and assessment staff at the same location, (2) allowing "walk in" assessment, and (3) requiring only one visit to complete an assessment.
- F-101.** The appointment for assessment in Ventura County is made when a client contacts the Assessment Center, typically by telephone. Normal assessment appointments are available within a week, but when demand peaks, the wait for an assessment appointment has been much longer.
- F-102.** The First Year Report states that appointment scheduling may increase the target five days to as much as 14 days. CAS staff reported to the Jury that an

²⁵ 2,238 clients from Probation and 158 clients from Parole

assessment appointment might be made for up to three weeks after the call for appointment.

- F-103.** Following acceptance into Prop 36, a CAS addiction specialist conducts a clinical assessment to determine the treatment requirements, using the Addiction Severity Index (ASI) as the primary clinical client assessment instrument. The ASI is a semi-structured interview designed to address seven potential problem areas in substance abusing patients: medical status, employment and support, drug use, alcohol use, legal status, family/social status, and psychiatric status. This questionnaire is currently on the CAS computers, and the addiction specialist asks the questions and records the responses. (Attachment III)
- F-104.** The ASI is again used at the completion of treatment to determine improvements in evaluation criteria that may be attributable to treatment.
- F-105.** When asked how one could tell that treatment has had an effect on a client's addiction, the addiction specialists at CAS report that, when a client successfully completes treatment, the ASI will show significant improvements in overall scores.
- F-106.** Research has suggested that self-administered ASI tests, rather than clinician-administered testing, may elicit more honest responses about use of alcohol and other drugs.²⁶
- F-107.** Some participants are diagnosed as both mentally ill and seriously addicted. CAS staff reported referring about 25 clients per month into mental health evaluation, and approximately four to eight of those clients are diagnosed as seriously mentally ill. Mentally ill clients use additional county services to supplement drug treatment. It was reported by CAS staff that these mental health services were funded by Substance Abuse and Mental Health Services Administration (SAMHSA) grants.
- F-108.** In a July 29, 2003 letter to the Board of Supervisors, Prop 36 administrators stated that in FY 2002-03, over 2,290 clients were assessed and of those, more than 1,370 were referred to ancillary support services. More than 25 percent of clients (or more than 342) utilizing these support services were assessed as persons experiencing both mental illness and substance abuse problems commonly referred to as "dual diagnosis."
- F-109.** BHD/ADP staff as well as treatment professions stated that most of the "dual diagnosis" clients use drugs to self-medicate for mental health problems, and that drug abuse treatment can sometimes be effective after the mental health problems are addressed.
- F-110.** BHD/ADP staff relates that, of the more than 300 clients referred to mental health services each year, approximately 50 of these clients have severe mental illness.

²⁶ Rosen, Craig S., Henson, Brandy R., Finney, John W. & Moos, Rudolf H. (2000), "Consistency of self-administered and interview-based Addiction Severity Index composite scores".

- F-111.** The results of assessments and clinical evaluations are used to develop an Individual Treatment Plan for each Prop 36 client. If a client is inappropriately referred to a particular treatment program and is in need of a different level of treatment, it is the responsibility of the treatment provider to contact the CAS case manager to request a treatment adjustment.
- F-112.** CAS staff indicated that it is difficult to perform oversight function because Behavioral Health is blocked from viewing the criminal justice information relating to the Prop 36 offenders. Staff members stated concerns that, when a client does not show up for treatment, it may be because the client is in jail for another offense. CAS staff state currently they have no way to verify this possibility.
- F-113.** BHD/ADP reports that the Prop 36 offenders they have assessed are predominantly long-time, hard-core drug users and the costs of treating high-need offenders have significantly exceeded expectations of the legislation. In spite of the excessive costs, staff at the CAS do not consider this type of clientele a problem, because over 50 percent of the clients state they have never been given an opportunity to receive drug treatment before Prop 36.
- F-114.** The UCLA Report states that over 55 percent of clients statewide claim no prior drug treatment and the Second Year Report states that 50 percent of Ventura County clients never received treatment before Prop 36. The Jury questioned CAS as to whether the clients *never had the opportunity to experience treatment* or whether they *never had experienced treatment*. On two occasions it was again phrased by CAS staff that 50 percent of clients “never had an opportunity for treatment” before Prop 36. In the UCLA Report, no mention was made of the opportunities that may or may not have been presented for treatment.
- F-115.** There is a great deal of time that can pass during the sentencing, assessment, and placement process. The five-day grace period before calling the CAS and the potential three-week wait for assessment will be added to the possibility that a treatment intake class would not start until several days later. It could be well over a month before a client is first seen at treatment.
- F-116.** Over 60 percent of the probationers are unemployed. It is reported that the three most common methods for jobless drug addicts to support themselves and their habits are theft crimes, dealing drugs, and prostitution. Criminal justice commonly refers to the crimes of drug offenders as “stealing and dealing.” Local treatment providers mention gang-involved clients as well.
- F-117.** All treatment facilities indicated that drug addicts are experts at deception and manipulation. One treatment provider stated that an addict who cannot deceive and manipulate the people around him could not remain an addict for very long. Addicts survive by their wits and cunning. Treatment personnel admit that they must constantly be on their guard to keep up with their clients, and they are not always successful.
- F-118.** One treatment provider stated that the first person a drug addict lies to is him or herself and that when addicts sincerely state their intentions to turn their lives around, they actually believe it themselves.

- F-119.** Treatment provider staff stated that an offender's professed sincere declaration of the intent to get sober and stay sober is not necessarily a reliable indicator of amenability.
- F-120.** Criminal justice professionals stated that an offender's sincere declaration of the intent to get sober and stay sober is most likely an indicator of nothing more than the offender simply does not want to go to jail.
- F-121.** BHD/ADP officials reported that CAS staff training must be reinforced often so that their staff will not continue to give Prop 36 clients too many chances. Management related that in the past, when the Prop 36 clients make excuses about missed meetings or emergencies, the staff has had a tendency to believe what they are told, enabling clients to miss meetings or drug testing appointments without consequences.

Case Management and Information Systems

- F-122.** The Ventura County Information Systems Department (ISD) has developed a Case Management System (CMS) computer system for use by CAS in recording and tracking probationers through Prop 36 treatment. The CMS development began in September 2001, and the first of three phases was implemented in June of 2003. CMS is currently in use by all CAS case managers. BHD/ADP states that future phases will be introduced as needed.
- F-123.** Within 30 days of initial assessment, a treatment plan must be forwarded to the appropriate supervising agency, either Probation, Parole, or in the case of BHD/ADP-supervised conditional release probationers, the courts.
- F-124.** After a Prop 36 client is referred to treatment, the CAS case manager provides ongoing treatment oversight. The CAS has seven case managers, with one attending court on a daily basis. According to the Second Year Report, each case manager has a "growing caseload of 400 clients per worker." This would suggest that the total caseload of the CAS is approximately 2,400 clients.
- F-125.** Treatment providers are required to report on each client every 30 days. This reporting should include attendance, drug testing, and outside meeting attendance. Each month, the treatment providers submit the California Alcohol and Drug Data System (CADDs) information for each enrolled and discharged client and the Drug Abuse Treatment Access Report (DATAR). Every 90 days a detailed report is prepared by treatment providers, which includes program activities completed, clinical evaluation of client progress, and treatment recommendations.
- F-126.** At a minimum, the case manager is required to meet with the client every 90 days. CAS personnel report that case managers are in contact with the treatment providers' staff regarding various issues on an almost daily basis.
- F-127.** CAS assigns a staff member to visit the residential facilities on a "regular basis" to review records and inspect the facilities. This "regular basis" was undefined.
- F-128.** BHD/ADP provided the Jury with 49 paper forms that could be used at various stages of a client's treatment. More than half of the forms are to be used for all Prop 36 clients, and the remainder could be used as required. Ten of these

forms relate to privacy, confidential records release, and information disclosure issues.

- F-129.** The courts and criminal justice system maintains conviction and sentencing data in the Ventura County Integrated Justice Information System (VCIJIS). The CMS is not directly linked to the VCIJIS. Currently, client information is manually entered into the CMS from hard copy court records known as “Minute Orders.” Future plans for CMS include electronic transfer of client information from the VCIJIS court system into the system in batches on a regular basis, possibly once or twice a day.
- F-130.** Drug testing results are not currently stored in the CMS database. These results reside at CAS in a separate Microsoft® Access® database. Drug-testing records are not directly linked to the client’s case records and are not routinely accessed or reviewed until the client is sent back to the courts. There are plans to include the drug testing results in the client records in the CMS at some future date.
- F-131.** The complete client record is not typically compiled and reviewed until the client is to be sent back to court. At that time, BHD/ADP will access drug test records, attendance records, and any other pertinent treatment provider records to provide a report to Probation, Parole, or the courts.
- F-132.** While Probation is able to provide spreadsheet data on the total number of criminal histories researched each month and the total number of felony offenders processed each month, CAS states they cannot provide the number of conditional release offenders processed each month because that number “depends on other factors,” and that figure “changes all the time.”
- F-133.** CAS staff members enter attendance and drug testing information into the various computer systems, but there is no standard management-level report that automatically summarizes treatment, attendance, or drug test indications and trends across the entire client population. ISD states that no one in the BHD/ADP has requested such a report, and, in the absence of a specific requirement, ISD has not recommended that a report of this nature be produced.
- F-134.** The Second Year Report states four specific goals that rely on improvements to the current information systems. These goals include:²⁷
- Identify criminal justice data indicators (goal #2),
 - Compile data which track usage of ancillary support services (goal #9),
 - Complete Phase II of the CMS (goal #15), and
 - Provide interfaces between criminal justice, treatment providers, and other external systems to enable compiling and reporting of data, program management, mandated reporting requirements, and measure of outcomes (goal #16).

²⁷ The number in parentheses (#) after bulleted item is the number of the goal from original report.

- F-135.** BHD/ADP reports that they cannot yet hire a person to identify and track the criminal justice data indicators. This will probably take place at the beginning of the next FY after the county's layoff-displaced employees are identified.
- F-136.** According to BHD/ADP, development of an information system has been delayed many times due to lack of agreement among stakeholders as to what specific information to track and who should have access to the information. Privacy and confidentiality concerns are said to be a major impediment to acquiring and sharing client information. Behavioral Health reported to the Board of Supervisors in November 1, 2003, that various agencies "have been struggling with confidentiality rules and improving communication."²⁸

Treatment and Providers

- F-137.** A Prop 36 sentence will include treatment of up to one year, with an additional six months of "aftercare." Treatment may include outpatient treatment, halfway house (sober living) treatment, daycare habilitative, narcotic replacement therapy, drug education or prevention courses, or limited inpatient or residential drug treatment as needed to address special detoxification or relapse situations or severe dependence.
- F-138.** In Ventura County, services consist of a three-level system that increases in duration and intensity depending on the assessed severity of the participant's addiction (Attachment IV):
- Level I treatment provides up to six months of services (up to three months of treatment and up to three months of aftercare) consisting of between one and three hours per week. This level usually begins with two group meetings weekly for the first six weeks, and then one group meeting per week until the client completes the program. This level is indicated for clients who abuse drugs but may not have a serious addiction.
 - Level II treatment provides up to 12 months of services, consisting of six months of treatment and six months of aftercare. Level II treatment requires between three and nine hours per week, consisting of three group meetings per week for the first 12 weeks, and then gradually decreasing until recovery is stabilized. If needed, frequency of treatment can be increased. This level is indicated to treat addiction for the majority of Prop 36 offenders.
 - Level III treatment provides up to 18 months of services, consisting of 12 months of treatment with six months of aftercare. This level of treatment may include residential placement and intensive program work as well as additional outpatient client services. The requirement for residential treatment is assessed every 30 days, and sober living may be available after residential treatment is completed.
- F-139.** Assigned treatment levels are based on the client's assessed need. All treatment levels require attendance in at least two self-help groups per week.

²⁸ LA Times, "Success of Addicts Doing Treatment, Not Time, Questioned," November 10, 2003.

The 12-step programs such as Alcoholics Anonymous and Narcotics Anonymous are considered essential to the success of the clients and are attended by the majority of clients. Drug testing is currently a requirement for all levels of treatment.

- F-140.** Clients attend treatment classes and perform group exercises and homework assignments with the objective of repairing deficiencies in their judgment, behaviors, and thought processes.
- F-141.** According to BHD/ADP, Ventura County courts offer Prop 36 probation to approximately 250 to 300 drug offenders each month. Potentially another 25 to 75 violations of probation are also offered Prop 36 treatment. According to BHD/ADP, these numbers cannot be more specific because no agency is currently providing accurate tracking. BHD/ADP estimates that about 200 new Prop 36 clients are assessed and enter treatment each month. Several previous clients enter treatment each month as well.
- F-142.** Ventura County BHD/ADP presently contracts with eight community-based treatment providers for Prop 36 services. This number can vary based on the needs of BHD/ADP and the availability of providers. These treatment providers range from residential treatment, sober living facilities, training facilities, and outpatient services. Treatment providers working with Prop 36 clients must be licensed or certified by the California DADP.
- F-143.** Treatment professionals state that it takes most addicts at least three months of two classes a week to fully “engage” in the treatment process, and that the longer the client is engaged, the more likely that they can overcome addiction. Treatment professionals state that around six months into the treatment program, an engaged, moderately addicted client can begin to exhibit behaviors indicative of long-term success.
- F-144.** Ancillary support services may be provided under Prop 36, such as vocational training, mental health, anger management, wellness and health, family and individual counseling, education, domestic violence counseling, and literacy training.
- F-145.** The county currently contracts for 28 beds in residential facilities each month. This number represents an increase over the 17 beds contracted during the preceding FY. As the client mix is largely unpredictable, there are times when there is a waiting list, and there are times when there are vacant beds.
- F-146.** Due to the severity of addiction seen in the client population, BHD/ADP has increased the funding allocation for residential treatment (Level III) in the county’s FY 2004-2005 Prop 36 plan. This planned increase is from 8,497 to 10,038 bed days, or 18 percent.
- F-147.** The county pays the contract treatment providers a negotiated flat fee per client per treatment service. The client may be ordered, as a condition of probation, to pay a portion of their treatment costs directly to the provider, depending on their ability to pay. In practice, the treatment provider may or may not require the client to pay a portion of the treatment fees.

- F-148.** The demand for treatment services will fluctuate based on the number of clients who come to assessment. This number cannot be predicted with any degree of accuracy. The required services are determined during the assessment process, and the addiction level is not possible to predict before the client presents for assessment. A particular required service might have a waiting list of several days before a treatment opening is available, especially with regard to residential beds. Generally, however, the number and types of services available through treatment providers are considered adequate based on the demand for services.
- F-149.** Residential treatment providers commented that the county typically underestimates the length of time a client should spend in a residential treatment facility, only making an initial referral for 30 days. Once the client is in residence, the treatment providers make a recommendation to the county to extend the treatment, and the county usually agrees to the longer term.
- F-150.** One residential treatment facility stated that, once maximum allowance of Prop 36 services is completed, treatment staff members have helped their clients apply for other programs such as Medi-Cal or private insurance to help their clients remain in treatment. They explained that some of their clients are unable to remain sober without ongoing supervision.

Citizen Complaint Regarding Contract Treatment Provider

- F-151.** Subsequent to initiation of the present Prop 36 inquiry, the Jury received a citizen complaint from a Prop 36 client alleging, among other issues, verbal abuse, harassment, and erratic mood swings exhibited by a staff member of a residential treatment center. Because of the nature of the complaint and apparent personal relationships among the staff, the Jury understood the complainant's decision not to make an ineffective complaint directly to the treatment provider.
- F-152.** Contract treatment providers can, and often do, include recovered substance abusers. Clean and sober addicts, trained as professional addiction specialists and counselors, bring special skills and insight to the recovery process. Their contributions to treatment are considered invaluable.
- F-153.** The Jury found that the subject of the complaint on occasion does act in the way described by complainant.
- F-154.** The Jury found that at least once in the past, a treatment-provider staff member had relapsed.
- F-155.** The licensing conditions as well as the contracts with all community-based treatment providers specify the requirement for a drug-free workplace.
- F-156.** BHD/ADP officials state that, if there are no service delivery problems, contractor treatment providers cannot be held to specific standards of sobriety.
- F-157.** A BHD/ADP official was questioned about the possibility of more involved inspections and more frequent or random visits to the contracted treatment facilities in the future. The response from BHD/ADP was that this may happen; however, the contracts are specific about times and frequency of those visits, so it may not be possible to monitor as closely as BHD/ADP would want.

- F-158.** BHD/ADP officials report a close working relationship with the contract treatment providers and staff members, primarily by telephonic contact. CAS case managers receive the majority of their client status information directly from the treatment provider staff; however, face-to-face contact with the clients is approximately every 90 days.
- F-159.** All clients are provided the “Policy on Client’s Rights” during their initial orientation. This one-page form states that each person receiving services shall have the right “to be free from verbal, emotional, and physical abuse and/or inappropriate sexual behavior.”
- F-160.** Clients experiencing problems are advised to attempt to resolve the matter through discussions with their counselor, counselor’s supervisor, or program manager. There is also a client advocate within BHD/ADP for problems that cannot be resolved through other means.
- F-161.** The Jury’ found that the County had the right under its agreements with the treatment providers to make periodic inspections at the contractors’ premises at all reasonable times, with or without prior notice.

Treatment Factors and Measures of Success

- F-162.** According to SATTF, in addition to drug treatment services and department administration, Prop 36 funds are allowed for increasing collaboration and coordination among stakeholders to “demonstrate that substance abuse treatment has a positive effect on public safety.”²⁹
- F-163.** The Implementation Committee Report stated, “All agreed that program evaluation is an important part of Prop. 36. Unfortunately, this aspect of the program has received little attention from the committee to date.” The report went on to state that, “careful attention should be paid to the ongoing development of a data collection system.... Our program should be...able to provide meaningful data on program completion, recidivism, and individual treatment providers to make appropriate adjustments in our overall implementation plan.”
- F-164.** All stakeholders agreed that there are significant individual success stories within the Prop 36 program. CAS and BHD/ADP admit there are not as many successes as they would like, but the successes they do have are encouraging.
- F-165.** It is the expert opinion of peace officers and prosecutors that the rise in crime in Ventura County over the past two to three years can be at least partially attributed to a greater number of Prop 36 offenders who remain out of jail and are therefore enabled to use drugs while in treatment. This opinion is reportedly supported by anecdotal reports of Prop 36 probationers in treatment.
- F-166.** BHD/ADP officials reported to the Jury that the office of the District Attorney has no statistics to prove that any rise in crime can be attributed to Prop 36 clients; however, the office of the District Attorney continues to state these

²⁹ Op. cit. supra, at FN 23, section 9510.

beliefs along with the assertion that the substantiating statistics will eventually be collected when BHD/ADP releases the Prop 36 funds required to hire a statistician.

- F-167.** The Second Year Report states that, “a second focus of these work groups is to develop methods that lead to increased reporting of both crime data and status of offenders participating in Proposition 36 services, while observing and complying with the regulations of individual privacy.” Within the statute, the term “successful completion of treatment” is defined such 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.”³⁰
- F-168.** Some of the data indicators that criminal justice stakeholders would like to see are
- Numbers of clients who complete Prop 36 treatment and who also have avoided further law enforcement interventions.
 - Tracking of Prop 36 “successful” and “satisfactory” completions who are still on probation and who test positive for drugs.
 - Number of clients who complete Prop 36 treatment and who have been re-arrested on any offense.
 - Individual tracking of drug usage and attendance statistics.
- F-169.** In the statewide advisory group meeting for Prop 36 held on February 6, 2004, it was noted that statistics used to evaluate the program would be influenced by the fact that some counties have a “more rigorous definition of ‘completion.’” This group placed an item on the next agenda addressing the definition of “success in treatment.” Determination of completion is currently at the discretion of the counties.
- F-170.** The Jury asked a contract treatment provider how they can determine if a client has completed the program and can be considered “not likely to use drugs in the future.” The response was that no one can guarantee the client will not use drugs in the future, and the county does not give the treatment providers the discretion to subjectively evaluate completion. Clients who successfully complete treatment do so based on the terms of the current county standard, and the county standard can be changed, not necessarily because of medical reasoning, but because of what the county can afford.
- F-171.** A contract treatment provider expressed that, if the county could send fewer clients, those with treatable addictions and fewer criminal behavior problems, the treatment providers could have more successes that are meaningful.

³⁰ Penal Code section 1210(c)

- F-172.** BHD/ADP reports that Prop 36 drug offenders have used drugs for a longer time and are more seriously addicted than anticipated when the legislation was passed.
- F-173.** “Best practices” in addiction treatment is a continuously evolving subject. According to the most recent best practices in use by Ventura County treatment providers, long-term treatment is required to prevent relapse. However, the one-year statutory limit of Prop 36 probation does not allow for much discretion in extending the year.
- F-174.** Even though the law specifies a 12-month maximum for treatment with a six-month aftercare provision, BHD/ADP states that most serious drug offenders should be treated as having a chronic disease such as diabetes, hypertension, or asthma. BHD/ADP states that these diseases may be controlled with treatment, but if treatment is discontinued, the results are often unfavorable. The Jury was informed that there is no such thing as a “cure” for addiction and the goal of BHD/ADP is to keep clients in treatment as long as possible.
- F-175.** Presenting the disease model of addiction, BHD/ADP professionals make the point that doctors will not kick a patient out of medical treatment if their diabetes, asthma, or hypertension medications fail to control their diseases. They state that addiction treatment can be as effective as these other medical treatments if provided for a long enough period of time.
- F-176.** BHD/ADP officials explained that many people, “a large number,” are not successful in treatment the first or second time. They stated that it might take several times, possibly three, four, or even five times through treatment before it will work. On being asked if clients can achieve recovery on the second, third, or fourth grant of probation, one BHD/ADP official stated that they might.
- F-177.** The non-compliance policy states that, “a client’s progress shall be monitored by the assigned program provider and Case Manager in a sufficient manner. Violations in compliance shall be reported to the Court.” There are neither guidelines nor a definition of “sufficient manner.” (Attachment II)
- F-178.** In the Second Year Report, Ventura County reports as accomplishments that it has “been able to get 90 percent of the clients assessed into treatment. The statewide number for the first year was 81 percent. Ventura also exceeded the state in the percent of clients remaining in treatment at 90 days.” At 90 days, 92 percent of Ventura County clients were still in outpatient treatment versus 65 percent statewide. BHD/ADP characterizes the 92 percent figure by stating, “Proposition 36 participants in Ventura County appear to have an edge over their counterpart s[sic] from other counties.”
- F-179.** An Oversight Committee member was asked about the county clients’ apparent lack of success despite assertions from BHD/ADP that the program is successful. He answered that the county is dealing with clients who lack a sense of responsibility and have a hard time just getting to treatment. He added that there was even an attempt to pick clients up and drive them to the treatment just to make sure they get there. He stated that many of these clients are not able to keep a treatment schedule and that many of the clients

are so scattered they cannot be expected to get to class twice a week. Giving the reason that these clients don't function well on their own, he concluded that lots of clients are failing.

- F-180.** Under the current funding allocation model, BHD/ADP receives their Prop 36 funding based on the number of clients in treatment.
- F-181.** The case manager is required to fill out a "Satisfactory Completion of Treatment"³¹ form when the client completes treatment (Attachment V). The form states the terms of treatment completion as follows: "There is reasonable cause to believe that the *client will not abuse controlled substances* in the future, *providing* the following relapse-prevention plan is followed: (1) The *client abstains from all psychoactive (mood altering) drugs*, unless prescribed by a physician...." [Emphasis added.]
- F-182.** BHD/ADP cannot provide specific numerical data regarding the success or failure of treatment. BHD/ADP personnel are vague, citing the fact that Prop 36 is a "new program," even though it has been nearly three years since the first offenders were referred to treatment. From the best indications the Jury can obtain, it appears that approximately 200 to 300 new and repeat clients enter the Prop 36 pipeline each month. Although it has been reported that 10 to 30 clients will complete treatment each month, CAS management reports that, as of May 2004, only 59 total clients since program inception have received the "Satisfactory Completion of Treatment" form and had their records expunged by the court. Of the "satisfactory" completions, there is no evidence that BHD/ADP tracks recidivism rates.
- F-183.** A senior BHD/ADP official was asked to comment on the fact that, with the exception of BHD/ADP, everyone the Jury has asked about Prop 36 expresses disappointment in the lack of success. It was stated that, "You have to be careful who you ask." This was followed by, the "District Attorney and Probation are mostly interested in public safety," and they have concerns even though those concerns are not backed up by data.
- F-184.** A member of the Oversight Committee stated that BHD/ADP goes before the Board of Supervisors with "hand-picked success stories," but that is not the reality of Prop 36.
- F-185.** The Jury repeatedly asked the question of how many Prop 36 clients have completed treatment without re-offending or being re-arrested for drug charges again. The Jury was told by CAS management that there is no way of determining this number because those types of statistics are not being or cannot be tracked.
- F-186.** Information collected within the state after implementation of Prop 36 shows that about 50 percent of offenders are methamphetamine users. According to the First Year Report, drug tests administered during assessment in this

³¹ BHD/ADP officials mentioned frequently that this is "satisfactory" as differentiated from "successful" completion of treatment.

county show that as many as 48 percent of referrals tested positive for methamphetamine usage.

- F-187.** Symptoms exhibited by methamphetamine users can include “violent behavior, anxiety, confusion, and insomnia. They also can display a number of psychotic features, including paranoia, auditory hallucinations, mood disturbances, and delusions.... The paranoia can result in homicidal as well as suicidal thoughts.” Methamphetamine use causes “functional and molecular changes in the brain.”³²
- F-188.** As a public health issue, injection drug use is the fastest growing risk factor for the spread of HIV in the United States. Individuals who inject methamphetamine are at increased risk of HIV/AIDS and hepatitis B and C.³³

Drug Testing

- F-189.** Judges can order drug testing of Prop 36 offenders. Based on SATTA guidelines, this drug testing can be required as a condition of probation and shall be used as a treatment tool.³⁴ Treatment providers, Probation, court staff, or contract testing services may perform drug testing.
- F-190.** During assessment, the client is presented with a “Client Consent Form, Drug Testing” which states, “I acknowledge that recurrent confirmed positive drug tests may be grounds for dismissal from treatment.”
- F-191.** The client “Warning Notice” form states a category of non-compliance with the treatment program as, “Excessive positive drug tests.” There is no clarification of the term “excessive,” and BHD/ADP personnel report that it depends on subjective factors.
- F-192.** Penal Code section 1210.5 states: “In a case where a person has been ordered to undergo drug treatment as a condition of probation, any court ordered drug testing shall be used as a treatment tool. In evaluating a probationer's treatment program, *results of any drug testing shall be given no greater weight than any other aspects of the probationer's individual treatment program.*” [Emphasis added.]
- F-193.** BHD/ADP maintains that drug test results are not required by law to be shared with Probation, frequently erroneously stating to the Jury that the law requires drug testing to be used for “treatment only.” It was also stated that Probation has a tendency to arrest people who continue to use drugs during treatment. The First Year Report states that, “The reduction in positive drug tests is largely attributed to the frequent testing of all offenders while in treatment.”
- F-194.** The Second Year Report states that, “Data over a two year period indicates that frequent and sustained drug testing of Proposition 36 offenders reduces

³² Methamphetamine Abuse and Addiction,” National Institute on Drug Abuse Research Report Series, NIH Publication Number 02-4210, Reprinted January 2002.

³³ Op. cit. supra, at FN 30.

³⁴ Penal Code section 1210.5

drug use when offenders remain in treatment. With offenders testing more than two times per week, including random testing once a client has reached the aftercare phase of treatment, clients have tested positive only 21 percent of the time once engaged in treatment.”

- F-195.** For comparison purposes, statistics from traditional (non-Prop 36) Drug Courts indicate that approximately 10 percent of participants test positive for illicit drugs during treatment. In Ventura County Drug Courts prior to Prop 36, approximately nine percent of urinalysis tests during the first eight months in treatment were positive.³⁵
- F-196.** The Second Year Report further states, “Current funding is considered insufficient for a sustained frequency level of testing believed necessary to achieve demonstrated results or even further reduce the number of persons who test positive,” and, “Research has shown that drug testing in conjunction with treatment services renders a therapeutic outcome for program clients.”
- F-197.** A senior BHD/ADP official stated that members of the Oversight Committee have requested random drug testing. He stated that research has shown random drug testing is not necessary when clients are tested twice a week on a regular schedule. He added that random testing could be warranted when there is no such system of frequent regular testing. He concluded that, based on the policy of twice-weekly drug testing, this county does not need random testing.
- F-198.** Survey data gathered from several California counties indicate that drug test results are frequently submitted to Probation and the courts in a timely manner. Other treatment information provided to the criminal justice system includes program attendance, employment, education, cessation of illegal activities, use of free time, relationships, debt payments, and responsibilities.
- F-199.** According to the Second Year Report, drug testing in Ventura County “is considered a treatment tool and is used to support treatment outcomes.” It is further stated that, “drug testing provides objective and immediate feedback to both clients and treatment staff. When administered in a therapeutic manner, drug testing assists in making appropriate clinical decisions around relapse prevention and positive reinforcement for targeted behavior (e.g., staying clean and sober).”
- F-200.** During the Jury’s inquiry, revised drug testing and attendance protocols were submitted for review to the Oversight Committee. There were several meetings to discuss and address these new procedures, but there was no agreement and no common ground for compromise. Some highlights of the proposed drug testing protocol (Attachment VI) are
- “A defendant who has submitted a positive drug test should remain in treatment, whether in the current regimen or intensified treatment.”

³⁵ Belenko, Steven, Ph.D., “Research on Drug Courts: A Critical Review,” The National Center on Addiction and Substance Abuse (CASA) At Columbia University, June 1998.

- In the first 30 days of treatment, testing will be conducted a minimum of one time a week. However, treatment providers will have the discretion to “adjust the number of tests up or down.”
- “The first 30 days of testing will not be reported to Probation or the Court.”
- After 30 days, testing will occur typically twice per week. Providers will have the discretion to decrease or increase testing on an individual case-by-case basis as needed.
- Providers must remain within their testing budget.
- Any client considered for completion of treatment must have a minimum of 30 days of negative tests. If a client tests positive at their exit appointment, the client will remain in treatment for 30 days of negative tests.
- In addition, the drug testing protocol excludes consideration of positive tests for marijuana. (This document refers to a separate protocol addressing usage of marijuana.)

F-201. On April 8, 2004, the Jury asked the Oversight Committee what would happen if the committee could not reach an agreement on the proposed protocol. It was authoritatively stated that the original protocol would remain in effect. It was explained that the original protocol was developed for the initial implementation of Prop 36, and it did not have the input of the treatment providers. The jury was also advised that the treatment providers have proposed the new protocols, although other evidence indicates that not all treatment providers were consulted.

F-202. In their regular meeting on April 28, 2004, BHD/ADP informed Oversight Committee members that the new protocol was being adopted and would be placed in effect on July 1, 2004. This was done reportedly without a vote and over the reportedly strenuous objection of public safety stakeholders. One member stated that BHD/ADP expressed the attitude that they were in charge and had to make a decision because the committee would not agree.

F-203. On May 7, 2004, the Jury was informed that the new treatment protocols had been adopted and were being implemented as proposed, effective on July 1, 2004. The proposed protocol was revised to remove the phrase, “The first 30 days of testing will not be reported to Probation or the Court.” However, in a later revision of the protocol which committee members stated they did not receive, an additional term was added, “Clients on the waiting list for residential treatment will not be sanctioned or non-complied for positive tests while waiting for an available bed.”

F-204. The Jury contacted several members of the Oversight Committee for comment. Most members expressed surprise that one member agency could make a unilateral decision. Members also stated that they were not sure why they were asked to come to the meetings if their inputs and opinions were not to be considered. More than one member stated that the judge’s influence in the committee allowed BHD/ADP to implement the proposed protocol.

- F-205.** A senior BHD/ADP official stated that the treatment providers require the discretion to adjust the drug testing schedules to reserve their budget for those clients requiring more testing. He stated that when a client is working in the program and engaged in the treatment process, that client does not use drugs. The treatment providers can tell if the clients have started using drugs again, and testing them frequently is a waste of assets.
- F-206.** A treatment provider notes that clients have completed the program to the accepted standards of BHD/ADP, and when they took graduation drug tests, some tests came back positive for illegal drugs. This treatment provider stated the opinion there was not enough drug testing in the BHD/ADP protocols.
- F-207.** When asked about the new protocol and the effects on the frequency of drug testing expected in the next FY, the answer from a BHD/ADP official was that it could go up, explaining that the drug test protocol is a minimum standard for testing and reporting, and that treatment providers will now have the option to increase the amount of testing performed.
- F-208.** Having been informed that the treatment providers had written the proposed drug testing protocol, the Jury contacted a major treatment provider to verify this information. According to the provider, they were told about the new protocol, but they did not write it or even recommend it. It was believed by this treatment provider that there is not enough drug testing in the new protocol and there would be very little accountability.
- F-209.** Additionally, it was noted by one treatment provider that, no matter how many clients were referred to treatment, the drug-testing budget was to remain fixed. This would mean that there would be fewer tests per client when there were more clients enrolled. The treatment provider expressed the opinion that the new drug testing protocol was a financial business decision rather than a treatment decision.
- F-210.** A senior BHD/ADP official stated that the new protocol provides more flexibility to reduce testing in the first 30 days. He stated that this decision was necessary because the testing budget is limited. He added that it makes no sense to use your drug testing budget when you know the clients are likely to test positive. He emphasized that this is a good business decision.
- F-211.** The First Year Report states that offenders reduced drug use from 46 percent at the time of assessment to 15 percent after entering treatment.
- F-212.** The Second Year Report states that offenders reduced drug use from 48 percent at assessment to 21 percent after entering treatment. This was six percent worse than the prior year.
- F-213.** The current average cost of a urine test is \$8.27. Table 1 shows that, during this FY to date, the county has performed an average of 1,732 tests per month at all locations (the average through February was 1,656 tests per month, but March experienced a 40 percent increase over this average).
- F-214.** While drug testing may not be used as the sole or even primary assessment of compliance, all treatment providers have reported that testing is a valuable

treatment tool to improve a client's motivation to remain sober, especially in the early stages of treatment.

Month	Drug Tests Administered	Cost
July	1,802	\$14,902.54
August	1,592	\$13,165.84
September	1,565	\$12,942.55
October	1,665	\$13,769.55
November	1,525	\$12,611.75
December	1,664	\$13,761.28
January	1,692	\$13,992.84
February	1,750	\$14,472.50
March	2,337	\$19,326.99
Total YTD	15,592	\$128,945.84
YTD Monthly Average	1,732	\$ 14,327.32

Table 1. FY 2003/04 Monthly Drug Tests

- F-215.** Probation maintains data on every supervised Prop 36 client. They provided the Jury with specific numbers of cases managed and clients supervised per month, violations filed, drug testing (non-Prop 36), revocations, incarcerations, and successful completions.
- F-216.** When frequently asked about client counts or statistics, BHD/ADP officials consistently prefaced their responses with the disclaimer, “it depends,” and proceeded to explain why numbers do not tell the entire story. A BHD/ADP official allowed that there might be an average of between 450 and 500 “active” participants in the treatment programs at any given time, and stated that approximately another 40 percent (approximately 180 to 200) are considered “lost” from the program, referred to as “on the tarmac.” A lost participant could be in jail or could have absconded from the program. In any case, BHD/ADP stated they have no way of knowing the status; however, after 30 days “on the tarmac,” the treatment provider may report the client as “discharged” from treatment.
- F-217.** Since only the attending participants can be drug tested, the 20,000 annual drug tests average three to four tests per client per month, or less than one test per week. During the Jury’s inquiry, the February drug testing frequency went up considerably and the March drug testing went up by more than 30 percent over February. Treatment providers also stated that they were processing a large number of program completions “in the last month or two.”
- F-218.** Of note was the revelation that past reporting of “thousands of clients” was in reality a fraction of that number due to reporting inconsistencies. Apparently, the 25 percent of the state funding was allocated to counties based on the number of drug offenders in the county, and BHD/ADP policy was to count each referral and re-referral of the same client as a separate “offender.” However, when trying to reconcile the number of drug tests to the number of

offenders, the Jury noted that the stated protocol of two drug tests per week and the actual number of drug tests paid for by the county would result in less than a single drug test per month per client.

- F-219.** The Second Year Report states that on July 1, 2003, there were 1,044 clients assigned to Prop 36 supervision. The same report stated that offenders were tested “more than 2 times per week.” According to the drug testing spreadsheet prepared by CAS management (summarized in Table 1), there were 1,802 drug tests administered in July 2003. Even after adding the 124 random drug tests administered by Probation in July of that year, the average number of drug tests per week is still less than 0.5 per offender. If it is assumed that 40 percent of the 1,044 clients were “on the tarmac,” only 626 clients remained to be tested, raising the weekly rate to less than 0.72 tests per offender.
- F-220.** Treatment providers state that drug testing can be a valuable test if the results are immediate and the sanctions follow quickly. They note, however, that it can sometimes take up to two weeks to obtain the results of a drug test. Currently three consecutive or five total positive drug tests are required before a client is considered non-compliant and reported. It could take many weeks to recognize and report a client with a problem. During that time, the client’s addiction and behaviors may be unchecked and out of control.
- F-221.** One treatment provider commented that Ventura County’s 21 percent dirty drug tests was an extremely high number for clients who were actively in treatment. In other treatment programs, the rate is very low, as little as three to six percent. It was speculated by a treatment provider that the county numbers were so poor because there were no significant sanctions available to offenders who use drugs in the program. The federal programs are virtually drug free because drug use is not tolerated and sanctions back up this policy.
- F-222.** The 1998 drug court review referencing Ventura County Drug Court stated that, in general, drug court participants average 10 percent positive drug tests and probation-supervised offenders without Drug Court average 31 percent positive drug tests.³⁶
- F-223.** Client fees are charged for drug testing in some counties and express their belief that charging helps engage the client in his or her own treatment. For example, Kern County charges clients \$13 per week for random drug testing.³⁷ Ventura County encourages clients to pay what they can afford.
- F-224.** There are presently new drug test screening devices that can reduce the cost of drug testing and allow for more frequent testing. The PassPoint™ eye scan is self-administered in 30 seconds and can be used to pre-screen a client to determine if urine testing is necessary. The system has a fixed GSA price of \$3,500 per month, and with a frequency of testing of 1,000 tests per month at each location, the cost will average less than \$3.50 per test. Increasing the number or frequency of testing does not increase the \$3,500 cost per month.

³⁶ Op. cit. supra, at FN 33.

³⁷ “Making It Work! 2004” Conference in San Diego, February 4-6, 2004.

Additionally, test results are in the device's database and can be directly transferred to the case files, saving data entry time and effort. Other similar devices are also available.

- F-225.** In addition to screening, a hair follicle test is available to determine what drugs a client has taken for approximately the past 90 days. A hair follicle test costs approximately \$160.

Policy and Rationale

- F-226.** BHD/ADP states that coerced treatment is not effective for many drug offenders. Current efforts are underway to implement “motivational interviewing” techniques to change the recalcitrance of drug offenders’ motivation for change. Professionals state that, typically, long-term drug offenders can state many reasons why treatment will not work for them, or why they do not wish to receive treatment. Internal motivation for the client is the goal of motivational interviewing.
- F-227.** In the Prop 36 “Making It Work! 2004” conference in San Diego, the Director of the National Drug Court Institute reported that, “Coercion is a nasty word in our vocabulary but it does not need to be, because it serves a purpose.... It can keep a client in treatment long enough for recovery to take place and can reduce the number dropping out.” Research indicates that an offender who is coerced to enter treatment by the criminal justice system is likely to do as well as one who volunteers.³⁸
- F-228.** The use of sanctions in Drug Court, including the viable threat and use of jail time, has been viewed as instrumental in the changed behavior among Drug Court participants. Sanctions are most effective in reducing drug use and criminal behavior when they are immediate or of increasing severity and predictable.³⁹
- F-229.** Prison-based drug treatment programs with community-based aftercare have been shown to significantly decrease recidivism. The “Delaware Model” shows that re-arrest probability can be reduced by 57 percent and likelihood of returning to drug use can be reduced by 37 percent.⁴⁰
- F-230.** In the “Making It Work!” technical assistance conference held in February 2003, Sacramento County reported a “carrot and stick” approach to give offenders chances. “Sanctions or interventions might include sitting in the courtroom for eight hours, or doing community service.” Offenders may be required to attend 12-step meetings on a daily basis or “be ordered to move if they are living with an addict.”

³⁸ Hubbard, R., Marsden, M., Rachal, J., Harwood, H., Cavanaugh, E., and Ginzburg, H., “Drug Abuse Treatment: A National Study of Effectiveness,” Chapel Hill: University of North Carolina Press, 1989.

³⁹ National Drug Court Institute, “The Critical Need for Jail as a Sanction in the Drug Court Model,” Vol. II, No. 3, June 2000. (<http://www.ndci.org/publications/EffectiveSanctionsFactSheet.pdf>).

⁴⁰ NIDA InfoFacts, “Drug Addiction Treatment Methods,” National Institute on Drug Abuse, (<http://www.nida.nih.gov/Infofax/treatmeth.html>).

- F-231.** BHD/ADP states in the First Year Report that Ventura County's use of "therapeutic jurisprudence" results in the "application of sanctions and treatment services in a coordinated manner for the benefit of the offender and ultimately a successful outcome." There is no mention of the types of sanctions used under Prop 36.
- F-232.** All of the stakeholder representatives acknowledge that becoming addicted was not the intent of any drug user, and that addiction is a relapsing disease.

Intended Populations

- F-233.** Prop 36 offenders can be characterized based on the level of drug addiction and the level of criminality. Both factors play a role in determining treatment options and criminal justice oversight.
- F-234.** There is general acknowledgement that Prop 36 was and still is intended for the first- and second-time, non-violent drug offender. BHD/ADP has reported that many of their clients do not fit the intended profile, based on either level of addiction or criminal history.
- F-235.** On the State of California DADP website there are informational flyers and brochures available for Prop 36. There are two reference documents with essentially the same information. The first document is dated January 2003 and states that, under Prop 36, "first or second time non-violent adult drug offenders who use, possess, or transport illegal drugs for personal use will receive drug treatment rather than incarceration."⁴¹
- F-236.** The second document is dated January 2004. In this new document, in the text quoted above, the phrase, "first or second time non-violent drug offenders" was changed to "most non-violent adult offenders."⁴²
- F-237.** Both of these documents state that, "The courts may sanction offenders who are not amenable to treatment."
- F-238.** Based solely on the level of addiction, the UCLA Report highlights the counties' perceptions that offenders are not the population expected and states that those perceptions are not based on fact. "In summary, SACPA treatment clients were similar to other treatment clients in California and the United States on most indicators of drug problem severity and co-occurring mental disorder, although mental illness may be less common among SACPA clients than other clients."
- F-239.** There is general agreement that the level of criminality of Prop 36 clients was largely unexpected.
- F-240.** Treatment providers in Ventura County report that they do not receive the criminal histories of the clients who are referred by BHD/ADP. In contrast, clients referred from federal agencies come to treatment providers with a

⁴¹ California Alcohol and Drug Programs, "SACPA Brochure" (http://www.adp.cahwnet.gov/SACPA.pdf/P36_Brochure_Jan2003.pdf), January 2003.

⁴² California Alcohol and Drug Programs, "SACPA Fact Sheet" (http://www.adp.cahwnet.gov/FactSheets/Substance_Abuse_and_Crime_Prevention_Act_of_2000.pdf), January 2003.

criminal history information sheet to inform the providers of the client's background and alert them to potential problems.

- F-241.** County treatment providers state that they will often learn of a client's history through self-disclosure or after a violent incident occurs. These providers have learned that many of their clients have extensive criminal histories that can include violence, property crimes, gang involvement, prostitution, and drug dealing. It is the stated opinion of treatment providers that some of the Prop 36 referrals are capable of predatory crimes.
- F-242.** In March 2002, San Diego hosted the second annual "Making It Work!" technical assistance conference on Prop 36. In the proceedings of this conference, the Director of the California DADP, stated that, "What we are seeing in SACPA are clients who have severe drug histories, serious physical health problems, and extensive criminal justice backgrounds. To some people this is a surprise; to others it was fully expected."
- F-243.** The Director of DADP further stated that, "Early experience is indicating that more felons are participating in the program than were expected." She observed that some offenders are choosing to enter into the least demanding course for treatment. "Diversion laws are still on the books," she said, "and it is unlikely that a misdemeanorant would want to plead guilty to a felony and sign up for a year and a half of SACPA treatment that is court and probation-supervised when a less demanding alternative [Prop 36] is open. So, yes, individuals who are eligible are opting for lesser programs. I do not think there is a judgment to be made on that other than an understanding that there are other laws on the books."
- F-244.** The Director of the National Drug Court Institute, speaking before the "Making It Work! 2004" conference, stated that, "From 1979 to the present, the number of drug and alcohol users in the United States declined by 45 percent, but the percentage of crime related to substance abuse has spiraled upward.... The social scientists say we are a nation of fewer addicts and fewer users but those addicts and users are more harmful and destructive than ever before."
- F-245.** BHD/ADP reports that in Ventura County, more than 41 percent of the offenders are convicted felons, suggesting a substantial criminal history. BHD/ADP also acknowledges that the serious offenders and long-time addicts often do not respond to treatment.

Stakeholder Concerns

- F-246.** In the First Year Report, BHD/ADP stated that, "stakeholder input has been actively sought." BHD/ADP relates convening a stakeholder forum "to provide the community with a progress report on the implementation of Proposition 36, to receive feedback and comment from the community about the initiative, and to initiate future planning based on community response." BHD/ADP characterizes stakeholder input as important and something they seek in order to effect policies; however, there is no reference to the content or nature of the stakeholders' opinions or to any actions or policy changes that resulted from those opinions.

- F-247.** In addition, there was a survey provided to stakeholders at the 2001 meeting to obtain their input. This survey is included as Appendix A of the First Year Report. The questions asked of stakeholders included, “What is your overall rating of tonight’s Stakeholders’ Meeting?” and “Was there enough time for questions & answers and stakeholder input?” There was no direct question about Prop 36 in the survey, and no indication that stakeholders had any influence with BHD/ADP.
- F-248.** Studies have proven that, in addition to drug-related crimes, drug offenders engage in predatory illegal acts that victimize members of the general population (assault, robbery, burglary, theft, forgery, fraud, embezzlement, and dealing in stolen property).⁴³ Researchers have also found that when addicted offenders used drugs, they were among the most active perpetrators of other crimes.⁴⁴
- F-249.** In the Second Year Report, county officials state that, “the criminal justice system in its understanding of ‘therapeutic justice,’ and treatment professionals’ assistance, has led to protocols that will return those persons who do not continue in their treatment program back to court in an expeditious manner.” There is no clarification of the phrases, “continue in their treatment program” or “expeditious manner.”
- F-250.** BHD/ADP has stated that the results of drug tests are to be used “for treatment purposes only.” Because addiction is a disease characterized by relapse, BHD/ADP believes that sharing drug test results with the criminal justice system could result in serious legal consequences for their clients, which in turn would frustrate the treatment objectives.
- F-251.** Several surveyed California counties have written procedures requiring positive drug tests to be reported to the Courts or Probation within 24 hours of receipt. One county stated that they fax the positive results and then follow up with a telephone call.
- F-252.** In light of the revised wording in the new drug testing protocol, BHD/ADP officials were asked by the Jury if the new protocol as it would be implemented allowed for sharing of drug test results with Probation. One official replied that it did, but another corrected that assertion by stating, “not necessarily.” Under the new protocol, treatment providers will record the drug test results in the client files, and the files are reviewed when clients are returned to courts for review or violation. The treatment team (CAS and treatment provider) prepares a report for the court team (CAS, court, Probation/Parole, Public Defender, District Attorney) to review.

⁴³ R L Hubbard ; J J Collins ; J V Rachal ; E R Cavanaugh, “Criminal Justice Client in Drug Abuse Treatment,” Compulsory Treatment of Drug Abuse: Research and Clinical Practice, Carl G Leukefeld and Frank M Tims, eds., 1988: 57-80. (<http://www.nida.nih.gov/pdf/monographs/86.pdf>).

⁴⁴ Wish, E.D., and B.D. Johnson, “Impact of Substance Abuse on Criminal Careers,” Criminal Careers and Career Criminals, vol. II, ed. Alfred Blumstein et al., Washington, DC: National Academy Press, 1986: 52–88. (<http://books.nap.edu/books/0309036836/html/52.html>).

- F-253.** BHD/ADP officials stated that a complete treatment-related drug testing history might or might not be provided to the court team. Including drug test results in the client reports to the courts is within the discretion of the CAS case managers based on their determination of the issue before the courts.
- F-254.** The Second Year Report addresses public safety by acknowledging concerns raised in local news articles by the Ventura County Sheriff and the City of Ventura Police Department. The report mentioned a letter sent to local officials by the District Attorney raising concerns about increases in local property crime rates. The report states, “The concerns raised were attributed to flaws in the Proposition 36 initiative.”
- F-255.** In the District Attorney’s letter, dated September 10, 2003, it was clear the concerns were “in part due to the provisions of the law but also due to the manner in which the program has been implemented.” Concerns were addressed relating to the “revolving door” nature of re-referring offenders back into Prop 36 after multiple drug convictions. The letter stated that offenders will have participation terminated on non-drug probation violations, but the next drug-related conviction will return the offender to the program. “A number of individuals in the program have five or more pending drug possession or drug use cases for which they are on separate grants of Prop 36 probation.” The high level of criminality apparent in these Prop 36 participants is of particular concern with regard to public safety.
- F-256.** According to the District Attorney’s letter, implementation issues are of particular concern. “Under present implementation of the program, it is common for a person to have missed more than eight sessions of court-ordered treatment prior to the court being notified of the violation. The lack of information exchanged among treatment, the assessment center, the District Attorney’s office, probation and the court have resulted in individuals being out of compliance with treatment and testing positive (indicating continued use of drugs) for several months before being brought back before the court. These individuals are still in the community, abusing drugs, driving under the influence of drugs and at liberty to victimize their families, children and community.”⁴⁵
- F-257.** The City of Ventura Police Chief stated in a letter to the Jury of March 22, 2004, “It is my professional opinion that the release of chronic narcotics offenders without supervision has impacted the number of criminal incidents reported in the City of Ventura.”
- F-258.** In a study of more than 2,000 arrestees from six cities who reported using crack, powder cocaine and heroin in the 30 days preceding their arrest, high percentages – typically 20 percent or more – reported drug dealing or other illegal activity as their *main* source of monthly income.⁴⁶ Generally, the more frequent the drug use, the more likely the offender was to report being involved in drug sales. Some of the other illegal income-generating activities

⁴⁵ Letter from Ventura County District Attorney, to Alcohol and Drug Programs, September 10, 2003.

⁴⁶ Op. cit. supra, at FN 35.

that were frequently reported included prostitution, benefits fraud and property crime.⁴⁷

- F-259.** BHD/ADP states that offenders not showing up for assessment (as opposed to treatment) are “non-complied” and sent back to Prop 36 court. Although courts have upheld that failure to report to assessment is indicative of refusal of treatment, according to BHD/ADP, these “no-show” offenders often make it back into the Ventura County Prop 36 system.
- F-260.** In interviews with the Jury, BHD/ADP stated that the District Attorney has allowed serious offenders to receive Prop 36 treatment through plea bargains. As an example, BHD/ADP stated that the District Attorney had allowed DUI offenders, ineligible for Prop 36 treatment, to plea to a lesser drug offense, which would allow treatment without incarceration.
- F-261.** The District Attorney’s office states that DUI offenses are always taken very seriously. Those drug offenders with an arrest for DUI are prosecuted for DUI and there is “no way” they would be pled to a lesser offense.

Leadership and Management

- F-262.** BHD/ADP functions as the county Lead Agency to chair the Prop 36 Oversight Committee. As the Lead Agency, they are responsible for receiving, properly spending, and accounting for state Prop 36 funding.
- F-263.** BHD/ADP provides the authorization for all referrals, assessment, and treatment protocols and treatment decisions.
- F-264.** BHD/ADP defines, and may change at any time, the standards by which treatment is measured.
- F-265.** BHD/ADP determines, and may change at any time, the criteria for successful or satisfactory completion of treatment.
- F-266.** BHD/ADP may increase or reduce the frequency of drug testing.
- F-267.** BHD/ADP may tighten or relax the treatment attendance criteria.
- F-268.** BHD/ADP controls the funding for data collection and analysis efforts, making the decision to collect and analyze particular information, or neglect to track that information.
- F-269.** BHD/ADP authors the annual report to the State of California describing the year’s accomplishments in Ventura County.
- F-270.** The Implementation Committee Report of June 5, 2001 addressed the additional oversight requirements imposed on Probation by Prop 36, stating that BHD/ADP assumed the responsibility of providing “significant levels of monitoring” through drug testing and treatment sessions.

⁴⁷ Riley, K. Jack, Pat Ebener, James Chiesa, Susan Turner, and Jeanne Ringel, “Drug Offenders and the Criminal Justice System: Will Proposition 36 Treat or Create Problems.” (<http://www.rand.org/publications/IP/IP204/IP204.pdf>).

Client Population and Accountability

- F-271.** Over several months of researching Prop 36 in Ventura County, the Jury repeatedly and unsuccessfully attempted to determine the number of clients who had been through the program and the number of clients currently in the program. Many of the numerous client-count discrepancies discovered while researching the drug testing protocols are further described in this section.
- F-272.** The initial question of client counts was asked of BHD/ADP when the Jury was presented with a spreadsheet showing monthly “no-shows” for assessment and treatment. The Jury asked for the total number of persons who “showed” for treatment to determine if the “no-show” rate might be statistically significant.
- F-273.** A BHD/ADP official informed the Jury that client counts could not be provided due to the difficulty of relating Prop 36 cases or assessments to individual clients. It was explained that counting numbers of clients is an ongoing problem for CAS because of the constantly recycling population. Any answer was said to be further obscured because the “no-show” number could represent multiple events of the same client who might have been absent from assessment or treatment.
- F-274.** On a tour of the assessment center, the Jury again asked how many clients were in the system. The answer was literally, “a lot.” When asked specifically, the BHD/ADP official again spoke of the difficulty of providing a number with any precision, speaking of the number of assessments versus referrals. Completions and dropouts were discussed as well. From this explanation, the Jury was left to conclude that somewhere between 1,000 and 2,000 clients were presently in the system.
- F-275.** On subsequent questioning by the Jury, the BHD/ADP official explained that client reporting was complicated due to the terminology used at various stages of Prop 36 processing, explaining:
- The term “referral” is used when Prop 36 probation is granted by the court and the probationer is instructed to report to CAS. This is the total number of offenders “referred” from court to CAS.
 - “Initial referral” indicates a client who first enters the Prop 36 system. (According to the Second Year Report, this is an unduplicated number.)
 - “Re-referral” is a client who may be coming back through court. (The Second Year Report clarifies that this client “recycling” may be due to new charges, probation or parole violations, strikes, or multiple treatment episodes.)
 - The term “assessment” is used when a CAS addiction specialist or case manager performs a clinical addiction evaluation of the client. Assessment can take place at any stage of the process.
 - “Initial assessment” takes place when a client is first referred to the CAS.

- “Re-assessment” can take place when a client violates or drops out of the system and the courts place that person in treatment once again.
 - “Exit assessment” can take place when a client completes treatment or is transferred out of the program.
 - The terms “client” and “offender” refer to actual persons in the Prop 36 program.
- F-276.** In light of the clarification provided by BHD/ADP, the First Year and Second Year Reports were once again reviewed by the Jury.
- F-277.** “Facts” contained in the First Year Report (FY 2001-2002 statistics only):
- “3,122 offenders were adjudicated and referred by Ventura County Superior Court for substance abuse treatment under Proposition 36.”
 - Of the 3,122 referrals, “726 clients were re-referred for program services following an initial referral but who failed to report.”
 - “2,709 clients made contract [sic] with County operated Central Assessment Services and scheduled the assessment appointment.”
 - “1,631 assessments were completed by Central Assessment Services in the twelve month period.”
 - “1,345 [of 1,631 completed assessments] were non-duplicated clients.”
 - “In FY2001/02, 1,465 clients entered treatment.”
 - “A total of 1,431 offenders have been returned back to Court for program non-compliance.”
 - “Since July 1, 2001 approximately 64% of clients assigned to treatment continue to progress through treatment.”
- F-278.** In the letter submitting the First Year Report to the Ventura County Board of Supervisors, BHD states, “Since the onset of the program, more than 1,600 eligible participants have been diverted from our local jails to substance abuse treatment, resulting in a potential cost savings to our criminal justice system.”
- F-279.** The Second Year Report is much shorter than the First Year Report; however some of the relevant “facts” are:
- The Second Year Report displays a table of referrals stating that there were 1,720 offenders referred by Ventura County Superior Court in FY 2002-2003 (3,782 including re-referrals).
 - The table also shows that 2,396 offenders were referred by Ventura County Superior Court in FY 2001-2002 (3,122 including re-referrals).
 - Total referrals from the court for both FYs is 4,116 (6,904 including re-referrals).
 - “Ninety percent of those referred enter treatment in Ventura County.”
 - 2,062 clients were re-referred following an initial referral.
 - “1,235 persons were assessed as new clients...”

- “833 [persons] were re-assessed following their return to court for non-compliance of program.”
- The total number of first and second year initial assessments is 2,580.
- The total number of first and second year re-assessments is 1,084.
- “Offenders under conditional supervision make up 53% versus 44% of those on formal probation.”
- “On July 1, 2003, 1044 clients were assigned to Proposition 36 supervision, primarily for felony offenses.”

F-280. The July 1, 2003 baseline of 1,044 clients assigned, documented in the Second Year Report, was repeatedly contradicted in written reports and verbal numbers provided by BHD/ADP officials.

F-281. The UCLA Report notes that, in reporting the Prop 36 caseloads, some counties may have counted the number of events (i.e., the number of referrals, assessments, and treatment placements) while other counties may have reported the number of offenders who completed each of these steps. Offenders who recycled through the system would have been counted twice (or even more).

F-282. According to BHD/ADP officials, Ventura County did count offenders multiple times as they were recycled through the system. For example, the Second Year Report states that at the two-year mark, “more than 6,904 offenders eligible for services...have been processed....” Even though this report specifies “offenders” rather than events, this same year’s report states that first year initial referrals were 2,238 and second year initial referrals were 1,666. As the total initial referrals for the two years is 3,904 (4,116 including parolees), it is difficult to determine how the number of offenders (persons) processed actually exceeded total initial referrals by 3,000.

F-283. A BHD/ADP official provided the Jury with a billing spreadsheet showing drug test quantities for FY 2003-04. This spreadsheet stated the number of drug tests administered and billed, but it contained no client population with which it could be meaningfully compared. Using the July 2003 client count of 1,044 resulted in an average client drug testing rate of 1.7 tests per month, considerably less than the reported eight tests per month.

F-284. Seeking to determine if the drug tests per client met BHD/ADP’s published protocols and standards, the Jury once again asked a BHD/ADP official about the total clients on Prop 36 probation by month. Again, the Jury was told that the client count depends on a large number of factors. However, the Jury was given a spreadsheet showing the demographics of Prop 36 clients, by month, through April, for FY 2003-04. (Attachment VII.)

F-285. The demographics (excerpted in Table 2) represent the number of clients entering treatment, and the total clients entering treatment in July 2003 was 87. The Jury once again asked the BHD/ADP official how many clients were in the Prop 36 system each month. It was responded that this number was on the spreadsheet, and the Jury again asked for clarification. The year-to-date (YTD) column was explained in this manner:

- There were 687 first-time assessments (Total # of Assessments).
- There were 757 re-assessments from clients cycling through the courts either single or multiple times (Total # of Re-Assessments). The re-assessments could include some of the beginning assessment clients coming back into treatment.

Prop 36 Demographics	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	YTD	%
Total # of Assessments	72	63	85	67	65	77	52	53	88	65			687	37%
Transfer Out	15	9	11	7	8	9	7	6	5	5			82	12%
Total # of Re-Assessments	61	65	58	68	83	68	103	85	94	72			757	40%
Exit Assessments	29	31	45	45	30	41	34	39	26	32			352	19%
TOTAL	177	168	199	187	186	195	196	183	213	174	0	0	1878	108%
Gender														
Male	63	50	68	51	48	62	38	41	65	43			529	69%
Female	24	22	28	23	25	24	21	18	28	27			240	31%
TOTAL	87	72	96	74	73	86	59	59	93	70	0	0	769	100%
Legal Status														
Formal Probation	31	17	44	31	18	21	13	22	30	29			256	33%
Conditional Release Probation	49	50	48	40	46	52	42	33	59	40			469	61%
Parole	7	5	4	3	9	3	4	4	4	1			44	6%
TOTAL	87	72	96	74	73	86	59	59	93	70	0	0	769	100%
Tx Recommended														
Level I	13	9	9	10	5	11	3	5	5	4			77	11%
Level II	51	50	67	51	52	54	40	43	76	53			537	78%
Level III	3	2	8	5	7	8	7	4	6	4			54	8%
Other (Pending, LOA, Refused)	5	2	1	1	1	4	2	1	1	1			19	2%
TOTAL	72	63	85	67	65	77	52	53	88	65	0	0	687	100%

Table 2. Proposition 36 Demographics Report FY 2003/2004 (Excerpted from Attachment VII)

- There were 82 assessments of clients who transferred out of the Prop 36 program, mostly due to transfers to another county or treatment program (Transfers Out).
- There were 352 exit assessments of people who completed their treatment (Exit Assessments). These exits could show up again as beginning assessments or re-assessments.
- The total of assessments is 1,878. Because of duplication within categories, this total is 108 percent of total assessments.
- Clients entering the Prop 36 system total 1,526 (687, 757 plus 82) and leaving the system totals 352.

F-286. The BHD/ADP official initially stated that, based on this demographics report, “Prop 36 has about 1,526 clients” as of April 2004.

F-287. On further questioning, the “1,526 clients” was changed to 1,526 cases of clients entering the system. On the Jury asking again for physical clients by month in the Prop 36 systems versus cases, assessments, or new arrivals, the BHD/ADP official clarified the number to 769 based on the demographic data.

F-288. The BHD/ADP official reported that, of the 769 total clients, about 40 percent are “on the tarmac” at any given time, and the treatment providers must wait 30 days before dismissing them from treatment. The final figure supplied is that there are about 460 to 500 active clients in the program at any given time.

- F-289.** Still wondering what happened to the clients already in the system on June 30, 2003, the Jury recognized the BHD/ADP analysis might be in error. The two primary outpatient treatment providers were asked about their monthly Prop 36 client counts. The estimate was approximately 250 to 300 at the largest provider and approximately 200 at the smaller. These numbers were confirmed by obtaining billing records from the Ventura County Auditor-Controller's Office.
- F-290.** For additional information, Probation was asked how many Prop 36 probationers were under direct Probation supervision. The Jury was provided a spreadsheet of Probation's FY 2003/2004 "Prop 36 Yearly Stats" (Attachment VIII). Probation supervision is provided to the felony probationers (versus conditional release probationers supervised by BHD/ADP).
- F-291.** Probation reported that felony probationers are typically required to report to their probation officer every month (versus the requirement to report to treatment at least twice each week). If a probationer fails to report to Probation, an attempt is made to contact the person and rearrange the meeting. After a reasonable effort, if the person cannot be contacted or still does not report, a bench warrant is initiated and the matter is referred to law enforcement.
- F-292.** Probation states that, for a variety of reasons, Prop 36 probationers may be less responsible than other probationers. They have a higher rate of missing appointments because they forget, abscond, or relapse. A large number, 10 to as high as 20 percent, might be "missing" at any given time. Probation has not heard and does not use the term "on the tarmac."
- F-293.** The client counts were further researched (refer to Table 3):
- Probation reported to the Jury that in July 2003, there were 886 Prop 36 clients supervised by Probation (felony offenses).
 - Probation estimated that, of all supervised Prop 36 probationers, about one percent (fewer than 89 clients) have completed treatment.
 - Probation reports that 15 – 20 percent of Prop 36 probationers are in violation of probation at any given time. Many but not all of those probationers may not be active in treatment.

PROBATION AGENCY PROP 36 YEARLY STATUS	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb		Avg	YTD
Proposition 36 Formal Probationers Supervised	886	857	860	907	843	789	755	720		827	6,617
One Percent (Estimated) Total Completions	89	86	86	91	84	79	76	72		66	66
Maximum of 20% Violations Not in Treatment	177	171	172	181	169	158	151	144		166	1,323
Minimum # of Formal Probationers in Treatment	620	600	602	635	590	552	528	504		579	4,632
Successful Completions (Proposition 36 Clients)	7	2	5	3	8	8	11	10		7	54

Table 3. Probation Agency Proposition 36 Felony Probationers

- Based on Probation's client counts and considering the estimated number of probationers not actively in treatment, July 2003 should show a

minimum of 620 formal probationers in all Prop 36 treatment programs (886 total minus 89 completions minus a maximum of 177 in violation).

- F-294.** BHD/ADP officials had initially reported that there were approximately 700 clients in the system based on their demographics report of new clients by month through March 2004.
- BHD/AADP later increased this 700-client estimate to 769 clients based on an additional month of new clients and the spreadsheet being completed through April 2004.
 - The BHD/ADP spreadsheet does not show any existing baseline of clients prior to the initial month of July 2003. The July cumulative total of clients on this spreadsheet is 87 and cumulative total of assessments is 177.
 - After repeated questioning, the Jury sent a letter to BHD/ADP asking specifically, “How many actual clients (persons rather than cases) are in treatment each month for FY 2003/2004?”
 - The results, provided in Table 4, show that BHD/ADP can account for a monthly average of about 619 clients active in treatment. Probation estimates that they have an average of about 579 formal probationers active in treatment each month. This only allows for 40 conditional release probationers each month.

PROP 36 CLIENTS	Jul 03	Aug 03	Sep 03	Oct 03	Nov 03	Dec 03	Jan 04	Feb 04	Mar 04	Apr 04	AVG
Level I	80	74	70	75	72	74	69	66	54	68	71
Level II	560	519	494	523	504	517	482	463	450	470	498
Level III	56	52	50	53	51	52	49	47	46	40	50
Estimated #	696	645	614	651	627	643	600	576	560	585	619
Non-complied	124	157	152	171	282	270	228	184	200	182	195
N/C + Estimated	820	802	766	822	909	913	828	760	760	767	814

Table 4. Total Clients Per Month by Level of Treatment, FY 2003-04

- F-295.** Comparing Probation client counts to BHD/ADP client counts in July 2003 shows there were 820 BHD/ADP-estimated total clients, including formal probationers and conditional release probationers. Probation reports that there were at least 797 formal probationers under BHD/ADP supervision (886 minus the 89 estimated completions). This would allow a remainder of 23 conditional release probationers in treatment (including non-complied).
- F-296.** Probation estimates that BHD/ADP should have approximately equal numbers of conditional release probationers and formal probationers, suggesting that as many as 800 clients are unaccounted.
- F-297.** Total client counts provided by BHD/ADP are also significantly lower than the 1,044 reported in the Second Year Report.

Conclusions

Legislative, Courts, and Public Perceptions

- C-01.** Prop 36 proposed stated objectives of increased public safety and reduced costs. (F-07, F-162)
- C-02.** Prop 36 also proposed a method to achieve those objectives, namely, provide substance abuse treatment without incarceration to non-violent drug offenders. (F-01, F-08, F-09)
- C-03.** Prop 36 proposals were superseded by the statutory enactment of the current law and that law is the sole authority for effecting those proposals. (F-01, F-02, F-03, F-04, F-05)
- C-04.** BHD/ADP appears to be trying to effect proposals that were not enacted into law. (F-08, F-27, F-30, F-62, F-193, F-200)
- C-05.** Drafters of Prop 36 believed that public safety was a substantial consideration for voters when naming the act “Substance Abuse and Crime Prevention Act” rather than “Substance Abuse and Drug Treatment Act.” (F-01, F-07, F-26, F-57, F-254)
- C-06.** Either by design or by neglect, ambiguities in Prop 36 (Pen. Code § 1210) have relegated many implementation decisions as subject to judicial and county-level administrative discretion. (F-27, F-30, F-31, F-32, F-33, F-46, F-47, F-48, F-49, F-53, F-54, F-55, F-59, F-60, F-61, F-63, F-64, F-65, F-66, F-67, F-68, F-69, F-70, F-71, F-72, F-73, F-74, F-75, F-79, F-84, F-88, F-97)
- C-07.** The text of the statute, published policies, and tried court case opinions from other counties provide only for two grants on awards of Prop 36 probation. (F-11, F-28, F-55, F-57)
- C-08.** While most counties have a policy that failing two Prop 36 treatment programs provides grounds for removal of Prop 36 probation terms, Ventura County Prop 36 court has not exercised this option. Ventura County appears to provide treatment ad infinitum. (F-30, F-53, F-54, F-55, F-56, F-74)
- C-09.** The Jury, having been made aware of clients who have three or even more grants of Prop 36 probation, can make no determination as to how or why this is happening in Ventura County. (F-27, F-28, F-29, F-30, F-80, F-84)
- C-10.** Faced with public safety and cost consequences of apparent judicial discretion, the county is left with statutes and local policies to consider solutions that would restore a measure of balance and integrity to the Prop 36 implementation process. (F-33, F-36, F-88, F-89, F-90, F-94, F-92, F-95, F-96)

Amenability

- C-11.** The public perception that there are sure and certain court-administered sanctions for non-compliance with court-ordered Prop 36 drug treatment programs is largely unsupported in practice in Ventura County. (F-84, F-95, F-96, F-98, F-228, F-231)

- C-12.** The Jury considers the standards for non-compliance to be unacceptably lenient and believes the sanctions that are imposed do not carry out the intent of the law and the voter mandated “two-strikes” established in 2000. (F-21, F-177, F-226, F-228, F-234, F-236, F-240, F-241, F-245)
- C-13.** In Ventura County, a non-compliant client is likely to be returned to treatment. Though scores of Prop 36 probationers have been returned to confinement for non-drug-related violations, fewer have been returned to confinement solely for drug-related violations. (F-53, F-76, F-172, F-214, F-215, F-216, F-217, F-231)
- C-14.** One distinction between an unamenable client and a non-compliant client is that a client found unamenable by the courts may be removed from Prop 36 probation immediately. (F-45, F-46, F-47, F-77)
- C-15.** Amenability can include concepts of criminality and mental health as well as level of addiction. (F-26, F-71, F-78, F-79, F-80, F-82, F-83, F-84)
- C-16.** Statute, case law, and practice in other counties support the concept of “unamenability to treatment.” (F-12, F-47, F-48, F-59, F-60, F-78, F-79, F-80, F-81, F-83, F-109, F-110)
- C-17.** Ventura County treatment providers report that unamenable clients are presented for treatment. (F-107, F-109, F-110, F-113, F-114, F-171, F-172)
- C-18.** The Jury is unable to determine why denied or revoked probations based on unamenability do not occur in Ventura County’s Prop 36 program. (F-28, F-30, F-48, F-49, F-50, F-53, F-54, F-55, F-60, F-61, F-63, F-64, F-65, F-66, F-68, F-69, F-70, F-71, F-72, F-73, F-74, F-75, F-76, F-77, F-78, F-79)
- C-19.** Notwithstanding judicial discretion, the Jury concludes that the proactive use of “unamenability” provisions by treatment teams could enhance the integrity of Prop 36 by excluding from treatment those people who would not benefit from this law at the time. (F-28, F-30, F-48, F-49, F-50, F-53, F-54, F-55, F-60, F-61, F-63, F-64, F-65, F-66, F-68, F-69, F-70, F-71, F-72, F-73, F-74, F-75, F-76, F-77, F-78, F-79)
- C-20.** The Jury has determined that appropriately justified recommendations of unamenability by treatment professionals can reduce program costs and the public safety risks to treatment providers, society, and the Prop 36 system. (F-37, F-59, F-60, F-61, F-77, F-78)
- C-21.** While unamenable clients were not a significant issue at the beginning, the issue of unamenability will take on greater significance as costs increase and repeat offenders are recycled through the “revolving door” of Prop 36 court and treatment. (F-26, F-27, F-30, F-31, F-53, F-54, F-55, F-56, F-59, F-60, F-61, F-62, F-63, F-64, F-66, F-67, F-68, F-69, F-70, F-71, F-72, F-73, F-74, F-75, F-76, F-77, F-78, F-79)

Treatment Program Completion

- C-22.** The counties have significant discretion in determining the definition of “successful completion of treatment,” and unilateral definitional changes by

Ventura County BHD/ADP are understood to have an impact on completion rates of the treatment program. (F-88, F-167, F-169, F-170, F-174, F-176, F-181, F-200, F-202, F-203, F-206, F-207, F-209, F-210, F-249, F-263, F-264, F-265, F-266, F-267)

- C-23.** The newly proposed and adopted treatment protocols in Ventura County were found by the Jury to have the effect of loosening the criteria for successful program completions. (F-115, F-116, F-199, F-200, F-201, F-203, F-205, F-206, F-207, F-208, F-209, F-210, F-214, F-220, F-221, F-249, F-250, F-264, F-265, F-266, F-267, F-268)
- C-24.** In light of the numerous direct and indirect methods employed by BHD/ADP to lower the standards for program completion, the Jury believes that “successful completion of treatment” has a lower standard in Ventura County than in other counties and does not comply with the intent of the law. (F-181, F-182, F-183, F-185, F-206, F-216, F-217, F-218, F-221, F-222)
- C-25.** In Ventura County, the current client population, as well as three years of history, indicates there is every reasonable cause to believe that a client who completes Prop 36 treatment will likely abuse controlled substances in the very near future. (F-85, F-167, F-181, F-182, F-200, F-250, F-255)
- C-26.** The Jury also believes that the program completion form provided by BHD/ADP is meaningless and could be issued at any stage of treatment, or even instead of treatment, with the same effect and significance. (F-167, F-168, F-170, F-181, F-265)
- C-27.** The Jury has determined that, if other counties gauge successful completion with the same criteria as Ventura County, or if other counties adjust the treatment and completion standards with the same exercise of discretion evidenced in Ventura County, the statewide evaluation results will be meaningless. (F-169, F-170, F-171, F-178, F-179, F-181, F-182, F-185, F-194, F-264, F-265, F-266, F-267, F-268, F-269)
- C-28.** The Jury congratulates the efforts and shares the happiness on hearing of individuals who have completed treatment and have remained clean and sober for a number of months under Prop 36. However, individual treatment successes are not in and of themselves evidence that the program’s overall objectives have been achieved. (F-164, F-181, F-182, F-183, F-184, F-185)
- C-29.** It is the opinion of the Jury that any evaluation of Prop 36 should, at a minimum, recognize and take into account those clearly defined and stated objectives of public safety, reduced costs, and public health outcomes. (F-07, F-84, F-85, F-86, F-113, F-162, F-183, F-188, F-239, F-255, F-278)
- C-30.** In addition, the Jury believes that any evaluation of Prop 36 should clearly document and evaluate the treatment standards and success indicators by which the success is gauged, even to the level of recording in clients’ files by which completion criteria and drug testing and attendance protocols their completions of treatment were obtained. (F-167, F-168, F-169, F-170, F-207, F-264, F-265, F-266, F-267, F-268)

- C-31.** The Jury concludes that substantial additional information must be collected and analyzed before Prop 36 success can be demonstrated. (F-134, F-162, F-164, F-170, F-271, F-273, F-277, F-278, F-279, F-280)

Treatment and Reporting Decisions

- C-32.** There are multiple theories of addiction treatment and largely unchallenged assertions about treatment effectiveness. (F-18, F-67, F-170, F-175, F-176, F-197, F-205, F-210)
- C-33.** It is the opinion of the Jury that, in Ventura County, “best practices” standards of treatment have been “cherry-picked” as well as altered to meet budgetary or bureaucratic objectives. (F-88, F-93, F-95, F-96, F-111, F-139, F-169, F-170, F-173, F-175, F-176, F-181, F-183, F-189, F-196, F-209, F-210, F-226, F-227, F-228, F-231, F-264, F-265, F-266)
- C-34.** The Jury believes that the wrong tone is established for offenders who are released from Prop 36 sentencing with instructions to call BHD/ADP’s CAS within five days and then having weeks accrue before being required to report for assessment or treatment. The procrastination apparent in this process is the offender’s first indication of the county’s lack of concern and commitment to treatment outcomes. (F-12, F-53, F-54, F-56, F-75, F-76, F-88, F-97, F-101, F-123)
- C-35.** The Jury believes the wrong message is being communicated to drug treatment clients when they discover their first month of drug tests will not be reported to Probation or the courts. (F-53, F-54, F-56, F-75, F-76, F-88)
- C-36.** The possibility of months of unregulated drug use that can accrue through the assessment process and the first month of treatment is, in the opinion of the Jury, an unacceptable public safety risk. (F-67, F-71, F-72, F-113, F-115, F-116, F-117, F-120, F-243, F-256, F-257, F-258)
- C-37.** Of particular concern to the Jury is a condition to be enacted with the new drug testing protocol on July 1, 2004 whereby drug offenders assessed as requiring residential treatment (Level III) will not be sanctioned for positive drug tests while waiting for a bed to be made available. This condition, added after the protocol was presented to the Oversight Committee, suggests to the Jury that an offender could have unlimited drug use and commit other crimes when BHD/ADP is not able to provide a residential treatment slot. (F-146, F-200, F-202, F-203)
- C-38.** BHD/ADP exhibited concern that reporting drug testing results to Probation would allow Probation to misuse the information by arresting offenders. BHD/ADP indicated to the Jury that the only way to ensure drug offenders are protected from incarceration is to shield positive drug test data from Probation. (F-185, F-190, F-191, F-192, F-193, F-200, F-203, F-252)
- C-39.** In discussions with Probation, the Jury concluded that Probation recognized the relapse behavior and understood the provisions of the law. In addition, Probation expressed a concern that continued drug use might be an indication of additional criminal behavior within specific offender populations, and those offenders could be supervised and monitored more closely if BHD/ADP would

share the indicators (drug test results and treatment attendance results). (F-200, F-203, F-232, F-252)

- C-40.** There is no possibility that Prop 36 probationers will not recognize and act on the lack of meaningful sanctions and standards. (F-200, F-203, F-211, F-212)
- C-41.** In light of the initial understandings and expectations of enhanced probationer supervision provided through treatment and drug testing, the reluctance of BHD/ADP to provide information to Probation is unacceptable. (F-31, F-35, F-93, F-252, F-270)

Information Systems and Risk Evaluation

- C-42.** FY 2003-04 is the third year of continuing intention and failure by BHD/ADP, with the available and recommended funding under SATTF, to develop an information system to track public safety data indicators. (F-162, F-163, F-168)
- C-43.** Many of the data indicators for addiction severity (employment, family, community, etc.) can also describe risk factors for public safety. (F-103, F-116)
- C-44.** ASI addiction indicators combined with current class attendance and drug test results are all components of an effective CAS case management system. (F-103, F-130, F-131, F-240)
- C-45.** These same CAS data can also be used to model public safety risk factors in order to prioritize probationers and make rational and effective probation supervision decisions, on a daily basis if necessary. (F-31, F-35, F-103, F-111, F-112, F-124)
- C-46.** A well-designed and thought out case management system for CAS would also have many of these same key elements in an effective case management system for Probation. (F-31, F-34, F-35, F-36, F-122, F-123, F-129, F-130)
- C-47.** Although Probation has the ultimate responsibility for Prop 36 probationer supervision, limitations on funding available through Prop 36 and Lead Agency decisions have prevented Probation from fully exercising those statutory functions. (F-31, F-34, F-35, F-36, F-112, F-250, F-252)
- C-48.** BHD/ADP's apparent reluctance to track public safety data is of major and urgent concern to the Jury as well as an ongoing concern among the criminal justice stakeholders. (F-134, F-135, F-136, F-141, F-162, F-163, F-167, F-168, F-182, F-183, F-216, F-239, F-240, F-241, F-242, F-243, F-244, F-245, F-268)
- C-49.** Measures of treatment outcome, which would necessarily include public safety data, have not yet been identified, captured, and analyzed. (F-122, F-123, F-124, F-125, F-127, F-128, F-129, F-130, F-131, F-132, F-133, F-134, F-135, F-136, F-182, F-185, F-187)
- C-50.** Through inaction and apparent indecisiveness, BHD/ADP has limited the data collection efforts. (F-129, F-130, F-131, F-133, F-134, F-135, F-136, F-167, F-185, F-268)
- C-51.** It is the opinion of the Jury that BHD/ADP has not fulfilled its affirmative requirement under SATTF to increase collaboration with county stakeholders

to demonstrate “that substance abuse treatment has a positive effect on public safety.” (F-162, F-164, F-166, F-167, F-246, F-247, F-248, F-268)

- C-52.** It is the opinion of the Jury that information systems cannot be effectively designed or implemented until BHD/ADP defines their goals and core objectives. Databases and case management systems will be meaningless unless BHD/ADP makes a commitment to providing realistic and actionable data. (F-112, F-122, F-124, F-125, F-127, F-128, F-129, F-130, F-131, F-132, F-133, F-134, F-135, F-136)

Public Safety Considerations

- C-53.** Recent theories of addiction describe the disease and treatment in medical terms that most people can understand. (F-174, F-175)
- C-54.** Medical theories may be difficult to reconcile with severe public safety consequences of untreated and unchecked drug abuse. (F-67, F-72, F-179, F-180, F-182, F-183, F-185, F-187)
- C-55.** It is the opinion of the Jury that the public safety stakeholders wish to find a reasonable balance between the treatment rights of the client and the protection of the public. (F-67, F-72, F-185, F-186, F-233)
- C-56.** In Ventura County, there is no longer an issue of whether Prop 36 was intended for first- and second-time, non-violent drug offenders. The reality is that the Prop 36 client population is largely composed of long-time drug users and criminal offenders. (F-14, F-72, F-233, F-234, F-235, F-236, F-237, F-240, F-241, F-242, F-243, F-245)
- C-57.** The Jury agrees with criminal justice opinions that lax standards for drug use and attendance are likely to result in clients who exhibit months of drug use and missed treatment sessions without court supervision. (F-72, F-115, F-165, F-215, F-216, F-217, F-218, F-219, F-233, F-254, F-255, F-256, F-257)
- C-58.** In light of the admission by state and local BHD/ADP officials that typical Prop 36 participants are more chronically addicted and more likely predatory criminals than they had first expected, it is inexplicable to the Jury that BHD/ADP appears to oppose the formation of methods to increase sanctions and oversight appropriate to the identified and perceived risk to the community. (F-113, F-115, F-116, F-117, F-239, F-240, F-241, F-250, F-255, F-256, F-257)
- C-59.** The Jury believes that every protocol change that could potentially result in more lax testing and attendance requirements can have the unintended consequence of reduced public safety. (F-200, F-255, F-256, F-257)
- C-60.** The criteria used to distribute Prop 36 funds in Ventura County have not taken into consideration the enhanced criminality of the offender population. (F-67, F-72, F-196, F-198, F-218, F-233, F-239, F-255, F-262)
- C-61.** Local policy decisions affecting public safety have not been considered in the distribution of Prop 36 funds between treatment and Probation. (F-180)

- C-62.** The Prop 36 benefits to the stakeholders are strongly linked to the treatment objectives, and when treatment fails, public safety fails and costs increase. (F-85, F-86, F-165, F-166, F-254, F-257)

Treatment versus Business Decisions

- C-63.** It appears the intent of the legislation is that treatment decisions should be made by treatment professionals. Even though community-based treatment providers report high success rates with federal program clients, the same treatment providers experience low rates of success with Ventura County clients. This suggest to the Jury that the treatment providers are not the cause of the problem. (F-03, F-04, F-05, F-220, F-221)
- C-64.** It is clear from the inquiries of the Jury that BHD/ADP has the credentials and skills within the treatment profession to address the needs of the Prop 36 clients. (F-90, F-137, F-138, F-139, F-140, F-141, F-142, F-143, F-144)
- C-65.** The inability of BHD/ADP to accomplish their drug treatment objectives has led to the perception that they do not have a concern for public safety or cost reduction. (F-165, F-166, F-208, F-254, F-257, F-267, F-268)
- C-66.** The Jury often found it difficult to identify business decisions because they were presented as decisions of treatment professionals. (F-209, F-218, F-263, F-264, F-265, F-266, F-267, F-268, F-270)
- C-67.** Stated policy of BHD/ADP includes frequent drug testing and sanctions. (F-190, F-191, F-194, F-196, F-197, F-199, F-200)
- C-68.** It is generally agreed that in Ventura County there are few if any recognized sanctions exercised under Prop 36. (F-30, F-48, F-56, F-203, F-220, F-221)
- C-69.** The Jury has concluded that drug testing has been taking place much less frequently than BHD/ADP claims. In light of this, BHD/ADP should consider adding a protocol for random drug testing. (F-197, F-207, F-213, F-221)
- C-70.** BHD/ADP stating a 21 percent positive drug test in terms of “only 21%” is disingenuous in light of expected test results with regular testing. The senior BHD/ADP officials, District Attorney’s office, and Probation have all stated that the standard schedule is two drug tests per week. A senior BHD/ADP official even stated his opposition of random drug testing on his assertion that drug testing takes place twice a week. The numbers obtained from BHD/ADP by the Jury show that, for the average Prop 36 client, drug testing does not approach twice a week. (F-211, F-212, F-218, F-219)
- C-71.** The new drug testing protocol gives treatment providers the authority to further reduce drug testing and reporting. (F-208, F-209)
- C-72.** It is apparent to the Jury that, in direct contradiction of recognized standards of treatment as well as published drug testing policy, reduced drug testing and reporting in Ventura County is a business decision rather than a treatment decision. (F-189, F-194, F-196, F-199, F-205, F-206, F-208, F-209, F-210, F-218, F-266, F-283)
- C-73.** It is apparent to the Jury that not all decisions of treatment professionals are treatment decisions. It appears to the Jury that there are no functional

distinctions between treatment decisions and management decisions of BHD/ADP. (F-209, F-210)

Client Accountability

- C-74.** The tracking and accounting systems within BHD/ADP's CAS appear to be based on the organization's primary functions of case management and assessment. CAS records their accomplishments in terms of cases worked and assessments completed. (F-272, F-275, F-281, F-282, F-286)
- C-75.** The inability to relate cases and assessments back to individual clients is a systemic problem repeatedly acknowledged by CAS personnel. It is not clear whether this problem may be due to a design flaw in the CMS system or inability of CMS management in accessing this information. (F-271, F-272, F-273, F-274, F-275, F-276, F-277, F-278, F-279, F-280, F-283, F-284, F-285, F-286, F-287, F-288, F-289, F-290, F-291, F-292, F-293, F-294, F-295, F-296, F-297)
- C-76.** The Jury concludes that the revolving door nature of the Prop 36 population, resulting in clients with multiple cases and multiple assessments, was not given proper consideration in the development of record-keeping systems. This deficiency has not been addressed or corrected by BHD/ADP officials during the past three years. (F-25, F-30, F-53, F-54, F-55, F-56, F-74, F-255, F-272, F-275, F-286)
- C-77.** BHD/ADP's CAS has repeatedly admitted that internal information systems focus on "referrals" or "cases" versus physical clients. The Jury finds questionable the First Year Report's statement that 22 percent of 2,709 clients did not show for assessment:
- Of the 2,709 total expected, 22 percent represents 596 clients.
 - Since the report also states that 2,396 initial referrals (unduplicated) were expected, it appears that 313 clients could not show because they were duplicate referrals of the same clients (2,709 minus 2,396).
 - The 596 no-shows minus the 313 duplicates would actually result in 283 physical "no-show" clients.
 - Of the expected 2,396 physical clients, the actual 283 no-shows would represent about 11.8 percent versus the BHD/ADP-reported 22 percent.
- If so, BHD/ADP may have already achieved their stated goal of matching or exceeding the state average of 85 percent assessments. (F-97, F-98, F-99, F-136, F-281, F-282)
- C-78.** The no-show rate stated in the Second Year Report is significantly higher than the first year, and the Jury believes it is no coincidence that the second year also reported a much higher number of court re-referrals. Again, it is not clear to the Jury if BHD/ADP is over-reporting no-shows due to mathematical or logical errors in counting physical clients versus court referrals and re-referrals. This discrepancy cannot be resolved within this report due to previously noted deficiencies in the information management systems and due

to the reluctance and inability of BHD/ADP officials to provide consistent and verifiable information. (F-98, F-99, F-100)

- C-79.** Given the flexibility exhibited by BHD/ADP in setting up assessment appointments, and considering the leniency provided by the courts in re-referring clients who fail to report when ordered, the Jury believes it unlikely that Ventura County is actually experiencing the high numbers of “no-shows” that are being reported. It is more likely that these numbers are the result of erroneous tracking and reporting. It is the opinion of the Jury that by focusing their efforts on a goal of increasing the show rate for assessment, BHD/ADP is neglecting the more important issue of bringing the clients into assessment and treatment in a timely manner. (F-115, F-116)
- C-80.** The Jury was not able to reconcile the BHD/ADP official’s interpretation of the current fiscal year’s client counts. The demographic data provided to the Jury are solely a reflection of the clients entering and leaving the system as of July 1, 2003 without consideration of the baseline number of clients who were already in the system on June 30, 2003. (F-271, F-272, F-274, F-275, F-284, F-285, F-286, F-287, F-288, F-289, F-290, F-291, F-292, F-293, F-295, F-296, F-297)
- C-81.** The Jury believes that the statistics provided by BHD/ADP and CAS in the yearly reporting are inconsistent and subject to wide interpretation. Examples of these inconsistencies include:
- 120 more clients entered treatment in FY 2001-02 than were assessed (1,465 minus 1,345)
 - Over 97 percent of clients in treatment (1,431 of 1,465) or over 106 percent of unduplicated clients (1,431 of 1,345) in FY 2001-02 were returned to court for program non-compliance, but 64 percent of clients continued to progress through treatment.
 - 1,345 non-duplicated clients were assessed, but the accompanying cover letter stated that “more than 1,600 eligible participants” were diverted from jails into treatment.
 - 3,704 clients entered treatment in the first two years of Prop 36, but only 2,580 initial assessments took place.

The numbers that have been provided by BHD/ADP raise questions regarding all statistics reported in the First Year and Second Year Reports. Large portions of these reports state only percentages without providing the base numbers from which those percentages are derived. The calculation and interpretation of the reported percentages are highly suspect. (F-271, F-272, F-273, F-274, F-275, F-276, F-277, F-278, F-279, F-280, F-283, F-285, F-286, F-287, F-288, F-289, F-290, F-291, F-292, F-293, F-294, F-295, F-296, F-297)

- C-82.** The Jury found the data inconsistencies and discrepancies in client tracking and reporting to be alarming. Based on BHD/ADP officials’ apparent lack of emphasis on tracking data, analyzing trends, and forming corrective strategies from those data, the Jury concludes that many of the published conclusions based on those data are conflicting and flawed. (F-271, F-272, F-273, F-274,

F-275, F-276, F-277, F-278, F-279, F-280, F-283, F-284, F-285, F-286, F-287, F-288, F-289, F-290, F-291, F-292, F-293, F-294, F-295, F-296, F-297)

- C-83.** The Jury believes that the ability to locate and account for probationers is critical to any CAS supervision functions. Location and accounting of probationers is a treatment issue and a public safety issue. (F-31, F-34, F-35, F-36, F-93, F-215, F-216, F-217, F-218, F-288, F-291, F-292, F-293, F-294, F-295, F-296, F-297)
- C-84.** Inability to evaluate client trends (versus assessment trends) makes supervision of probationers more labor intensive. (F-132, F-133, F-134, F-168, F-177, F-182, F-185, F-271, F-272, F-273, F-275, F-286, F-297)
- C-85.** The Jury believes that the ability to track and compile statistics on the client population by individual client is critical to BHD/ADP reporting and evaluation. (F-132, F-133, F-134, F-168, F-177, F-182, F-185, F-271, F-272, F-273, F-275, F-286, F-297)
- C-86.** The Jury believes that the ability to correlate and interpret client indicators is critical to determining success or failure of treatment, protocols, and policies. (F-132, F-133, F-134, F-168, F-177, F-182, F-185, F-271, F-272, F-273, F-275, F-286, F-297)

Management Oversight

- C-87.** The Oversight Committee lacks a documented charter, operating guidelines and by-laws normally found with any board or committee. (F-91, F-94, F-92, F-95, F-96, F-204)
- C-88.** BHD/ADP, as the chair of the Oversight Committee, has made unilateral decisions under the guise of a committee decision without a vote by committee members. (F-200, F-202, F-203, F-204)
- C-89.** The Oversight Committee fails to publish minutes of its meetings documenting the attendance, items discussed, actions assigned, and decisions made. (F-92)
- C-90.** Oversight, good record keeping, and a system of auditable records are considered by the Jury to be necessary to prevent this treatment program from becoming an impenetrable sanctuary to hide poor business decisions. (F-90, F-262)
- C-91.** Notwithstanding the general signatory or approval authority, the Jury concluded that the Board of Supervisors has not provided sufficient oversight of BHD/ADP in the operation of Prop 36. (F-88, F-89, F-90, F-94, F-92, F-95, F-96, F-121, F-163)
- C-92.** Individual case managers exhibit dedication and skill in developing assessments and in working one-on-one with clients. However, CAS administration requires different skills to oversee multiple case management efforts and to recognize trends requiring policy adjustments. (F-124, F-126, F-132, F-168, F-216, F-268, F-272, F-273, F-274, F-275, F-276, F-277, F-278, F-279, F-280)
- C-93.** BHD/ADP forms and information management inconsistencies and contradictions appear to be an indicator of neglected management organization

and oversight. BHD/ADP management, through CAS administration, has exhibited reluctance to identify and analyze key indicators and trends. The Jury views this absence of analysis as a significant liability when it comes to establishing effective and reasonable treatment protocols and policies. (F-184, F-271, F-274, F-284, F-285)

- C-94.** It was difficult, and in some instances impossible, for the Jury to obtain credible and validated information on the numbers of Prop 36 clients in the treatment process. At times, BHD/ADP officials spoke of “referrals” meaning both single and multiple, representing thousands of clients. At other times, officials spoke of individual offenders, regardless of whether the person was a repeated referral. There is some indication that this confusion extended to the Second Year Report where it became obvious to the Jury that the 400 clients per case manager must actually be referrals rather than clients. (F-124, F-215, F-216)
- C-95.** Inconsistent statements make it difficult, if not impossible, to unravel policy from practice. The frequency of drug testing is still unclear to the Jury. Although the drug testing policy has not changed since the program began in 2001, the reported frequency of drug testing was “as little as” one time per week to as many as three tests per week, but more than two times per week. (F-193, F-194, F-218, F-219)
- C-96.** Language in the new proposed protocol states that testing “will be conducted a minimum of one time a week during the first month of treatment,” but that treatment providers have the discretion to adjust the number of tests up or down.” BHD/ADP does not seem to acknowledge the meaning of “minimum” given that they can test fewer than the minimum number of times. (F-200, F-202, F-203, F-266)
- C-97.** Language in the new protocol states that, “A defendant who has submitted a positive drug test should remain in treatment, whether in the current regimen or intensified treatment.” It is not clear to the Jury whether BHD/ADP intends this as an absolute statement of policy without regard to other treatment factors and without regard to limits on public funds for attempts at sobriety. (F-79, F-83, F-84, F-193, F-200)
- C-98.** While most stakeholders actually believe the average is two times per week for drug testing, the reality is much lower. (F-193, F-200, F-201, F-205, F-219)
- C-99.** The Jury concludes that the Board of Supervisors, through their Ventura County implementation of Prop 36, has delegated BHD/ADP the beneficiary of significant funding and authority without meaningful independent oversight or effective program management. (F-184, F-185)
- C-100.** While the other stakeholders of Prop 36 remain concerned about public safety and reduced costs, the priorities of BHD/ADP appear to favor organizational success statistics, job continuation, and internal budgetary concerns. (F-77, F-78)
- C-101.** Regarding the citizen complaint, the Jury finds it possible that the complainant could experience verbal abuse and harassment under the care of a residential treatment provider. While occasional staff problems might be

expected, BHD/ADP's stated inability to proactively address those problems leaves the client population vulnerable. (F-151, F-152, F-153, F-154, F-155, F-156, F-157, F-158, F-159, F-160, F-161)

- C-102.** The Jury did not find credible BHD/ADP's explanation regarding their inability to inspect the contractors or to hold contractors to standards of sobriety outside contract delivery parameters. (F-152, F-153, F-154, F-155, F-156, F-157, F-158, F-161)
- C-103.** Though the Jury understands that some clients have remained sober after Prop 36 treatment completion, the Jury does not conclude that correlation is the same as causation. The Jury has concluded that in spite of poorly-managed Prop 36 programs, or even without Prop 36 treatment programs, a number of arrested offenders would have achieved sobriety through their own initiative or through other programs offered under government (legal) and private auspices. (F-184, F-185, F-221, F-239, F-245)
- C-104.** The Jury also concludes that more effective Prop 36 policies and management would result in significantly higher treatment success rates than are presently seen in Ventura County. (F-22, F-23, F-28, F-31, F-33, F-35, F-36, F-38, F-46, F-47, F-48, F-49, F-56, F-83, F-84, F-88, F-92, F-93, F-94, F-96, F-142, F-145, F-146, F-148, F-149, F-162, F-163, F-167, F-168, F-169, F-170, F-171, F-173, F-176, F-177, F-179, F-181, F-182, F-185, F-190, F-191, F-198, F-200, F-203, F-205, F-206, F-209, F-216, F-218, F-220, F-221, F-223, F-227, F-230, F-231, F-249, F-251, F-252, F-253, F-262, F-263, F-264, F-265, F-266, F-267, F-268, F-269)
- C-105.** BHD/ADP, through CAS, has demonstrated to the Jury that they do not have the apparent depth of management skills or the organizational capability or desire to properly balance the requirements of multiple stakeholders. (F-30, F-37, F-53, F-54, F-55, F-61, F-63, F-68, F-76, F-92, F-95, F-96, F-113, F-115, F-121, F-127, F-133, F-135, F-136, F-165, F-178, F-179, F-182)

BHD/ADP as Rescuer

- C-106.** Prop 36 is imprecisely and inappropriately portrayed as the choice between treatment and incarceration. (F-15, F-17, F-18, F-19, F-20, F-243)
- C-107.** BHD/ADP's stated policy takes a position protecting Prop 36 clients from the consequences of their actions by shielding relapse information from the criminal justice system in order to maintain clients in treatment. (F-174, F-182)
- C-108.** While the Jury agrees that a court-coerced client does require some period of adjustment to engage in treatment, it appears there are no appropriate corrective sanctions to assure that relaxed standards will achieve the desired objectives. (F-141, F-149, F-150)
- C-109.** Shielding relapse information in the instance of clients who have no visible means of support and high criminality factors on their records can and probably do contribute to serious public safety consequences. (F-184, F-240, F-242)

- C-110.** A basic premise apparently held by BHD/ADP presumes that, but for BHD/ADP's perpetual treatment involvement, Prop 36 offenders are destined to a lifetime of addiction. (F-172, F-173, F-174, F-175, F-176, F-226)
- C-111.** Contrary to BHD/ADP's apparent assumptions, there are many voluntary programs in which an addict or abuser can get assistance by simply showing up at the place of assistance, e.g., Narcotics Anonymous. Therefore, to presume that these offenders do not have the opportunity for other treatment is misleading and incorrect. (F-84, F-85, F-113, F-114, F-150, F-174, F-175, F-267)
- C-112.** Insofar as BHD/ADP presumes that, but for BHD/ADP's involvement, Prop 36 offenders are destined to a lifetime of addiction, BHD/ADP has not justified its position of retaining offenders in treatment when they do not engage in treatment or when they present a course of conduct that may be characterized as "unamenable." (F-18, F-19)
- C-113.** Regardless of BHD/ADP's problematic assertion, an offender removed from Prop 36 probation will either obtain drug treatment in jail or through Diversion and still have a chance of recovery at least equal to that offered by Prop 36. (F-17, F-18, F-19, F-20, F-21, F-23, F-24)
- C-114.** BHD/ADP and the treatment providers state that the inability to use "unamenability" is compensated by the ability to file multiple non-compliance violations against a recalcitrant client. The resulting processing of violations has become a lengthy cycle of repeated and costly attempts at treatment. (F-61, F-67, F-69, F-71, F-72, F-73, F-74, F-82)
- C-115.** From the viewpoint of the citizens of Ventura County and the potential victims of crime perpetrated by drug offenders, it is not a significant difference whether the crime might be the result of a criminal who happens to use drugs or a drug addict who turns to crime to support a habit. (F-67)
- C-116.** Given the limited availability and past waiting lists for residential treatment, BHD/ADP's latest drug testing protocol allowing unlimited and unsanctioned drug use for offenders waiting for a residential bed further jeopardizes public safety. By appearing to excuse the drug offense as due to lack of treatment, BHD/ADP gives the impression they are assuming the responsibility for the offenders' continued use of drugs as well as failing to consider any crimes those offenders may commit while using drugs. (F-97, F-99, F-101, F-102, F-113, F-115, F-116, F-138, F-165, F-166, F-172, F-239, F-240, F-241, F-242, F-243, F-244, F-245, F-248, F-254, F-255, F-256, F-257, F-258, F-259, F-260)
- C-117.** It is the conclusion of the Jury that law enforcement and the criminal justice system has an obligation and duty to protect citizens from and punish perpetrators of drug-related crimes when it is within their power to know of these situations. It is the opinion of the Jury that BHD/ADP should not be permitted, either through intention or omission, to obstruct the criminal justice system from ensuring the public safety within Ventura County. (F-193, F-250, F-255, F-256, F-257, F-258, F-296, F-297)

- C-118.** Maintaining these recalcitrant clients in treatment at a time when they may be unamenable to treatment is detrimental to public safety and to the effectiveness of the overall treatment process. (F-72, F-74, F-75)
- C-119.** The Jury concludes that the most significant factor that distinguishes court-ordered drug treatment programs from “walk-in” treatment options are the coercive sanctions, and attempts to remove or weaken the coercive sanctions from Prop 36 is counterproductive to and frustrates the intent of the statute. (F-80, F-83, F-88, F-226, F-255, F-256)

Summary of Conclusions

- C-120.** The Jury concludes that treatment clearly has not been the success claimed by BHD/ADP. Three years of data do not show objective benefits from this program with regard to costs, public safety, and treatment success. (F-72, F-73, F-163, F-165, F-250, F-257)
- C-121.** Information provided to the courts is filtered by CAS staff. Even though it is understood that some aspects of the medical information and treatment history is considered confidential, Probation should have the ability to access information that could have an impact on public safety. (F-131, F-136, F-193, F-200, F-250, F-296, F-297)
- C-122.** There is no independent verification of CAS-provided client information nor is there review of the complete file by Probation to determine if there are relevant issues (such as drug test results or attendance information) to be revealed. CAS consciously and actively edits the information presented to the courts. (F-193, F-200, F-250, F-259)
- C-123.** Good government and professional standards require a system of checks and balances. The principle of independent oversight is not present in Ventura County’s implementation of Prop 36. (F-262, F-263, F-264, F-265, F-266, F-267, F-269, F-295, F-296, F-297)
- C-124.** Although the California DADP Director stated that less serious offenders are opting for less demanding treatment programs than Prop 36, when compared to Diversion and incarceration, the Jury concludes that there is no less demanding or less effective court-ordered treatment option in Ventura County than Prop 36. (F-08, F-13, F-15, F-16, F-129, F-243)
- C-125.** The Jury considers it disingenuous for BHD/ADP to consistently deny the public safety considerations by stating a lack of supporting data, while at the same time claiming success in drug treatment in direct contradiction of overwhelming failure data. (F-91, F-164, F-166, F-179, F-182, F-183, F-188)
- C-126.** It appears to the Jury that BHD/ADP has usurped the authority and funding provided by Prop 36 and has, in effect, removed the public safety and cost objectives in order to focus all efforts on drug treatment and keeping offenders from jail. (F-72, F-73, F-74, F-85, F-88, F-90, F-113, F-133, F-135, F-136, F-162, F-163, F-164, F-170, F-171, F-176, F-179, F-182, F-183, F-184, F-206, F-226, F-227, F-228, F-230)

C-127. The Jury has found for each Prop 36 offender that

- BHD/ADP can exercise discretion in allowing multiple violations or offenses before issuing a non-compliance report.
- In presenting the non-compliance information to the courts for a non-compliance hearing, BHD/ADP has the discretion to provide limited or edited client history.
- A non-compliance report might or might not result in a strike; therefore, there may be multiple non-compliance reports accrued for each strike.
- There can be numerous strikes allowed by the courts for Prop 36 offenders through multiple grants of Prop 36 probation.

With offenses and violations that are allowed to accrue through the exercise of discretion between BHD/ADP and the courts, the Jury has found neither the limits nor sanctions which the voters were promised when voting for Prop 36 in 2000. (F-44, F-46, F-47, F-48, F-49, F-50, F-52, F-53, F-54, F-55, F-56, F-57, F-58, F-59, F-116, F-165, F-172, F-175, F-176, F-177, F-182, F-191, F-193, F-200, F-221, F-239, F-255, F-257, F-263, F-264, F-265, F-266, F-267)

C-128. It is the opinion of the Jury that, despite being given free reign to implement Prop 36 without regard or consideration of other stakeholder concerns, BHD/ADP has not been effective in its treatment objectives. Partially resulting from the criminality of the population and partially resulting from BHD/ADP's lenient and ineffective drug treatment policies, the Jury believes, despite BHD/ADP's intentions, many of the Prop 36 clients will eventually be incarcerated. (F-72, F-73, F-74, F-85, F-88, F-90, F-113, F-133, F-135, F-136, F-162, F-163, F-164, F-170, F-171, F-176, F-179, F-182, F-183, F-184, F-206, F-226, F-227, F-228, F-230)

C-129. The Board of Supervisors has the authority and responsibility to make significant improvements in Prop 36 implementation in Ventura County. (F-88, F-89, F-90)

Recommendations

R-01. The Board of Supervisors undertakes the reorganization of Prop 36 implementation within Ventura County in order to better accomplish the statutory mandates and scheme intended under Prop 36.

Considerations: In the reorganization there should be a defined functional distinction between management and treatment decisions. In addition, the Jury believes that the Lead Agency should represent the public interest by communicating clear objectives, fostering a spirit of inter-agency cooperation, exercising appropriate levels of management oversight, and providing significant and verifiable status reporting. At present, these objectives are missing or are weakly represented.

- R-02. The Board of Supervisors withdraws the Lead Agency designation from BHD/ADP and designates the County Executive Officer (CEO) as the Lead Agency for Prop 36 management and oversight functions.**

Considerations: The purpose of this assignment would be to identify the limits of the county's statutory and regulatory discretion and establish corresponding business rules and procedures. The CEO should be officially assigned as the county's Lead Agency for Prop 36 and this agency should also chair the Oversight Committee.

- R-03. Having assumed responsibility for leading Prop 36 treatment programs in the past, BHD/ADP may function as the county's expert in recommending treatment methods and the standards of successful treatment program completion.**

Considerations: Established standards should be documented with clear and unequivocal language and not be subject to the whims of administration. Though decisions to compromise professional standards must often be made, they should not be to the benefit of one stakeholder to the detriment of all others based on internal political and office considerations as has occurred under the current leadership. Given that there is no one proven treatment method, BHD/ADP should not simply consider, but should defer to the expertise of other stakeholder agencies with regard to public safety considerations and select effective treatment methods and protocols that, in the judgment of the Oversight Committee, tend to increase public safety.

- R-04. The county should address the issue of "unamenability," as described in the statute and case law, with a view toward bringing the concept to bear in county practice.**

Considerations: All Prop 36 stakeholders are aware that unamenable offenders exist. The stakeholders are also aware that the law was written with the knowledge that these offenders would present themselves for treatment. The county should consider hiring or consulting professionals who are qualified and willing to make and support a determination of unamenability. Further, as a first step, the county should determine whether the unamenability concept could be supported in practice. If unamenability is shown to be a concept that has no practical meaning within the law, it should be removed from procedural documentation, as it serves no purpose other than to weaken the system. The benefits in public safety, program quality, and costs from including this concept to eliminate unamenable offenders from the program alone promises to be significant.

- R-05. In order to organize and provide actionable information to the probationary supervision, top priority should be given to implementing an integrated information system designed for that purpose.**

Considerations: A professional systems analysis should be undertaken with Prop 36 funds to determine the interrelationships among the stakeholder organizations and analyze the flows of information. Probation plays a pivotal supervisory role in the oversight of Prop 36 probationers. To that end, accurate information needs to timely flow from treatment providers and BHD/ADP toward a Probation repository for dissemination to appropriate stakeholders. This probation repository should have, at a

bare minimum, standard probation case management information, criminal histories, real-time updates of key treatment indicators from the treatment providers, and any other information determined by Probation and the District Attorney relevant to public safety. Prop 36 funds should be reassigned by the Oversight Committee as appropriate to the treatment and supervisory objectives.

R-06. Probation develops a basic risk management system or protocol to look at key indicators of a client's profile to determine the risk to society.

Considerations: No tracking system can replace the human judgment of treatment providers, addiction specialists, or trained probation officers. However, it would be beneficial to supplement human interactions and acknowledge the key data indicators that indicate a client might be a risk to society. Those key indicators can assist Probation in identifying, on a daily basis, those clients in need of closer personal supervision. By the availability of decision-making information and the ability to make a more objective assessment of risk, Probation could effectively manage all Prop 36 cases, not just those of felony convictions. Risk management indicators should be a factor in distributing Prop 36 funds among agencies; higher criminality risk populations with the Prop 36 clientele should indicate greater funding allocation to Probation supervision. Any adjustments to staffing and record keeping should be funded by the reallocation of Prop 36 funds.

The success of Prop 36 is currently in jeopardy, and the Jury recommends that the following measures be implemented immediately to restore public trust, treatment outcomes, and public safety

R-07. The immediate establishment of a meaningful treatment completion standard in accordance with the spirit and intent of Prop 36.

Considerations: Replace the current ambiguous and weak completion procedure and its forms with a graduation procedure requiring successful completion of all classes and supplemental treatment within a reasonable deadline. As a final requirement, each graduate should be required to pass a hair follicle test showing complete abstinence from drugs for at least 90 days. Included in the treatment program could be a provision whereby the client responsibly sets aside some money throughout the process, and the graduate should be required to pay for this test (approximately \$160) before receiving his or her certificate of completion from BHD/ADP.

R-08. The Operations and Oversight Committee be re-constituted as the representative body for all stakeholders.

Considerations: A charter, guidelines, and by-laws should be documented with the approval of the Board of Supervisors, providing membership requirements, stakeholder authority, quorum, and voting procedures. The re-constituted Operations and Oversight Committee must establish clear written guidelines and voting procedures. Its decisions should be made with consideration given to the voice of all stakeholders, and minutes should clearly document all decisions, action items, and discussions. The chair should be identified unambiguously. The Board of Supervisors should provide additional oversight to the Operations and Oversight Committee to help resolve discretionary policy decisions in favor of the public interest.

R-09. The drug testing protocol should be tightened immediately.

Considerations: The County should seriously consider using a system such as the PassPoint™ drug-screening device at two or three county locations and require its use frequently. Positive screenings on the PassPoint™ should automatically require a urine test to verify drug usage. It is important that BHD/ADP as well as the client understands and accepts that drug testing is a support tool in the decision to attain a drug-free lifestyle. Drug testing and the immediate sharing of results with stakeholders should be an accepted part of the treatment plan. BHD/ADP should provide a call-in number for Prop 36 clients to listen to drug testing schedules. If their number is scheduled, they should be required to report within 24 hours for drug testing. Additional incentives to the drug testing protocols should be instituted whereby, should a client self-reveal and admits to using drugs prior to any request for testing or screening, the county will pay for the test.

R-10. Though, by policy, drug testing is to be used for treatment purposes, public safety concerns require that Probation continue to conduct drug testing.

Considerations: If the Lead Agency decides to lease the PassPoint™ or similar system, there would be flat-fee costs accrued to treatment-oriented drug screening should two systems be leased to and located with east county and west county treatment providers. Probation should be encouraged to develop and provide a random drug screening schedule for all probationers (formal and conditional release), over and above the treatment requirements and not to interfere with the treatment use of screening devices. When the screening indicates the possible use of drugs or alcohol, Probation can use its internal drug testing budget to confirm or refute the use of drugs. If a drug test comes back positive, the client should pay unless they have self-confessed the usage prior to the request for screening and testing. The clients should be informed that the county will pay for all negative drug tests.

R-11. A goal of early and positive supervision experience should be pursued to initially set the tone for Prop 36 treatment.

Considerations: Treatment compliance and outcome have been linked to early assessment. CAS should establish an office in the Hall of Justice or Probation for use in immediate assessments concurrent with sentencing. The CAS should assign one or more addiction specialists to the dedicated Prop 36 court to immediately assess a defendant, administer an initial drug test, and instruct him or her when and where to report.

R-12. The Operations and Oversight Committee should institute thoughtful and allowable sanctions for offenders who fail in treatment, submit positive drug tests, or who miss treatment classes.

Considerations: Though incarceration is not permitted by statute, clients should be required to earn relaxed standards through a program history of positive behaviors and compliance with regulations rather than providing loose structure at the beginning of the program. Evidence suggests that success is based on solid case management and meaningful immediate sanctions, or the threat thereof.

Responses

Recommendations	R-01 through R-12
Responses Required From:	
Board of Supervisors	X
Office of the District Attorney	X
Sheriff's Department	X
Responses Requested From:	
Health Care Agency	X
Probation Agency	X

Attachments

Attachment I.	Proposition 36 Probation Terms for Formal Release
Attachment II.	Proposition 36 Non-Compliance Policy (Current)
Attachment III.	Addiction Severity Index
Attachment IV.	Proposition 36 Treatment Services Matrix July 1, 2003
Attachment V.	Proposition 36 Satisfactory Completion of Treatment Form
Attachment VI.	Proposition 36 Proposed Drug Testing Protocol
Attachment VII.	Proposition 36 Demographics Report FY 2003/2004
Attachment VIII.	Probation Agency Prop 36 Yearly Stats FY 2003/2004

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Attachment I. Proposition 36 Probation Terms for Formal ReleaseSUPERIOR COURT STATE OF CALIFORNIA
COUNTY OF VENTURA

RE: [REDACTED] COURTROOM 12 NO. [REDACTED]

PROPOSITION 36
PROBATION TERMS FOR FORMAL RELEASE

1. **PAFDT** The defendant be granted formal probation pursuant to Penal Code Section 1210.1 for a period of 36 months, subject to the following conditions.
2. **FEPAC** The Court find that the defendant has the ability to pay for the cost of probation, the Court find that the cost of probation to be \$89 per month, and the Court orders the defendant to pay for such costs.
3. **FE2** The defendant shall pay an investigation fee of \$227.
4. **FE3** The defendant shall pay an AIDS fee of \$70.
5. **PAP01** The defendant shall report to the probation office located on the second floor of the Sheriff/Probation building immediately after being released from Court or upon release from custody.

The defendant be placed under the supervision and control of the Ventura County Probation Officer and shall report to said probation officer as directed.

The defendant shall maintain regular employment as approved by the probation officer; and shall support all dependents.

The defendant shall not leave the county of residence for a period exceeding 72 hours, nor change residence without prior approval of the probation officer. The defendant shall not leave the State of California without prior permission of the probation officer.

If the defendant is on felony formal probation, the following applies: The defendant waives extradition to the State of California from any jurisdiction in or outside the United States where the defendant may be found. The defendant further agrees that he/she will not contest any efforts by any jurisdiction to return him/her to the State of California.

Attachment I. Proposition 36 Probation Terms for Formal Release

- The defendant shall participate in any treatment program designated by the probation officer as extensively as directed and authorize release of information between the probation officer and the treatment program.
6. **PAOBEY** The defendant shall obey all laws.
 7. **PAREFD** The defendant shall pay a restitution fine of \$200 to the State Restitution Fund.
 8. **PAD1** The defendant shall not use or possess any controlled substances, including marijuana, or drug or marijuana paraphernalia.
 9. **PATDT** The defendant shall consent to any tests, submit to and complete any tests to determine the presence of controlled substances, including marijuana, at any time as requested by a peace officer, probation officer, or when requested by a licensed and/or certified community drug treatment program.
 10. **PAD4** The defendant shall not alter, adulterate, nor attempt in any manner to falsify any bodily fluids submitted for the determination of the presence of controlled substances, including marijuana.
 11. **PAS2** The defendant hereby consents to a search of person, vehicle, residence, business, or any personal or real property under the defendant's control for controlled substances, including marijuana and related paraphernalia, by a peace officer or probation officer, at any time, with or without a search warrant, warrant of arrest, or reasonable cause.
 12. **PAD2** The defendant shall not associate with any person who is using or trafficking in any controlled substance, including marijuana.
 13. **PARG3** The defendant shall read and sign CII Notification form and register pursuant to Section 11590 of the Health and Safety Code. After registration, the defendant has 30 days to register with the law enforcement agency in the city where the defendant resides.
 14. **PAF12** Pursuant to Section 11350(d) of the Health and Safety Code, the defendant shall pay a fine of \$3200, including penalty assessment. *(This term included only if offense is a 11350(a)HS)*

Attachment I. Proposition 36 Probation Terms for Formal Release

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|-----|---------------|--|
| 15. | PADAF | Pursuant to Section 11372.5 of the Health and Safety Code, the defendant shall pay a fine plus penalty assessment of \$160 to the Criminalistics Laboratories. |
| 16. | PADPF | Pursuant to Section 11372.7 of the Health and Safety Code, the defendant shall pay a fine and penalty assessment of \$480 to the Drug Program Fund. |
| 17. | PAAID1 | Pursuant to Section 1001.10 of the Penal Code, the defendant shall participate in an AIDS education program. Call 805/652-5902 to receive instructions for attending the AIDS class. The defendant must attend the class within three months of the defendant's sentencing date or release from custody. Failure to attend and complete this class will result in a bench warrant. Proof of attendance must be provided to the probation officer. |
| 18. | PADT1 | The defendant shall participate as directed in a Court-approved drug treatment program. Within five days of this hearing or upon release from custody, the defendant shall report to Central Assessment Services at 5700 Ralston, Suite 210, Ventura, CA 93003, 805/289-3303, between 8 a.m. and 5 p.m., Monday through Friday, and complete an intake appointment. The defendant shall comply with program rules and remain in the program until successful completion. |
| 19. | PADT2 | Federal confidentiality laws would generally apply to all aspects of an individual's participation in drug treatment. By accepting treatment rather than incarceration as a term of this probation, the defendant waives his/her confidentiality rights in order to allow Court to supervise and assess his/her treatment participation progress and his/her compliance with the rules of the drug treatment program as necessary. |
| 20. | PAW3 | The defendant shall not own, possess, or have under custody, control, or immediate access to any firearm, ammunition, oleocapsicum pepper spray, or tear gas. |
| 21. | PYALL | The Court finds that the defendant has the ability to pay and orders the defendant to pay all costs, fines, fees, and restitution. |
| 22. | PYWF | The defendant's costs, fines, fees, and restitution are payable at \$125 per month, beginning 5-4-04, unless accepted into the Work Furlough program, in which case said monthly payment shall begin forthwith. The defendant is directed to pay through the Superior Court Collection Unit, 800 South Victoria Avenue, Room 205, P.O. Box 6489, Ventura, CA 93006-6489. |

Attachment II. Proposition 36 Non-Compliance Policy (Current)

VENTURA COUNTY BEHAVIORAL HEALTH DEPARTMENT
ALCOHOL AND DRUG PROGRAMS
PROPOSITION 36
NON-COMPLIANCE POLICY

POLICY

It is the policy of the Alcohol and Drug Programs that a satisfactory level of compliance with the minimum program requirements be maintained in all Proposition 36 treatment cases. To that end, a client's progress shall be monitored by the assigned program provider and Case Manager in a sufficient manner. Violations in compliance shall be reported to the Court.

RESPONSIBLE PERSONS

- A. It is the responsibility of the assigned counselor/program manager to report all violations of compliance to the Alcohol and Drug Programs (ADP) Case Manager/Assessment Team (see attached Non-Compliance Report Form).
- B. It is the responsibility of the ADP Case Manager/Assessment Team Manager to initiate contact with the Court/Probation regarding all "strike" relevant violations or patterns of violations (see attached Non-Compliance Report Form).

Additional documentation of the non-compliance episode/outcome shall be made in the Treatment Program chart.

- C. It is the responsibility of the ADP Case Manager/Assessment Team to report all such violations of compliance within two business days.
- D. It is the responsibility of the ADP Case Manager/Assessment Team to report back to the assigned counselor/program manager the disposition of the Court, prior to re-entry of the participant to that program.
- E. ADP/Behavioral Health Department (BHD) Quality Assurance (QA) review will monitor adherence to this policy.

VIOLATION CRITERIA/PROTOCOL

The Case Manager submits violation/non-compliance report with the Court/Probation within two business days of latest incident, utilizing the Non-Compliance Form (see attached).

Clients will sign a program agreement that advises them of the need to adhere to the minimum program requirements in order to complete the program under Proposition 36.

They are:

Attachment II. Proposition 36 Non-Compliance Policy (Current)

- **ASSAULTIVE AND/OR THREATENING BEHAVIOR**

Protocol – Single incident reporting.

May be summarily dismissed and returned to Court.

File Notice of Non-Compliance within two business days.

- **UNAMENABLE TO TREATMENT WITH PERSISTENT NON-PAYMENT OF FEES**

Protocol – Clients who are resistant to treatment and refuse to pay program fees may be determined to be non-compliant.

Once this pattern has been established and documented, the Treatment Program will file a Notice of Non-Compliance within two business days.

- **NO SHOW FOR ASSESSMENT**

Protocol – Single incident report. May be summarily dismissed and returned to Court. File Notice of Non-Compliance within two business days.

- **REFUSAL OF TREATMENT OR NON-COMPLIANCE WITH TREATMENT**

Protocol – Serious and willful refusal to participate in treatment.*

Attempt to engage and redirect client (limited to three attempts).

Files notice after establishing pattern of refusal; clearly documented.

Reporting to Court/Probation on Non-Compliance Form within two business days of latest incident.

*Unamenable to drug treatment in that there has been a serious violation of rules, continues to refuse active participation, has repeatedly committed violations in program rules which inhibit their or others ability to participate or successfully complete treatment.

- **URINE TEST ALTERATION**

Protocol – Any adulteration of Urine Test or Drug Screen constitutes grounds for “strike” or summary dismissal and is to be reported by the Drug Screen Provider to the assigned counselor/program.

Program informs the Case Manager.

Reporting is to Court/Probation on Non-Compliance Form the day of the incident.

All drug tests results for the entire treatment episode will be forwarded at the time a non-compliance violation is filed by the Case Manager/Program.

NOTE: The drug testing contractor/Test Site Manager shall provide the precise protocol regarding matters of false samples, shy bladder and adulterated tests/screens.

Attachment II. Proposition 36 Non-Compliance Policy (Current)

- **POSITIVE DRUG TEST(S)**

Protocol – Less than three consecutive positive drug tests (or missed tests) remain at the discretion of the Program Manager/Case Manager to report to the Court/Probation.

Three consecutive (or missed tests) or an overall total of five shall be the maximum in reporting violations to the Court/Probation.

At any time the counselor, Treatment Program or Case Manager reserve the right to disclose any single incident to the Court/Probation.

All drug tests results for the entire treatment episode will be forwarded at the time a non-compliance violation is filed by the Case Manager/Program.

Subsequent violations (positive or missed screens/tests) will be reported to the Court/Probation when a client has provided two consecutive or a total of three positives.

- **PERSISTENT TARDINESS AND ABSENCE**

Protocol – Violation criteria for absence/tardiness will be based on Level.

Level I — a total of five (5) absences are reportable.

Level II — a total of eight (8) absences is reportable.

Level III — a total of ten (10) absences is reportable.

At each level, three consecutive absences will result in a report of non-compliance being filed with the Court/Probation by the Case Manager (as reported to them by the Program Manager/Counselor).

At any time the Counselor, Treatment Program or Case Manager reserves the right to disclose any single or series of absences or tardiness to the Court/Probation.

All attendance records for the entire treatment episode may be requested by the Court/Probation at the time a non-compliance violation is filed by the Case Manager/Program.

NOTE: Participants may request a Leave of Absence (LOA) if they are unable to attend scheduled program activities for an extended period, usually 15 days or longer.

An LOA may be approved for a variety of reasons at the discretion of the Case Manager and Treatment Program (see **Leave of Absence Policy**).

- **ALCOHOL ABUSE**

Protocol –

1. Total abstinence from alcohol and/or other drugs during the time in program (and indefinitely for those who are chemically addicted) is the treatment goal for clients in this program.
2. Program sobriety is an absolute requirement for all clients. This is defined as the absence of alcohol and/or drugs in a person's system, while present at the Assessment Center, Testing Center and Treatment Provider facility.

Attachment II. Proposition 36 Non-Compliance Policy (Current)

3. Alcohol abuse will result in an attempt by treatment staff to re-engage the client and possible enhancement in the treatment plan.
4. If a violation of this requirement is suspected by any staff member, a form of Non-Compliance regarding the client may be sent to the Court/Probation.
5. The client may be dismissed from attending the program until further resolution by the Court.
6. Program has discretion in enforcing items 4 and 5.
7. Program sobriety will be enforced. Therefore, it is recommended that, in order to avoid risk of dismissal, no alcohol be consumed while in this program.

REPORTING MATERIALS AND TECHNOLOGY

Version A of the Non-Compliance Report (with attached chart documentation) will be sent by Program Manager/Counselor to ADP Case Manager/Assessment Team.

Version B of the Non-Compliance Report (with the attached chart documentation or Case Manager's Summary) will be sent to the Court/DPO.

Fax and telephone will be utilized to transmit monitoring information at this time.

Hard copies are available on request.

Eventual Internet/LAN reporting will be proposed.

Attachment III. Addiction Severity Index

Addiction Severity Index 5th Edition

Clinical/Training Version

A. Thomas McLellan, Ph.D.
Deni Carise, Ph.D.
Thomas H. Coyne, MSW

Remember: This is an interview, not a test

Item numbers circled are to be asked at follow-up.

Items with an asterisk are cumulative and should be rephrased at follow-up.

INTRODUCING THE ASI: Introduce and explain the seven potential problem areas: Medical, Employment/Support Status, Alcohol, Drug, Legal, Family/Social, and Psychiatric. All clients receive this same standard interview. All information gathered is confidential; explain what that means in your facility; who has access to the information and the process for the release of information.

There are two time periods we will discuss:

1. The past 30 days
2. Lifetime

Patient Rating Scale: Patient input is important. For each area, I will ask you to use this scale to let me know how bothered you have been by any problems in each section. I will also ask you how important treatment is for you for the area being discussed.

The scale is:

- 0 - Not at all
- 1 - Slightly
- 2 - Moderately
- 3 - Considerably
- 4 - Extremely

Inform the client that he/she has the right to refuse to answer any question. If the client is uncomfortable or feels it is too personal or painful to give an answer, instruct the client not to answer. Explain the benefits and advantages of answering as many questions as possible in terms of developing a comprehensive and effective treatment plan to help them.

Please try not give inaccurate information!

INTERVIEWER INSTRUCTIONS:

1. Leave no blanks.
2. Make plenty of Comments (if another person reads this ASI, they should have a relatively complete picture of the client's perceptions of his/her problems).
3. X = Question not answered.
N = Question not applicable.
4. Terminate interview if client misrepresents two or more sections.
5. When noting comments, please write the question number.
6. Tutorial/clarification notes are preceded with "•".

HALF TIME RULE:

If a question asks the number of months, round up periods of 14 days or more to 1 month. Round up 6 months or more to 1 year.

CONFIDENCE RATINGS: Last two items in each section.

- ⇒ Do not over-interpret.
- ⇒ Denial does not necessarily warrant misrepresentation.
- ⇒ Misrepresentation = overt contradiction in information.

Probe, cross-check and make plenty of comments!

HOLLINGSHEAD CATEGORIES:

1. Higher execs, major professionals, owners of large businesses.
2. Business managers of medium sized businesses, lesser professions, i.e., nurses, opticians, pharmacists, social workers, teachers.
3. Administrative personnel, managers, minor professionals, owners/proprietors of small businesses, i.e., bakery, car dealership, engraving business, plumbing business, florist, decorator, actor, reporter, travel agent.
4. Clerical and sales, technicians, small businesses (bank teller, bookkeeper, clerk, draftsman, timekeeper, secretary).
5. Skilled manual - usually having had training (baker, barber, brakeperson, chef, electrician, fireman, machinist, mechanic, paperhanger, painter, repairperson, tailor, welder, police, plumber).
6. Semi-skilled (hospital aide, painter, bartender, bus driver, cutter, cook, drill press, garage guard, checker, waiter, spot welder, machine operator).
7. Unskilled (attendant, janitor, construction helper, unspecified labor, porter, including unemployed).
8. Homemaker.
9. Student, disabled, no occupation.

LIST OF COMMONLY USED DRUGS:

Alcohol:	Beer, wine, liquor
Methadone:	Dolophine, LAAM
Opiates:	Pain killers = Morphine, Dilaudid, Demerol, Percocet, Darvon, Talwin, Codeine, Tylenol 2,3,4, Syrups = Robitussin, Fentanyl
Barbiturates:	Nembutal, Seconal, Tuinal, Amytal, Pentobarbital, Secobarbital, Phenobarbital, Fiorinal
Sed/Hyp/Tranq:	Benzodiazepines = Valium, Librium, Ativan, Serax, Tranxene, Dalmane, Halcion, Xanax, Miltown, Other = Chloral Hydrate, Quaaludes
Cocaine:	Cocaine Crystal, Free-Base Cocaine or Crack, and "Rock Cocaine"
Amphetamines:	Monster, Crank, Benzedrine, Dexedrine, Ritalin, Preludin, Methamphetamine, Speed, Ice, Crystal
Cannabis:	Marijuana, Hashish
Hallucinogens:	LSD (Acid), Mescaline, Psilocybin (Mushrooms), Peyote, Green, PCP (Phencyclidine), Angel Dust, Ecstasy
Inhalants:	Nitrous Oxide (Whippets), Amyl Nitrite (Poppers), Glue, Solvents, Gasoline, Toluene, Etc.

Just note if these are used:

- Antidepressants,
- Ulcer Meds = Zantac, Tagamet
- Asthma Meds = Ventolin Inhaler, Theodur
- Other Meds = Antipsychotics, Lithium

ALCOHOL/DRUG USE INSTRUCTIONS:

The following questions refer to two time periods: the past 30 days and lifetime. Lifetime refers to the time prior to the last 30 days.

- ⇒ 30 day questions only require the number of days used.
- ⇒ Lifetime use is asked to determine extended periods of use.
- ⇒ Regular use = 3 or more times per week, binges, or problematic irregular use in which normal activities are compromised.
- ⇒ Alcohol to intoxication does not necessarily mean "drunk", use the words "to feel or felt the effects", "got a buzz", "high", etc. instead of intoxication. As a rule, 3 or more drinks in one sitting, or 5 or more drinks in one day defines "intoxication".
- ⇒ How to ask these questions:
- "How many days in the past 30 have you used....?"
- "How many years in your life have you regularly used....?"

Attachment III. Addiction Severity Index

INSTRUCTIONS	SEVERITY RATINGS	Addiction Severity Index Fifth Edition																																																																																																			
<p>1. <u>Leave No Blanks</u> - Where appropriate code items:</p> <p style="margin-left: 20px;">X = question not answered N = questions not applicable</p> <p>Use <u>only</u> one character per item.</p> <p>2. Item numbers <u>underlined</u> are to be asked at follow-up. Items with an asterisk are cumulative and should be rephrased at follow-up (see Manual).</p> <p>3. Space is provided after sections for additional comments.</p>	<p>The severity ratings are interviewer estimates of the patient's need for additional treatment in each area. The scales range from 0 (no treatment necessary) to 9 (treatment needed to intervene in life-threatening situation).</p> <p>Each ratings is based upon the patient's history of problem symptoms, present condition and subjective assessment of his treatment needs in a given area. For a detailed description of severity ratings' derivation procedures and conventions, see manual. Note: These severity ratings are optional.</p>	<p>SUMMARY OF PATIENTS RATING SCALE</p> <p style="margin-left: 40px;">0 - Not at all 1 - Slightly 2 - Moderately 3 - Considerably 4 - Extremely</p>																																																																																																			
<p>G1. I.D. NUMBER </p> <p>G2. LAST 4 DIGITS OF SSN </p> <p>G3. PROGRAM NUMBER </p> <p>G4. DATE OF ADMISSION Mth. Day Year</p> <p>G5. DATE OF INTERVIEW Mth. Day Year</p> <p>G6. TIME BEGUN : </p> <p>G7. TIME ENDED : </p> <p>G8. CLASS: </p> <p style="margin-left: 20px;">1 - Intake 2 - Follow-up</p> <p>G9. CONTACT CODE: </p> <p style="margin-left: 20px;">1 - In Person 2 - Phone</p> <p>G10. GENDER: </p> <p style="margin-left: 20px;">1 - Male 2 - Female</p> <p>G11. INTERVIEWER CODE NUMBER </p> <p>G12. SPECIAL: </p> <p style="margin-left: 20px;">1 - Patient terminated 2 - Patient refused 3 - Patient unable to respond</p>	<p style="text-align: center;">GENERAL INFORMATION</p> <p>NAME </p> <p>CURRENT ADDRESS </p> <p>G13. GEOGRAPHIC CODE </p> <p>G14. How long have you lived at this address? Years Months</p> <p>G15. Is this residence owned by your or your family? </p> <p>G16. DATE OF BIRTH Mth. Day Year</p> <p>G17. RACE </p> <p style="margin-left: 20px;">1 - White (Not of Hispanic Origin) 2 - Black (Not of Hispanic Origin) 3 - American Indian 4 - Alaskan Native 5 - Asian or Pacific Islander 6 - Hispanic - Mexican 7 - Hispanic - Puerto Rican 8 - Hispanic - Cuban 9 - Other Hispanic</p> <p>G18. RELIGIOUS PREFERENCE </p> <p style="margin-left: 20px;">1 - Protestant 2 - Catholic 3 - Jewish 4 - Islamic 5 - Other 6 - None</p> <p>G19. Have you been in a controlled environment in the past 30 days? </p> <p style="margin-left: 20px;">1 - No 2 - Jail 3 - Alcohol or Drug Treatment 4 - Medical Treatment 5 - Psychiatric Treatment 6 - Other</p> <p>G20. How many days? </p>	<p style="text-align: center;">ADDITIONAL TEST RESULTS</p> <p>G21. Shipley C.Q. </p> <p>G22. Shipley I.Q. </p> <p>G23. Beck Total Score </p> <p>G24. SCL-90 Total </p> <p>G25. MAST </p> <p>G26. </p> <p>G27. </p> <p>G28. </p> <p style="text-align: center;">SEVERITY PROFILE</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>9</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td>8</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td>7</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td>6</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td>5</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td>4</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td>3</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td>2</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td>1</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td>0</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr> <td style="writing-mode: vertical-rl; transform: rotate(180deg);">Problems</td> <td style="writing-mode: vertical-rl; transform: rotate(180deg);">Medical</td> <td style="writing-mode: vertical-rl; transform: rotate(180deg);">Employ/Support</td> <td style="writing-mode: vertical-rl; transform: rotate(180deg);">Alcohol</td> <td style="writing-mode: vertical-rl; transform: rotate(180deg);">Drug</td> <td style="writing-mode: vertical-rl; transform: rotate(180deg);">Legal</td> <td style="writing-mode: vertical-rl; transform: rotate(180deg);">Family/Social</td> <td style="writing-mode: vertical-rl; transform: rotate(180deg);">Psychiatric</td> <td></td> </tr> </table>	9									8									7									6									5									4									3									2									1									0									Problems	Medical	Employ/Support	Alcohol	Drug	Legal	Family/Social	Psychiatric	
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Attachment III. Addiction Severity Index

☐ ☐ ☐ ☐

MEDICAL STATUS

M1. How many times in your life have you been hospitalized for medical problems? ☐ ☐ ☐ ☐
(Include o.d.'s, d.t.'s, exclude detox.)

M2. How long ago was your last hospitalization for a physical problem? ☐ ☐ ☐ ☐
Years Months

M3. Do you have any chronic medical problems which continue to interfere with your life? ☐

M4. Are you taking any prescribed medication on a regular basis for a physical problem? 0 - No 1 - Yes ☐

M5. Do you receive a pension for a physical disability? (Exclude psychiatric disability.)
0 - No
1 - Yes ☐
Specify _____

M6. How many days have you experienced medical problems in the past 30 days? ☐ ☐ ☐ ☐

For questions M7 & M8 please ask the patient to use the Patient's Rating Scale.

M7. How troubled or bothered have you been by these medical problems in the past 30 days? ☐

M8. How important to you now is treatment for these medical problems? ☐

Interviewer Severity Rating

M9. How would you rate the patient's need for medical treatment? ☐

Confidence Rating

Is the above information significantly distorted by:

M10. Patient's misrepresentation? 0 - No 1 - Yes ☐

M11. Patient's inability to understand? 0 - No 1 - Yes ☐

COMMENTS

EMPLOYMENT/SUPPORT STATUS

E1. Education completed ☐ ☐ ☐ ☐
Years Months

E2. Training or technical education completed ☐ ☐
Months

E3. Do you have a profession, trade or skill? ☐
0 - No
1 - Yes
Please Specify _____

E4. Do you have a valid driver's license? ☐
0 - No 1 - Yes

E5. Do you have an automobile available for use? (Answer No if no valid driver's license.) 0 - No 1 - Yes ☐

E6. How long was your longest full-time job? ☐ ☐ ☐ ☐
Years Months

E7. Usual (or last) occupation? ☐

Specify in Detail _____

E8. Does someone contribute to your support in any way? ☐

E9. (ONLY IF "ITEM 8" IS YES) Does this constitute the majority of your support? ☐

E10. Usual employment pattern, past 3 years. ☐
1 - full time (40 hrs/wk)
2 - part time (reg. hrs.)
3 - part time (irreg., daywork)
4 - student
5 - service
6 - retired/disability
7 - unemployed
8 - in controlled environment

E11. How many days were you paid for working in the past 30? ☐ ☐ ☐ ☐
(include "under the table" work.)

How much money did you receive from the following sources in the past 30 days?

E12. Employment (net income) ☐ ☐ ☐ ☐

E13. Unemployment compensation ☐ ☐ ☐ ☐

E14. DPA ☐ ☐ ☐ ☐

E15. Pension, benefits or social security ☐ ☐ ☐ ☐

E16. Mate, family or friends (Money for personal expenses) ☐ ☐ ☐ ☐

E17. Illegal ☐ ☐ ☐ ☐

E18. How many people depend on you for the majority of their food, shelter, etc.? ☐

E19. How many days have you experienced employment problems in the past 30? ☐

For questions E20&E21 please ask patient to use the Patient Rating Scale.

E20. How troubled or bothered have you been by these employment problems in the past 30 days? ☐

E21. How important to you now is counseling for these employment problems? ☐

Interviewer Severity Rating

E22. How would you rate the patient's need for employment counseling? ☐

Confidence Rating

Is the above information significantly distorted by:

E23. Patient's misrepresentation? ☐

E24. Patient's inability to understand? ☐

COMMENTS

Attachment III. Addiction Severity Index

[illegible]

Attachment III. Addiction Severity Index

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<p>L1. Was this admission prompted or suggested by the criminal justice system (judge, probation/parole officer, etc.)</p> <div style="display: flex; justify-content: space-between;"> 0 - No 1 - Yes <input style="width: 30px; height: 20px;" type="checkbox"/> </div> <p>L2. Are you on probation or parole ?</p> <div style="display: flex; justify-content: space-between;"> 0 - No 1 - Yes <input style="width: 30px; height: 20px;" type="checkbox"/> </div> <p>How many times in your life have you been arrested and charged with the following:</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 80%;">L3. - shoplifting/vandalism.....</td> <td style="width: 20%;"><input style="width: 20px; height: 20px;" type="checkbox"/></td> </tr> <tr> <td>L4. - parole/probation violations..</td> <td><input style="width: 20px; height: 20px;" type="checkbox"/></td> </tr> <tr> <td>L5. - drug charges.....</td> <td><input style="width: 20px; height: 20px;" type="checkbox"/></td> </tr> <tr> <td>L6. - forgery.....</td> <td><input style="width: 20px; height: 20px;" type="checkbox"/></td> </tr> <tr> <td>L7. - weapons offense.....</td> <td><input style="width: 20px; height: 20px;" type="checkbox"/></td> </tr> <tr> <td>L8. - burglary, larceny, B&E.....</td> <td><input style="width: 20px; height: 20px;" type="checkbox"/></td> </tr> <tr> <td>L9. - robbery.....</td> <td><input style="width: 20px; height: 20px;" type="checkbox"/></td> </tr> <tr> <td>L10. - assault.....</td> <td><input style="width: 20px; height: 20px;" type="checkbox"/></td> </tr> <tr> <td>L11. - arson.....</td> <td><input style="width: 20px; height: 20px;" type="checkbox"/></td> </tr> <tr> <td>L12. - rape.....</td> <td><input style="width: 20px; height: 20px;" type="checkbox"/></td> </tr> <tr> <td>L13. - homicide, manslaughter.....</td> <td><input style="width: 20px; height: 20px;" type="checkbox"/></td> </tr> <tr> <td>L14. - prostitution.....</td> <td><input style="width: 20px; height: 20px;" type="checkbox"/></td> </tr> <tr> <td>L15. - contempt of court.....</td> <td><input style="width: 20px; height: 20px;" type="checkbox"/></td> </tr> <tr> <td>L16. - other.....</td> <td><input style="width: 20px; height: 20px;" type="checkbox"/></td> </tr> </table>	L3. - shoplifting/vandalism.....	<input style="width: 20px; height: 20px;" type="checkbox"/>	L4. - parole/probation violations..	<input style="width: 20px; height: 20px;" type="checkbox"/>	L5. - drug charges.....	<input style="width: 20px; height: 20px;" type="checkbox"/>	L6. - forgery.....	<input style="width: 20px; height: 20px;" type="checkbox"/>	L7. - weapons offense.....	<input style="width: 20px; height: 20px;" type="checkbox"/>	L8. - burglary, larceny, B&E.....	<input style="width: 20px; height: 20px;" type="checkbox"/>	L9. - robbery.....	<input style="width: 20px; height: 20px;" type="checkbox"/>	L10. - assault.....	<input style="width: 20px; height: 20px;" type="checkbox"/>	L11. - arson.....	<input style="width: 20px; height: 20px;" type="checkbox"/>	L12. - rape.....	<input style="width: 20px; height: 20px;" type="checkbox"/>	L13. - homicide, manslaughter.....	<input style="width: 20px; height: 20px;" type="checkbox"/>	L14. - prostitution.....	<input style="width: 20px; height: 20px;" type="checkbox"/>	L15. - contempt of court.....	<input style="width: 20px; height: 20px;" type="checkbox"/>	L16. - other.....	<input style="width: 20px; height: 20px;" type="checkbox"/>	<p>L17. How many of these charges resulted in convictions?</p> <div style="display: flex; justify-content: space-between;"> <input style="width: 30px; height: 20px;" type="checkbox"/> </div> <p>How many time in your life have you been charged with the following:</p> <p>L18. Disorderly conduct, vagrancy, public intoxication</p> <div style="display: flex; justify-content: space-between;"> <input style="width: 30px; height: 20px;" type="checkbox"/> </div> <p>L19. Driving while intoxicated</p> <div style="display: flex; justify-content: space-between;"> <input style="width: 30px; height: 20px;" type="checkbox"/> </div> <p>L20. Major driving violations (reckless driving, speeding, no license, etc.)</p> <div style="display: flex; justify-content: space-between;"> <input style="width: 30px; height: 20px;" type="checkbox"/> </div> <p>L21. How many months were you incarcerated in your life?</p> <div style="display: flex; justify-content: space-between;"> <input style="width: 30px; height: 20px;" type="checkbox"/> </div> <p style="text-align: center;">Months</p> <p>L22. How long was your last incarceration?</p> <div style="display: flex; justify-content: space-between;"> <input style="width: 30px; height: 20px;" type="checkbox"/> </div> <p style="text-align: center;">Months</p> <p>L23. What was it for? (use codes 3-16, 18-20. If multiple charges, code most severe)</p> <div style="display: flex; justify-content: space-between;"> <input style="width: 30px; height: 20px;" type="checkbox"/> </div> <p>L24. Are you presently awaiting charges, trial or sentence?</p> <div style="display: flex; justify-content: space-between;"> 0 - No 1 - Yes <input style="width: 30px; height: 20px;" type="checkbox"/> </div> <p>L25. What for? (If multiple charges, use most severe).</p> <div style="display: flex; justify-content: space-between;"> <input style="width: 30px; height: 20px;" type="checkbox"/> </div> <p>L26. How many days in the past 30 were you detained of incarcerated?</p> <div style="display: flex; justify-content: space-between;"> <input style="width: 30px; height: 20px;" type="checkbox"/> </div>	<p>L27. How many days in the past 30 have you engaged in illegal activities for profit?</p> <div style="display: flex; justify-content: space-between;"> <input style="width: 30px; height: 20px;" type="checkbox"/> </div> <p><i>For questions L28 & L29 please ask the patient to use the Patient's Rating Scale.</i></p> <p>L28. How serious do you feel your present legal problems are? (Exclude civil problems)</p> <div style="display: flex; justify-content: space-between;"> <input style="width: 30px; height: 20px;" type="checkbox"/> </div> <p>L29. How important to you now is counseling or referral for these legal problems?</p> <div style="display: flex; justify-content: space-between;"> <input style="width: 30px; height: 20px;" type="checkbox"/> </div> <p style="text-align: center;">Interviewer Severity Rating</p> <p>L30. How would you rate the patient's need for legal services or counseling?</p> <div style="display: flex; justify-content: space-between;"> <input style="width: 30px; height: 20px;" type="checkbox"/> </div> <p style="text-align: center;">Confidence Rating</p> <p>Is the above information significantly distorted by:</p> <p>L31. Patient's misrepresentation?</p> <div style="display: flex; justify-content: space-between;"> <input style="width: 30px; height: 20px;" type="checkbox"/> </div> <p>L32. Patient's inability to understand?</p> <div style="display: flex; justify-content: space-between;"> <input style="width: 30px; height: 20px;" type="checkbox"/> </div>																																
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<p>Have any of your relatives had what you would call a significant drinking, drug use or psych problem - one that did or should have led to treatment?</p>																																																														
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<p>Direction: Place "0" in relative category where the answer is clearly <u>no for all relatives in the category</u>; "1" where the answer is clearly yes for any <u>relative within the category</u></p>																																																														

Attachment III. Addiction Severity Index

FAMILY/SOCIAL RELATIONSHIPS																															
<div style="display: flex; justify-content: space-between;"> <div> <p>F1. Marital Status <input type="checkbox"/></p> <p>1 - Married 4 - Separated</p> <p>2 - Remarried 5 - Divorced</p> <p>3 - Widowed 6 - Never Married</p> </div> <div> <p>Direction for F12-F26: Place "0" in relative category where the answer is clearly <u>no</u> for all relatives in the category; "1" where the answer is clearly <u>yes</u> for any relative within the category; "X" where the answer is <u>uncertain</u> or "I don't know" and "N" where there <u>never</u> was a relative from that category.</p> </div> <div> <p>How many days in the past 30 have you had serious conflicts:</p> <p>F30. With your family? <input type="checkbox"/></p> <p>F31. With other people? <input type="checkbox"/> (excluding family)</p> </div> </div>																															
<p>F2. How long have you been in this marital status? <input type="text"/> Years <input type="text"/> Months (If never married, since age 18).</p> <p>F3. Are you satisfied with this situation? <input type="checkbox"/></p> <p>0 - No</p> <p>1 - Indifferent</p> <p>2 - Yes</p> <p>F4. Usual living arrangements (past 3 yr.) <input type="checkbox"/></p> <p>1 - With sexual partner and children</p> <p>2 - With sexual partner alone</p> <p>3 - With children alone</p> <p>4 - With parents</p> <p>5 - With family</p> <p>6 - With friends</p> <p>7 - Alone</p> <p>8 - Controlled environment</p> <p>9 - No stable arrangements</p> <p>F5. How long have you lived in those arrangements? (If with parents or family, since age 18). <input type="text"/> Years <input type="text"/> Months</p> <p>F6. Are you satisfied with these living arrangements? <input type="checkbox"/></p> <p>0 - No</p> <p>1 - Indifferent</p> <p>2 - Yes</p> <p>Do you live with anyone who:</p> <p>0 - No 1 - Yes</p> <p>F7. Has a current alcohol problem? <input type="checkbox"/></p> <p>F8. Uses non-prescribed drugs? <input type="checkbox"/></p> <p>F9. With whom do you spend most of your free time: <input type="checkbox"/></p> <p>1 - Family</p> <p>2 - Friends</p> <p>3 - Alone</p> <p>F10. Are you satisfied with spending your free time this way? <input type="checkbox"/></p> <p>0 - No</p> <p>1 - Indifferent</p> <p>2 - Yes</p> <p>F11. How many close friends do you have? <input type="checkbox"/></p>																															
<p>Would you say you have had close, long lasting, personal relationships with any of the following people in your life:</p> <p>F12. Mother..... <input type="checkbox"/></p> <p>F13. Father..... <input type="checkbox"/></p> <p>F14. Brothers/Sisters..... <input type="checkbox"/></p> <p>F16. Children..... <input type="checkbox"/></p> <p>F17. Friends..... <input type="checkbox"/></p> <p>Have you had significant periods in which you have experienced serious problems getting along with:</p> <table border="1"> <thead> <tr> <th></th> <th>Past 30 Days</th> <th>In Your Life</th> </tr> </thead> <tbody> <tr><td>F18. Mother.....</td><td><input type="checkbox"/></td><td><input type="checkbox"/></td></tr> <tr><td>F19. Father.....</td><td><input type="checkbox"/></td><td><input type="checkbox"/></td></tr> <tr><td>F20. Brothers/Sisters.....</td><td><input type="checkbox"/></td><td><input type="checkbox"/></td></tr> <tr><td>F21. Sexual partner/spouse.....</td><td><input type="checkbox"/></td><td><input type="checkbox"/></td></tr> <tr><td>F22. Children.....</td><td><input type="checkbox"/></td><td><input type="checkbox"/></td></tr> <tr><td>F23. Other significant family.....</td><td><input type="checkbox"/></td><td><input type="checkbox"/></td></tr> <tr><td>F24. Close friends.....</td><td><input type="checkbox"/></td><td><input type="checkbox"/></td></tr> <tr><td>F25. Neighbors.....</td><td><input type="checkbox"/></td><td><input type="checkbox"/></td></tr> <tr><td>F26. Co-Workers.....</td><td><input type="checkbox"/></td><td><input type="checkbox"/></td></tr> </tbody> </table> <p>Did any of these people (F18-F26) abuse you?</p> <p>0 = No 1 = Yes</p> <p>F27. Emotionally (make you feel bad through harsh words)? <input type="checkbox"/></p> <p>F28. Physically (caused you physical harm)? <input type="checkbox"/></p> <p>F29. Sexually (forced sexual advances or sexual acts)? <input type="checkbox"/></p>			Past 30 Days	In Your Life	F18. Mother.....	<input type="checkbox"/>	<input type="checkbox"/>	F19. Father.....	<input type="checkbox"/>	<input type="checkbox"/>	F20. Brothers/Sisters.....	<input type="checkbox"/>	<input type="checkbox"/>	F21. Sexual partner/spouse.....	<input type="checkbox"/>	<input type="checkbox"/>	F22. Children.....	<input type="checkbox"/>	<input type="checkbox"/>	F23. Other significant family.....	<input type="checkbox"/>	<input type="checkbox"/>	F24. Close friends.....	<input type="checkbox"/>	<input type="checkbox"/>	F25. Neighbors.....	<input type="checkbox"/>	<input type="checkbox"/>	F26. Co-Workers.....	<input type="checkbox"/>	<input type="checkbox"/>
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<p>For questions F32-F35 please ask the patient to use the Patient's Rating Scale.</p> <p>How troubled or bothered have you been in the past 30 days by these:</p> <p>F32. Family problems <input type="checkbox"/></p> <p>F33. Social problems <input type="checkbox"/></p> <p>How important to you now is treatment or counseling for these:</p> <p>F34. Family problems <input type="checkbox"/></p> <p>F35. Social problems <input type="checkbox"/></p> <p>Interviewer Severity Rating</p> <p>F36. How would you rate the patient's need for family and/or social counseling? <input type="checkbox"/></p> <p>Confidence Rating</p> <p>Is the above information significantly distorted by:</p> <p>F37. Patient's misrepresentation? <input type="checkbox"/> 0 - No 1 - Yes</p> <p>F38. Patient's inability to understand? <input type="checkbox"/> 0 - No 1 - Yes</p> <p>COMMENTS</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>																															

Attachment III. Addiction Severity Index

<div> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> </div>			PSYCHIATRIC STATUS			
How many times have you been treated for any psychological or emotional problems?	<div> <input type="checkbox"/> <input type="checkbox"/> </div>		P12. How many days in the past 30 have you experienced these psychological or emotional problems?	<div> <input type="checkbox"/> <input type="checkbox"/> </div>	P21. How would you rate the patient's need for psychiatric/psychological treatment?	<div> <input type="checkbox"/> </div>
P1. In a hospital	<div> <input type="checkbox"/> <input type="checkbox"/> </div>		<i>For questions P12 & P13 please ask the patient to use the Patient's Rating Scale.</i>		Confidence Rating	
P2. As an Outpatient or Private pt.	<div> <input type="checkbox"/> <input type="checkbox"/> </div>		P13. How much have you been troubled or bothered by these psychological or emotional problems in the past 30 days?	<div> <input type="checkbox"/> </div>	Is the above information significantly distorted by:	
P3. Do you receive a pension for a psychiatric disability? 0 - No 1 - Yes	<div> <input type="checkbox"/> </div>		P14. How important to you now is treatment for these psychological problems?	<div> <input type="checkbox"/> </div>	P22. Patient's misrepresentation? 0 - No 1 - Yes	<div> <input type="checkbox"/> </div>
Have you had a significant period, (that was not a direct result of drug/alcohol use), in which you have:			P23. Patient's inability to understand? 0 - No 1 - Yes	<div> <input type="checkbox"/> </div>		
	Past 30 Days	In Your Life	THE FOLLOWING ITEMS ARE TO BE COMPLETED BY THE INTERVIEWER			
P4. Experienced serious depression	<div> <input type="checkbox"/> </div>	<div> <input type="checkbox"/> </div>	At the time of the interview, is patient:			
P5. Experienced serious anxiety or tension	<div> <input type="checkbox"/> </div>	<div> <input type="checkbox"/> </div>	0 - No 1 - Yes			
P6. Experienced hallucinations	<div> <input type="checkbox"/> </div>	<div> <input type="checkbox"/> </div>	P15. Obviously depressed/withdrawn	<div> <input type="checkbox"/> </div>		
P7. Experienced trouble understanding, concentrating or remembering	<div> <input type="checkbox"/> </div>	<div> <input type="checkbox"/> </div>	P16. Obviously hostile	<div> <input type="checkbox"/> </div>		
P8. Experienced trouble controlling violent behavior	<div> <input type="checkbox"/> </div>	<div> <input type="checkbox"/> </div>	P17. Obviously anxious/nervous	<div> <input type="checkbox"/> </div>		
P9. Experienced serious thoughts of suicide	<div> <input type="checkbox"/> </div>	<div> <input type="checkbox"/> </div>	P18. Having trouble with reality testing, thought disorders, paranoid thinking	<div> <input type="checkbox"/> </div>		
P10. Attempted suicide	<div> <input type="checkbox"/> </div>	<div> <input type="checkbox"/> </div>	P19. Having trouble comprehending, concentrating, remembering	<div> <input type="checkbox"/> </div>		
P11. Been prescribed medication for any psychological emotional problem	<div> <input type="checkbox"/> </div>	<div> <input type="checkbox"/> </div>	P20. Having suicidal thoughts	<div> <input type="checkbox"/> </div>		
COMMENTS						

Attachment IV. Proposition 36 Treatment Services Matrix July 1, 2003

Proposition 36 Treatment Services Matrix July 1, 2003			
Treatment Services	Level 1 (6 months) Total Program Hours (28)	Level 2 (12 months) Total Program Hours (66)	Level 3 (18 months) Total Program Hours (108)
Core Services	Total Program Hours	Total Program Hours	Total Program Hours
Assessment	Treating for Slight to Problematic Substance Abuse	Treating for Problematic to Moderate Substance Abuse/Dependence	Treating for Serious to Acute Substance Dependence
Intake Services	1x (60 minutes each)	1x (60 minutes each)	1x (60 minutes each)
Treatment Planning	Within 30 days of admission and at 90 days (60 minutes each) Total sessions: 2	Within 30 days of admission and every 90 days (60 minutes each) Total sessions: 4	Within 30 days of admission and every 90 days, 180 days, 270 days (60 minutes each) Total sessions: 6
Individual Counseling	60 minutes 1:1 face to face counseling (Total sessions: 3)	60 minutes 1:1 face to face counseling (Total sessions: 6)	60 minutes 1:1 face to face counseling (Total sessions: 10)
Group Counseling (psychosocial/education/relapse prevention groups)	2x weekly (60 minutes each) first 6 weeks, then 1x wkl for 6 weeks. (Maximum sessions: 18)	3x weekly (60 minutes each) first 12 weeks, then 1x weekly for 12 weeks. (Maximum sessions: 48)	3x weekly (60 minutes each) first 12 weeks, Then 2x weekly for 12 weeks, then 1x weekly for 24 weeks. (Maximum sessions: 84)
Drug Testing	1x weekly for 12 weeks 2x month for duration of program Minimum 18 random screens	2x weekly for first 12 weeks, 1x weekly for 12 weeks, then 2x month for remainder of program Minimum 48 random screens	2x weekly for first 16 weeks, then 1x weekly for 26 weeks, 2x month for 2 months, and 1x month for remainder of program Minimum 68 random screens
Extended Aftercare	Group Counseling 1x per month for 3 months (60 minutes each) Total sessions: 3	Group Counseling 1x per month for 6 months (60 minutes each) Total sessions: 6	Group Counseling 1x per month for 6 months (60 minutes each) Total sessions: 6
Treatment Exit Planning Session	1x two weeks prior to approved discharge (60 minutes each)	1x two weeks prior to approved discharge (60 minutes each)	1x two weeks prior to approved discharge (60 minutes each)
12 Step Program	Attendance and participation in appropriate 12 Step Program actively encouraged from initial program involvement	Attendance and participation in appropriate 12 Step Program actively encouraged from initial program involvement to program completion.	Attendance and participation in appropriate 12 Step Program actively encouraged from initial program involvement
Social Model Detox	Not indicated	Not indicated	3 to 7 days (average 3 days)
Residential Treatment Focus	Not indicated	Not indicated	90 Day Treatment Program, then transition to remainder of 12 month program
Residential Recovery Focus	Not indicated	Not indicated	45 Day Recovery Program, then transition to remainder of 12 month program
Transitional/Sober Living	Not indicated	Not indicated	12 month Program while completing outpatient program
Ancillary Support Services	As indicated and concurrent or integrated with AOD services	As indicated and concurrent or integrated with AOD services	As indicated and concurrent or integrated with AOD services except when residential services are indicated

Attachment V. Proposition 36 Satisfactory Completion of Treatment Form

VENTURA COUNTY BEHAVIORAL HEALTH DEPARTMENT ALCOHOL AND DRUG PROGRAMS PROPOSITION 36 <u>SATISFACTORY COMPLETION OF TREATMENT</u>																											
NAME _____ ADDRESS _____ CITY _____ STATE _____ ID # _____ CADD'S # _____ PHONE _____ DRIVER'S LICENSE # _____ DOB _____ CASE MANAGER _____ SSN# _____ TX ADMISSION DATE _____ COMPLETION DATE _____ PROGRAM _____ TX LEVEL _____	<table style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 33%; text-align: left; padding: 2px;">SENTENCING DATE</th> <th style="width: 33%; text-align: left; padding: 2px;">CASE #</th> <th style="width: 33%; text-align: left; padding: 2px;">TYPE</th> </tr> <tr><td style="height: 20px;"> </td><td> </td><td> </td></tr> <tr><td style="height: 20px;"> </td><td> </td><td> </td></tr> <tr><td style="height: 20px;"> </td><td> </td><td> </td></tr> <tr><td style="height: 20px;"> </td><td> </td><td> </td></tr> <tr><td style="height: 20px;"> </td><td> </td><td> </td></tr> <tr><td style="height: 20px;"> </td><td> </td><td> </td></tr> <tr><td style="height: 20px;"> </td><td> </td><td> </td></tr> </table>			SENTENCING DATE	CASE #	TYPE																					
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<p style="text-align: center;">The above named client has satisfactorily completed the Proposition 36 Treatment Program, pursuant to section 4, PC 1210 part C.</p> <p>There is reasonable cause to believe that the client will not abuse controlled substances in the future, providing the following relapse prevention plan is followed:</p> <ol style="list-style-type: none"> 1. The client abstains from all psychoactive (mood altering) drugs, unless prescribed by a physician. 2. The client successfully avoids or manages his/her high-risk situations including not associating with anyone abusing alcohol or other drugs. 3. The client utilizes the learned relapse prevention skills and adheres to the exit treatment plan as agreed. 4. Other _____ <div style="margin-left: 20px;"> <input type="checkbox"/> The client attends community based sobriety self-help meetings. <input type="checkbox"/> The client actively seeks support of a sponsor, mentor, or spiritual advisor. <input type="checkbox"/> The client returns for After-Care and a twelve month post treatment interview </div> <p style="text-align: center;">I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING INFORMATION IS TRUE AND CORRECT TO THE BEST OF MY INFORMATION AND BELIEF</p> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 45%;"> <p style="text-align: center;">_____ PRINTED NAME OF COUNSELOR</p> <p style="text-align: center;">_____ COUNSELOR SIGNATURE</p> </div> <div style="width: 45%;"> <p style="text-align: center;">_____ DATE</p> </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 45%;"> <p>APPROVED BY _____</p> <p style="text-align: center;">ASSESSMENT PROGRAM CLINICIAN / SUPERVISOR</p> </div> <div style="width: 45%;"> <p style="text-align: center;">_____ DATE</p> </div> </div>																											

Attachment VI. Proposition 36 Proposed Drug Testing Protocol

**Ventura County Behavioral Health
Alcohol and Drug Programs
Proposition 36
DRUG TESTING PROTOCOL**

PURPOSE

The purpose of drug testing clients in outpatient treatment is to augment and enhance treatment by serving as a tool for showing treatment progress.

TREATMENT TOOL

In accordance with Senate Bill 223 (SB 223), drug testing shall be used as a treatment tool. A defendant who has submitted a positive drug test should remain in treatment, whether in the current regimen or intensified treatment.

FIRST 30 DAYS

The first 30 days of treatment will be considered an observation and stabilization period. Testing will be conducted a minimum of one time a week during the first month of treatment. Treatment providers will have the discretion to adjust the number of tests up or down depending on the individual needs of the client.

During the first 30 days, clients will not be penalized or sanctioned for positive tests as long as they are attending, participating, and cooperating in treatment, and paying their treatment program fees. Clients having difficulty stabilizing, will have their treatment adjusted to a more intensive level (i.e. attending more hours of treatment per week on an outpatient basis, or placed in a residential treatment program). All subsequent tests will be reported as non-compliance following the protocol below. Clients not attending or participating in treatment at any time during the program will be non-complied and referred back to Probation and/or Court.

Since Level I is for clients experiencing abuse rather than dependence and/or clients transitioning out of a long-term (6-12 months) residential program or a therapeutic community, more than 2 positive tests should be considered as a need for a treatment adjustment to Level II.

REMAINDER OF TREATMENT

In order for clients to change from one phase of treatment to the next, they must have negative tests. Missed tests, refusal to test, adulterated tests, or walk-offs will continue to be considered as sanctionable tests. After the first 30 days stabilization period, testing will occur typically twice per week. Providers will have the discretion to decrease or increase testing on an individual case by case basis as needed. This discretion is particularly important when working with clients having co-occurring disorders. Clients on the waiting list for residential treatment will not be sanctioned or non-complied for positive tests while waiting for an available bed. Providers will also need to monitor the total amount of tests conducted each month in order to keep within the constraints of their budget. Adulterated tests will continue to be reported as non-compliance for each incidence. Also, refer to the separate protocols for pregnant women, marijuana (THC), and prescribed medication. The following table depicts the reporting schedule of non-compliance after the first 30 days.

PROTOCOL	LEVEL I	LEVEL II	LEVEL III
Sanctionable and Positive Drug Tests for all drugs except Marijuana (THC)	3 positive, missed, walk-off or refused tests	5 positive, missed, walk-off or refused tests	5 positive, missed, walk-off or refused tests

Attachment VI. Proposition 36 Proposed Drug Testing Protocol**REINSTATEMENTS**

Clients re-entering treatment after non-compliance and receiving a strike will be allowed fewer positive tests. The threshold for reporting will be decreased to the following:

PROTOCOL	LEVEL I	LEVEL II	LEVEL III
Sanctionable and Positive Drug Tests for all drugs except Marijuana (THC)	2 positive, missed, walk-off or refused tests	3 positive, missed, walk-off or refused tests	3 positive, missed, walk-off or refused tests

SATISFACTORY COMPLETION

Any client considered for completion of treatment must have a minimum of 30 days of negative tests. If a client tests positive at the time of their exit appointment, the client will remain in treatment focusing on relapse prevention until they can show at least 30 days of negative tests.

Effective 7/1/04

Attachment VII. Proposition 36 Demographics Report FY 2003/2004

PROPOSITION 36 DEMOGRAPHICS REPORT FY 2003/2004														
Prop 36 Demographics	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	YTD	%
Total # of Assessments	72	63	85	67	65	77	52	53	88	65			687	37%
Transfers Out	15	9	11	7	8	9	7	6	5	5			82	12%
Total # of Re-Assessments	61	65	58	68	83	68	103	85	94	72			757	40%
Exit Assessments (Prg Complt)	29	31	45	45	30	41	34	39	26	32			352	19%
TOTAL	177	168	199	187	186	195	196	183	213	174	0	0	1878	108%
Gender														
Male	63	50	68	51	48	62	38	41	65	43			529	69%
Female	24	22	28	23	25	24	21	18	28	27			240	31%
TOTAL	87	72	96	74	73	86	59	59	93	70	0	0	769	100%
Ethnicity														
White/Caucasian	43	31	49	37	44	52	38	35	43	42			414	54%
Hispanic	37	33	37	28	23	27	18	19	42	19			283	37%
Black/African American	3	6	3	5	2	1	1	5	3	2			31	4%
Native American Indian	1	0	3	3	1	2	0	0	1	2			13	2%
Alaskan Native	0	0	2	0	0	0	1	0	0	0			3	0%
Asian Indian	0	0	2	0	0	2	1	0	1	0			6	1%
Cambodian	0	0	0	0	0	0	0	0	0	0			0	0%
Chinese	0	0	0	0	0	0	0	0	0	0			0	0%
Filipino	0	0	0	0	0	0	0	0	1	1			2	0%
Guamanian	0	0	0	0	0	0	0	0	0	0			0	0%
Hawaiian	0	0	0	0	0	0	0	0	1	0			1	0%
Japanese	0	0	0	0	0	0	0	0	0	0			0	0%
Korean	0	0	0	0	0	0	0	0	0	0			0	0%
Laotian	0	0	0	0	0	0	0	0	0	0			0	0%
Samoa	0	0	0	0	0	0	0	0	0	0			0	0%
Vietamese	0	0	0	0	0	0	0	0	0	0			0	0%
Other Asian	1	0	0	0	0	0	0	0	0	0			1	0%
Other Race	2	2	0	1	3	2	0	0	1	4			15	2%
TOTAL	87	72	96	74	73	86	59	59	93	70	0	0	769	100%
Age														
18 - 20	9	8	12	10	5	9	5	5	11	8			82	11%
21 - 25	15	14	16	17	20	20	11	7	24	17			161	21%
26 - 30	14	11	5	9	8	8	13	15	15	9			107	14%
31 - 35	16	17	20	12	13	13	14	13	9	11			138	18%
36 - 40	16	9	21	10	12	12	6	7	14	11			118	15%
41 - 45	11	9	15	7	8	13	6	6	14	7			96	12%
46 - 50	3	2	5	6	5	7	4	2	4	5			43	6%
51 - 55	2	1	1	3	2	2	0	3	1	1			16	2%
56 - 60	1	0	1	0	0	2	0	1	1	1			7	1%
61 - 65	0	0	0	0	0	0	0	0	0	0			0	0%
Over 65	0	1	0	0	0	0	0	0	0	0			1	0%
TOTAL	87	72	96	74	73	86	59	59	93	70	0	0	769	100%
Catchment Area														
Ventura	15	14	20	17	19	19	11	11	15	15			156	20%
Oxnard	26	29	34	23	21	22	14	18	36	23			246	32%
Port Hueneme	2	3	3	3	2	3	1	2	3	2			24	3%
Ojai	2	0	1	1	0	2	3	2	1	1			13	2%
Oakview	2	0	2	2	0	1	0	1	3	4			15	2%
Fillmore/Piru	3	5	5	2	0	2	2	0	4	1			24	3%
Santa Paula	5	4	4	8	3	5	5	6	4	4			48	6%
Camarillo	7	4	8	2	8	8	4	6	5	3			55	7%
Newbury Park	0	0	0	1	2	1	0	0	2	0			6	1%
Thousand Oaks	6	2	4	1	2	4	2	2	5	2			30	4%
Moorpark	2	0	2	3	6	4	3	1	2	2			25	3%
Simi Valley	3	4	3	4	1	6	7	6	9	8			51	7%
Out of County	14	7	10	7	9	9	7	4	4	5			76	10%
TOTAL	87	72	96	74	73	86	59	59	93	70	0	0	769	100%
Homeless	11	7	14	8	8	10	5	8	11	7			89	12%

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Reporting Period: July 1, 2003 to April 30, 2004

Attachment VII. Proposition 36 Demographics Report FY 2003/2004

PROPOSITION 36 DEMOGRAPHICS REPORT FY 2003/2004														
Prop 36 Demographics	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	YTD	%
Legal Status														
Formal Probation	31	17	44	31	18	21	13	22	30	29			256	33%
Conditional Release Probation	49	50	48	40	46	62	42	33	59	40			469	61%
Parole	7	5	4	3	9	3	4	4	4	1			44	6%
TOTAL	87	72	96	74	73	86	59	59	93	70	0	0	769	100%
Primary Charge														
4080 Possession/Illegal Prescription	0	0	0	0	0	0	1	0	1	3			5	1%
4573 Bringing drug or paraph. into jail	0	0	0	0	0	0	0	0	0	0			0	0%
11550A Under the Influence	48	50	49	39	45	62	41	33	58	38			463	60%
11377A Possession-schedule III-V	24	12	35	24	14	15	12	16	22	22			196	25%
11370.1 Possession Cont Sub w/Firearm	0	0	0	0	0	1	0	0	0	0			1	0%
11379 Transport Personal Use	0	0	0	0	0	0	0	0	0	0			0	0%
11350A Possession Cont. Sub.	7	5	8	7	4	4	3	6	7	5			56	7%
11352A Transport Personal Use	0	0	0	0	0	0	0	0	0	0			0	0%
11360 Transport Personal Use	0	0	0	0	0	0	0	0	0	0			0	0%
11364 Paraphernalia	0	0	0	0	1	0	0	0	1	1			3	0%
11357 Possession Cannabis	1	0	0	1	0	0	0	0	0	0			2	0%
Parole Violation	7	5	4	3	9	4	2	4	4	1			43	6%
TOTAL	87	72	96	74	73	86	59	59	93	70	0	0	769	100%
Legal Status														
FELONY	31	17	43	32	18	20	16	22	30	30			259	34%
MISDEMEANOR	56	55	53	42	55	66	43	37	63	40			510	66%
TOTAL	87	72	96	74	73	86	59	59	93	70	0	0	769	100%
Primary Drug Problem														
Alcohol	1	9	0	7	5	12	9	2	4	3			52	7%
Heroin	5	7	9	8	12	10	5	8	8	7			79	10%
Methamphetamine	42	31	56	31	33	38	29	28	55	37			380	49%
Cocaine/Crack	15	5	16	9	11	8	5	8	13	6			96	12%
Marijuana	9	10	8	14	6	9	6	11	6	10			89	12%
Hallucinogens	0	0	0	0	0	1	0	0	0	0			1	0%
Other/Unknown	15	10	7	5	6	8	5	2	7	7			72	10%
TOTAL	87	72	96	74	73	86	59	59	93	70	0	0	769	101%
Tx Recommended														
Level I	13	9	9	10	5	11	3	5	5	7			77	11%
Level II	51	50	67	51	52	54	40	43	76	53			537	78%
Level III	3	2	8	5	7	8	7	4	6	4			54	8%
Pending	3	2	0	0	1	3	2	1	1	1			14	2%
LOA	2	0	0	0	0	0	0	0	0	0			2	0%
Refused	0	0	1	1	0	1	0	0	0	0			3	0%
TOTAL	72	63	85	67	65	77	52	53	88	65	0	0	687	100%
Methadone Treatment														
Aegis (Saviers Road)	1	2	1	2	0	2	2	4	1	3			18	46%
Aegis (Santa Paula)	2	0	0	1	0	1	1	0	0	0			5	13%
Aegis (Simi Valley)	1	0	2	0	0	0	1	0	0	0			4	10%
Western Pacific	1	1	3	1	1	0	3	2	0	0			12	31%
TOTAL	5	3	6	4	1	3	7	6	1	3	0	0	39	100%
Employment														
Employed f/t	24	21	32	20	22	20	6	12	22	14			193	25%
Employed p/t	12	5	8	7	11	5	5	5	10	10			78	10%
Unemployed	47	42	54	44	37	55	45	34	56	43			457	59%
Disabled	3	4	2	3	3	6	3	8	5	3			40	5%
Retired	1	0	0	0	0	0	0	0	0	0			1	0%
TOTAL	87	72	96	74	73	86	59	59	93	70	0	0	769	100%

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Reporting Period: July 1, 2003 to April 30, 2004

Attachment VII. Proposition 36 Demographics Report FY 2003/2004

PROPOSITION 36 DEMOGRAPHICS REPORT FY 2003/2004														
Prop 36 Demographics	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	YTD	%
Treatment Provider														
Alternative Actions	37	47	56	34	40	50	28	37	52	36			417	54%
Intervention Institute	13	3	6	7	12	8	8	4	13	7			81	11%
Services United (Joshua House)	0	1	2	2	0	1	0	2	2	0			10	1%
Khepera House	0	0	0	0	0	0	0	0	0	0			0	0%
Rainbow House	0	0	2	0	1	2	1	0	0	2			8	1%
Miracle House	0	0	0	0	0	0	1	1	1	3			6	1%
Casa Latina	0	0	0	0	0	1	0	0	1	0			2	0%
Prototypes	0	0	0	0	1	0	0	0	0	0			1	0%
Simi Valley ADP	1	1	0	2	1	3	3	3	5	6			25	3%
Ventura ADP	9	6	11	10	4	0	2	0	3	5			50	7%
Oxnard ADP	0	0	0	2	0	0	2	0	4	1			9	1%
New Start for Moms	3	2	2	4	0	2	0	0	0	3			16	2%
MART	1	0	0	0	0	0	0	1	0	0			2	0%
Genesis	0	0	0	0	0	0	0	0	0	0			0	0%
Rescue Mission	0	0	1	1	1	0	2	0	2	1			8	1%
ARC/Salvation Army	0	1	1	0	0	0	0	1	0	0			3	0%
Residential Waitlist	2	0	0	0	3	2	1	1	0	0			9	1%
Out of County	15	9	11	8	8	0	7	1	6	5			70	9%
Leave of Absence	3	0	1	2	0	4	1	1	1	0			13	2%
Other/TBD	3	2	2	1	2	12	3	7	3	1			36	5%
Refused	0	0	1	1	0	1	0	0	0	0			3	0%
TOTAL	87	72	96	74	73	86	59	59	93	70	0	0	769	100%
Ancillary Service Referrals														
Vocational	47	42	54	44	37	55	37	27	56	43	0	0	442	49%
Literacy	0	0	0	0	0	0	0	1	0	0			1	0%
Housing	1	1	0	2	0	1	3	0	1	0			9	1%
Legal	0	1	0	0	0	0	0	0	0	0			1	0%
Public Health/Medical	0	6	2	6	6	5	10	3	6	7			51	6%
Dual Diagnosis/Mental Health	22	27	23	30	19	26	37	33	59	41			317	35%
Family Counseling	5	2	1	2	0	1	0	1	3	1			16	2%
Domestic Violence	1	1	0	1	0	0	0	0	0	1			4	0%
Anger Management	3	1	0	0	0	2	1	0	0	0			7	1%
Perinatal	0	0	0	0	0	0	0	0	0	0			0	0%
CalWORKs	0	0	0	0	0	0	0	0	0	0			0	0%
Public Assistance	6	7	2	2	0	1	1	2	0	0			21	2%
Assertiveness	0	0	0	0	0	0	0	0	0	0			0	0%
Fatherhood Support	0	0	0	0	0	0	0	0	0	0			0	0%
Candelaria	0	0	0	0	0	0	0	0	0	0			0	0%
Sober Living	0	1	2	1	0	0	1	0	0	1			6	1%
DMV	0	0	0	0	0	0	0	0	0	0			0	0%
Tattoo Removal	1	0	0	0	1	0	0	1	0	0			3	0%
Education	0	3	5	4	4	0	1	1	1	0			19	2%
ESL	0	0	0	0	0	0	0	0	0	0			0	0%
Rape Crisis	1	0	0	0	0	0	0	0	0	0			1	0%
Parenting	0	0	0	0	0	1	0	0	0	0			1	0%
TOTAL	87	92	89	92	67	92	91	69	126	94	0	0	899	100%
Treatment Completions														
Estimated for 2003-2004	30	25	25	29	32	25	25	29	32	40	47	61	400	
Actual for 2003-2004	29	31	45	45	30	41	34	39	26	32			352	
Actual for 2002-2003	7	6	14	19	22	23	12	20	21	28	32	41	245	
Actual for 2001-2002	0	0	0	0	0	0	3	5	7	6	8	6	35	
Program to Date Total	36	37	69	64	52	64	49	64	54	66	40	47	632	
Expungements														
Actual for 2003-2004	4	0	9	2	3	11	6	3	1	13			52	
Actual for 2002-2003	0	0	0	0	0	0	0	0	1	2	2	2	7	
Program to Date Total	4	0	9	2	3	11	6	3	2	15	2	2	59	

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Reporting Period: July 1, 2003 to April 30, 2004

Attachment VIII. Probation Agency Prop 36 Yearly Stats FY 2003/2004

PROP. 36 Yearly Stats													PROP. 36 Yearly Stats July '03 to June '04												
	July	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	Total												
Number of Prop. 36 clients supervised	886	857	860	907	843	789	755	720					6617												
Misdemeanor Prop. 36 cases	311	220	221	266	233	147	195	203					1796												
Felony Prop. 36 cases	955	920	1087	890	821	840	817	773					7103												
Courtesy Supervision cases	3	8	5	5	4	6	11	10					52												
Number of clients with no drug violations recorded	682	501	732	750	738	611	581	570					5165												
Violation reports (NOC, Declarations, etc.)	256	199	129	170	122	177	198	147					1398												
Types of Violations Filed																									
a. Failure to comply with Probation	238	131	136	108	82	144	168	108					1115												
b. Failure to comply with ADP/Treatment	165	104	99	133	72	120	128	90					911												
c. New offenses (drug related)	58	47	32	40	29	68	82	44					400												
d. New offenses (non-drug related)	13	31	22	6	30	27	40	22	0	0	0	0	191												
* Property/Theft offenses	3	19	11	2	9	12	17	13					86												
* Violent offenses	2	2	4	1	4	5	8	5					31												
* Other offenses	8	10	7	3	17	10	15	4					74												
e. Positive drug test(s) non-new offenses	74	58	47	52	45	53	74	51	0	0	0	0	454												
* Methamphetamine	54	45	33	39	34	47	57	42					351												
* Cocaine	10	5	5	4	7	4	6	2					43												
* Heroin	6	3	2	1	1	0	0	2					15												
* Other	4	5	7	8	3	2	11	5					45												
Urine samples	124	143	162	168	167	215	196	211					1386												
Field contacts	4	6	13	19	9	16	2	16					85												
3rd Strike violations																									
Return on warrant reports	79	79	36	59	26	41	31	39					390												
No. of clients who were revoked & incarcerated on Prop. 36	28	35	20	3	12	22	25	17					162												
No. of clients who have absconded from Prop. 36 treatment	49	57	33	32	22	25	15	28					261												
No. of clients who have absconded from Prop. 36 treatment	34	15	24	32	8	34	19	17					183												
Bench warrants issued	58	25	27	34	16	28	31	22					241												
Successful completions (Prop. 36 clients)	7	2	5	3	8	8	11	10					54												
Prop. 36 Investigations Unit																									
Total cases completed	261	312	286	333	153	199	206	170	0	0	0	0	1920												
* Misdemeanor cases completed	201	260	227	259	135	157	162	143					1544												
* Felony cases completed	60	52	59	74	18	42	44	27					376												
Unassigned cases pending	34	29	17	0	24	5	6	34					149												
Adult Investigations																									
Prop. 36 Fall-Off (P/S) reports	46	48	53	37	30	29	28	31					302												

Prop. 36 Yearly Stats '03 - '04

Appendix A. Terms and Acronyms

Term	Description
ADP	Alcohol and Drug Programs
Aftercare	Aftercare, or continuing care, is the stage following discharge, when the client no longer requires services at the intensity required during primary treatment. (National Library of Medicine & SAMSHA)
ASI	Addiction Severity Index
BHD	Behavioral Health Department
BHD/ADP	Behavioral Health Department's Alcohol and Drug Programs
Board of Supervisors	Ventura County Board of Supervisors
CAADDS	California Alcohol and Drug Data System
CAS	Central Assessment Services, reporting to Behavioral Health Department's Alcohol and Drug Programs (BHD/ADP)
CEO	County Executive Office
CMS	Case Management System
DADP	Department of Alcohol and Drug Programs (DAPD) of the California Health and Human Services Agency
DATAR	Drug Abuse Treatment Access Report
District Attorney	Ventura County District Attorney
Diversion	Penal Code section 1000, pre-plea diversion program
First Year Report	First Year Report, Substance Abuse Crime Prevention Act 2000, Proposition 36, July 1, 2001 – June 30, 2002
FY	Fiscal Year
Implementation Committee Report	Report of the Proposition 36 Implementation Committee, June 5, 2001
ISD	Information Systems Department
Jury	Ventura County 2003-2004 Grand Jury
Lead Agency	Ventura County Proposition 36 Lead Agency
Oversight Committee	Proposition 36 Operations and Oversight Committee
Parole	Parole and Community Services Division of the California Department of Corrections
Probation	Ventura County Probation Agency
Prop 36	Proposition 36 or Substance Abuse and Crime Prevention Act of 2000
SACPA	Substance Abuse and Crime Prevention Act of 2000
SATTA	Substance Abuse Treatment and Testing Accountability

SATTF	Substance Abuse Treatment Trust Fund
SAMHSA	Substance Abuse and Mental Health Services Administration
Second Year Report	Second Year Proposition 36 Report
Stakeholders	Individuals or groups with an interest in the delivery of intended results
UCLA Report	“Evaluation of the Substance Abuse and Crime Prevention Act 2002 Report”
VCIJIS	Ventura County Integrated Justice Information System
YTD	Year to Date

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