



Proposition 36:

Improving Lives, Delivering Results

A Review of the First Four Years
of California's Substance Abuse
and Crime Prevention Act of 2000

A Report by the Drug Policy Alliance
March 2006



Cover Photo:

L TO R (FRONT): Prop. 36 Graduates **John Delino**, **Chris Sharein**, **Don Wrigley** and **Andre Pope**; (BACK): Counselor **Mario Mungaray** with Prop. 36 Graduate and Counselor **Marilyn Lee** at the 2005 International Drug Policy Reform Conference in Long Beach, CA.

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L to R: Initial funding for Prop. 36 will run out before [Steven Robinson](#) completes treatment at the Alpha Project residential center in Vista, San Diego County. Following graduation, [Jayne](#) helped found an alumni program in Sacramento with other Prop. 36 graduates where people entering the program can receive support from those who have already successfully completed it. [Daniel Glassford](#) graduated from Prop. 36 in December 2005 following his second stay at Alpha Project. [Paul Kobulnicky](#) is a Prop. 36 graduate and case manager at Alpha Project. [Oliver Hamilton](#) is a Prop. 36 graduate from Veterans Village of San Diego. Prop. 36 Graduate [Mary Pruitt](#) went back to school in the field of recovery, received her certification and has been working in a women's recovery house in Sacramento since 2003.

ABOUT THE DRUG POLICY ALLIANCE AND ITS ROLE WITH PROPOSITION 36

The Drug Policy Alliance is the nation's leading organization working to end the war on drugs.

Nearly half a million people in the United States are behind bars for drug law violations. That's more people than Western Europe, with a bigger population, incarcerates for all offenses. The war on drugs has become a war on families, a war on health, and a war on our constitutional rights. We deserve better.

We at the Drug Policy Alliance envision a just society in which people are no longer punished for what they put into their own bodies, but only for crimes committed against others, and in which the fears, prejudices and punitive prohibitions of today are no more. DPA promotes realistic alternatives based on science, compassion, health and human rights.

DPA helped write and pass Proposition 36 and has advocated for its faithful implementation according to the will of the voters who approved the law. Protecting and expanding Prop. 36 is a top priority of DPA.

JOIN THE DRUG POLICY REFORM MOVEMENT

The Drug Policy Alliance published *Proposition 36: Improving Lives, Delivering Results* to help California state and county officials understand the positive impact of the historic Substance Abuse and Crime Prevention Act of 2000 on California's correctional system, drug treatment centers, and state budget over its first four years. This report also introduces readers to some inspiring true stories of how Prop. 36 has helped tens of thousands of people turn their lives around.

As part of our broader mission, DPA also seeks to expand support in California and across the nation for treatment instead of incarceration, and to end the prejudices and policies that cause discrimination against people struggling with drug problems and participating in methadone-assisted treatment programs for heroin and other opioid addiction.

The Drug Policy Alliance is a nonprofit organization that relies largely on our members and individual contributors for financial support, both to advance drug policies based on science, health, compassion and human rights, and to aid in the distribution of *Proposition 36: Improving Lives, Delivering Results* and publications like it.

Please join our fight for the rights and dignity of all prisoners of the drug war and the millions of others who suffer the consequences of the failed war on drugs. Join the Drug Policy Alliance today.

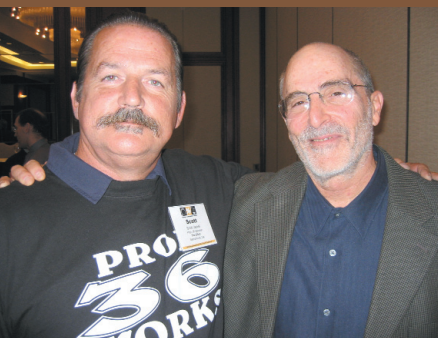
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For additional copies of Proposition 36: Improving Lives, Delivering Results or for other DPA publications please contact the above address, email us at sacto@drugpolicy.org or call the California Capital Office in Sacramento at (916) 444-3751.

RIGHT: **Scott Jaekel**, Prop. 36 graduate and Sacramento resident, with **Bill Zimmerman**, executive director of the Campaign for New Drug Policies.

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EXECUTIVE SUMMARY

As the nation's war on drugs intensified in the 1980s and '90s, California followed national trends by relying increasingly on punishment and prisons as its primary response to arrests for illicit drug use. Hundreds of thousands of nonviolent drug possession offenders were arrested, convicted and imprisoned, disrupting families and dimming future employment prospects. The total number of people imprisoned in California for drug possession quadrupled between 1988 and 2000, peaking at 20,116. It took a landmark vote of the people to reverse this troubling trend.

The turnaround in California's drug policy came in the form of Proposition 36. The measure, which appeared on the ballot November 7, 2000, proposed treating drug abuse primarily as a public health issue rather than as a criminal justice concern. The initiative mandated treatment instead of incarceration for most nonviolent drug possession offenders.

More than 60 percent of voters approved Prop. 36. Two million more people voted "yes" than "no."

Today, Prop. 36 stands out as the most significant piece of sentencing reform since the repeal of alcohol Prohibition. In its first four years, from mid-2001 to mid-2005, Prop. 36 *clearly delivered on its promises and proved itself as sound public policy:*

- ❖ Prop. 36 diverted more than 140,000 people from incarceration to treatment during its first four years – half were accessing treatment for the first time.
- ❖ The number of people incarcerated in state prisons for drug possession fell dramatically – by 32 percent – after Prop. 36 was approved, from 19,736 to 13,457 (December 31, 2000 to June 30, 2005).
- ❖ Prop. 36 rendered unnecessary the construction of a new men's prison, saving taxpayers at least half a billion dollars, and resulted in the shuttering of a women's state prison.
- ❖ Sixty percent fewer drug law offenders were sent to jail or prison in the first year of Prop. 36's implementation, compared to a typical year before Prop. 36, according to University of California at Los Angeles (UCLA) researchers.

Already apparent is how Prop. 36's diversion policy is realizing its potential to save California vast sums of money. Each year, some 36,000 people enter Prop. 36 treatment. When the cost of Prop. 36 treatment, about \$3,300 per person per year, is compared to the average cost of a year in prison, about \$34,150 per person, the potential for savings to the taxpayer becomes abundantly clear. An official Prop. 36 cost-benefit analysis from UCLA is forthcoming.

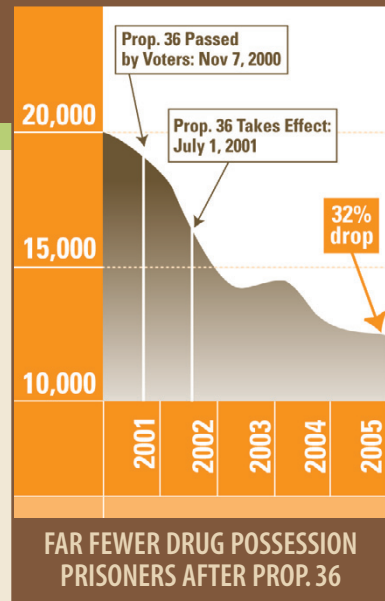
Unlike many court-supervised treatment programs around the nation, Prop. 36 prioritizes quality, licensed treatment and makes compassion a cornerstone of the state's rehabilitative approach. Consistent with its purpose of treating addiction primarily as a matter of public health rather than a criminal justice issue, Prop. 36 does not permit the court to incarcerate, even for short periods of time, individuals who suffer a first or second relapse during treatment. Drug use relapse is a natural and expected part of drug addiction treatment and recovery. The law says that the focus must be on achieving the goals of recovery, not punishing missteps along the path. Prop. 36's emphasis on treatment is evident:

- ❖ More than 700 new drug treatment programs have been licensed in California since Prop. 36 took effect – a 66 percent increase. Existing programs also increased their capacity to treat thousands more clients.
- ❖ Extraordinary new collaborative relationships emerged in all California counties among treatment professionals, criminal justice agencies and the courts. Treatment providers have earned new responsibilities and greater respect as the benefits of treatment have become more apparent across diverse systems.
- ❖ Prop. 36 included provisions for funding a full range of treatment options and services, coupled with family counseling, job training and other educational support. This broad view of treatment reflects the public’s sense that drug abuse is often a symptom of underlying problems that must be addressed to achieve lasting success.

Perhaps Prop. 36’s most significant impact is with the estimated 60,000 Californians who will have completed their treatment programs in the first five years. The success of each Prop. 36 graduate is shared with the people and the state of California. An even greater number spent significant time in treatment, making tangible progress toward recovery. Without Prop. 36 treatment, many would never have had the opportunity to achieve recovery and a new life.

This report details how Prop. 36 has delivered – and continues to deliver – on its promises. But there is still progress to be made. State lawmakers, county officials and treatment providers should consider how each can help strengthen Prop. 36 and ensure even better outcomes:

- ❖ Counties could increase participation and retention in Prop. 36 programs by locating treatment assessment, referrals and enrollment near court and probation services and, where possible, providing transportation for clients between the courts, probation and treatment centers.
- ❖ Counties and courts must do more to expand the availability and proper use of methadone-assisted treatment, expressly authorized by Prop. 36 for treating addiction to heroin or other opioids, as well as effective new treatment options such as buprenorphine.
- ❖ A new statewide rule restricting counties’ non-treatment costs to no more than 20 percent of Prop. 36 allocations would help guarantee that more Prop. 36 funds go to treatment.



Source: Calif. Dept. of Corrections and Rehab.

Note: The sharp decline in drug possession prisoners beginning after Nov. 7, 2000, was due to the deferral by most defendants of their pending cases to a date after July 1, 2001 – the drop was attributable entirely to Prop. 36.

INTRODUCTION: TREATMENT WORKS, RECOVERY HAPPENS, PROPOSITION 36 HELPS MAKE IT POSSIBLE

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In November 2000, California voters approved a landmark statewide measure that offers first- and second-time drug possession offenders a real opportunity for recovery. The Substance Abuse and Crime Prevention Act of 2000, or Proposition 36, requires the state to provide drug treatment, rather than jail time, for nonviolent drug possession offenders. Prop. 36 has become the most significant piece of sentencing reform – in terms of the number of people diverted from prison and dollars saved – since the repeal of alcohol Prohibition in 1933.

In enacting Prop. 36, the voters sent a clear message to elected officials that the drug war, with its emphasis on punitive incarceration, was not working, and that drug abuse should instead be addressed through medical and public health means.

Prop. 36 was inspired by Arizona's Proposition 200, the first state ballot initiative to mandate drug treatment instead of incarceration. Passed in 1996 by a two-thirds margin, Arizona's law was declared effective and credited with saving the state more than \$2.5 million in its first fiscal year, according to the Arizona Supreme Court.

Treatment works, as the Arizona experience helped demonstrate. Recovery happens every day in California, across the United States and around the world. The problem, before Prop. 36, was that too many people in California did not even have the option of treatment before they faced jail or prison sentences for simple drug possession.

Today, data show that in the law's first four years more than 140,000 people entered treatment. Over half were accessing treatment for the very first time.

In enacting Prop. 36, the voters sent a clear message to elected officials that the drug war, with its emphasis on punitive incarceration, was not working.

Intent of Proposition 36

From the text of the law:

- (a) To divert from incarceration into community-based substance abuse treatment programs nonviolent defendants, probationers and parolees charged with simple drug possession or drug use offenses;
- (b) To halt the wasteful expenditure of hundreds of millions of dollars each year on the incarceration – and re-incarceration – of nonviolent drug users who would be better served by community-based treatment; and
- (c) To enhance public safety by reducing drug-related crime and preserving jails and prison cells for serious and violent offenders, and to improve public health by reducing drug abuse and drug dependence through proven and effective drug treatment strategies.

A complete picture of Prop. 36's impact on California's citizenry, penal system and state budget is still coming into focus. However, preliminary results already confirm that this universal offer of treatment for nonviolent drug offenders is a highly effective and inexpensive way to deal with substance abuse, and has the added benefit of unclogging California's overburdened criminal justice system.

Despite its cost-effectiveness and four years of proven success, documented here in the following pages, the future of Prop. 36 is uncertain. The law initially set aside five full years of funding.

Thereafter, setting proper levels of funding requires a robust public discussion based on reliable research data. That vital discussion has now begun.

MAKING HISTORY: THE SUBSTANCE ABUSE AND CRIME PREVENTION ACT

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Proposition 36 went into effect on July 1, 2001, with initial funding for five years. Annual state funding of \$120 million has covered the costs of treatment as well as ancillary services for the roughly 36,000 people entering the system each year since the program began. The legislature and the governor will determine new funding levels beginning July 1, 2006.

Overwhelming Public Support

Prop. 36 received more votes than any other citizen initiative or candidate on the November 7, 2000 ballot. The people who voted “yes” to enact the drug treatment law outnumbered those who voted “no” by more than 2.2 million.

A June 2004 poll conducted by the California-based Field Research Corporation and sponsored by the National Council on Crime and Delinquency found that *public support has increased since voters approved the measure in 2000*. The Field survey reported that, almost four years later, a remarkable 73 percent of likely voters in California would now approve the proposition.

A Universal Offer of Treatment, Not Incarceration

California’s Prop. 36 is a post-conviction program that offers treatment and probation, not incarceration. The program is available to most people convicted solely of possessing illicit drugs or paraphernalia. Prop. 36 is open to anyone convicted of a first or second offense after July 1, 2001, irrespective of possession convictions prior to that date. Eligible individuals have the right to refuse treatment, and courts may deny treatment in cases involving a history of violence or concurrent crimes other than drug possession.

Californians Vote on Proposition 36:		
YES:	6,233,422	60.9%
NO:	4,009,508	39.1%
November 7, 2000		

Source: Calif. Sec. of State



CYNTHIA
Escondido, 48

After seven months in treatment, Cynthia began to make changes in her life. Now she is sober and attending college. She sees a future without drugs and alcohol.

Cynthia had been in the grip of alcohol and other drugs since the age of 16.

In and out of programs over the years, she never stayed sober for long.

"I stopped believing I could change my life," she says. But in 2003, after legal problems related to her drug use, Cynthia says she received a "gift": Proposition 36.

After seven months in treatment, Cynthia began to make changes in her life.

Now she is sober and attending college. She sees a future without drugs and alcohol. "I used to dream of a life not controlled by my addiction, and it is happening for me now, thanks to so many who care."

Prop. 36 recognizes that drug use relapse is a natural and expected part of recovering from drug addiction.

Treatment can last up to 12 months, with up to six months of continuing care afterward. If a person fails to attend treatment or commits a new criminal offense (other than petty drug possession), Prop. 36 treatment and probation can be terminated.

Accountability Without Unnecessary Punishment

Prop. 36 recognizes that drug use relapse is a natural and expected part of recovery from drug addiction. Just think how many times most cigarette smokers try to quit before they finally succeed.

Accordingly, Prop. 36 allows clients who relapse to receive a second and even third chance at succeeding in treatment before their probation is revoked. When relapse occurs, substance abuse professionals can recommend placement in a detoxification program and/or a change or intensification of the client's treatment program.

Consistent with its purpose of treating addiction as a medical rather than a criminal justice issue, *Prop. 36 does not permit the court to incarcerate, even for short periods of time, someone who suffers a first or second relapse.*

This prohibition of jail sanctions as a penalty for relapse is supported by the California Society of Addiction Medicine (CSAM), the leading professional society for the field of addiction treatment in California. CSAM and other leading addiction professionals recognize – and a growing body of research shows – that jail sanctions are costly, ineffective and often counter-productive to achieving better treatment outcomes.

Courts and probation departments retain authority over case management for Prop. 36 participants. A jail or prison sentence can be imposed after serious rules violations, but courts are required to consider the recommendations of treatment providers.

External Review

Prop. 36 was designed to generate extensive data on the benefits of treatment alternatives to incarceration, and funds were set aside for independent analysis of the program. The State Department of Alcohol and Drug Programs selected a research team at the University of California at Los Angeles (UCLA) to collect and publish annual and long-term data resulting from the changes in policy and practice. Three such reports have already been issued. A report on the state's comprehensive costs and savings from the program is slated to appear in April 2006.

BENEFITS OF PROPOSITION 36: FROM PUNISHMENT TO PUBLIC HEALTH

Proposition 36 is a new breed of court-supervised treatment that emphasizes public health interventions over criminal justice sanctions. It takes seriously the principle that drug addiction is a medical condition.

In typical court-supervised programs, treatment options are often inadequate, funded poorly if at all, and limited to 12 step-type recovery programs that work for only a small proportion of people with drug problems. Many criminal justice-linked treatment programs around the nation require defendants to find

“Relapse during treatment is viewed as a common, but ultimately surmountable, part of recovery best addressed by more and better treatment interventions, not by punishment or cessation of treatment.”



TAMMY
Sacramento, 44

Two prison terms for drug possession didn't stop her drug use. This time Tammy received Prop. 36 treatment instead of another prison stay. It was only then that Tammy began to understand what she needed to achieve sobriety.

Tammy struggled with a heroin and methamphetamine addiction for most of her life, starting at the age of 14. Two prison terms for drug possession didn't stop her drug use. Immediately after being released from prison the second time, she was quickly re-arrested. This time Tammy received Prop. 36 treatment instead of another prison stay.

"I know that if it wasn't for Prop. 36 I would either be in jail or dead right now," Tammy reflects. In treatment she was able to work on her underlying problems. Doctors diagnosed Tammy as bi-polar and placed her on lithium. It was only then, at the age of 40, that Tammy began to understand what she needed to achieve sobriety. In April 2006, she will celebrate her fifth year of sobriety. Tammy completed her educational requirements and is working toward the exam for her California Alcohol and Drug Abuse Counselor Certification. "Prop. 36 has allowed me to become a parent again, a daughter, a sister, an aunt, a cousin, a neighbor," Tammy says. Her two boys, ages 26 and seven, now call her every day to tell her they love her. Tammy is working to regain custody of her younger son.

their own programs but provide no funding for this compulsory treatment.

Before Prop. 36, the threat of expulsion from treatment and imposition of jail sanctions was ever-present. There was frequent urine testing for drug use. Additional support services like job training, literacy programs, and family counseling were rarely offered. This one-dimensional approach to drug treatment meant that even those who eventually passed through the system often lacked the necessary life skills to get connected or reconnected to families, work and their communities.

Proposition 36 Provides Solutions

Prop. 36 prioritizes quality treatment and makes compassion a cornerstone of the state's rehabilitative approach. Prop. 36 empowers substance abuse treatment professionals to fashion and implement evidence-based treatment plans for their clients, including methadone- and buprenorphine-assisted treatment for heroin and other opioid users.

Relapse during treatment is viewed as a common, but ultimately surmountable, part of recovery best addressed by more and better treatment interventions, not by punishment or cessation of treatment.

Prop. 36 recognizes that drug abuse is often a symptom of other underlying problems. Therefore, Prop. 36 provides for and funds a range of services that complement a sensible drug treatment program.

“The era of building prisons is essentially over.”

Rod Hickman, secretary, Youth and Adult Correctional Agency
Source: Sacramento Bee, July 21, 2004

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Dramatic Reduction in People Imprisoned for Drug Possession

As the nation’s drug war intensified in the late 1980s and ‘90s, California nearly quadrupled the number of prisoners serving time for simple drug possession. By June 2000, California held a record 20,116 people in state prisons whose most serious crime was drug possession (ref. 14).

Proposition 36 reversed this disturbing trend. After voters approved Prop. 36, there was a dramatic 32 percent drop in the number of people incarcerated in California prisons for drug possession, a reduction (from December 31, 2000 to June 30, 2005) of 6,279 prisoners (ref. 14). The effects on prisons began even before July 1, 2001, the effective date of the law, as many Prop. 36-eligible defendants had their sentencing postponed to take advantage of the treatment option. This spurred an immediate drop in the prison population, as outgoing prisoners were not replaced.

This remarkable decrease is greater than the maximum design capacity of two California prisons combined. These prison cells became available to house people convicted of violent or other predatory crimes.

Turning Around Tens of Thousands of Lives Each Year

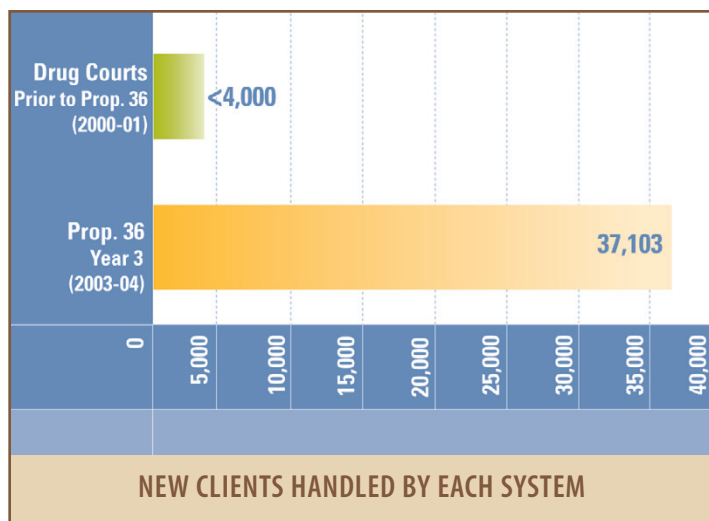
Prior to the enactment of Prop. 36, California’s court-supervised treatment system had little overall impact on public health and incarceration rates. The largest system, drug courts, served only 3,000-4,000 clients per year.

“There are a lot of reasons the [prison] population is down ... but we think the biggest factor with the women’s numbers is Proposition 36.”

– Margot Bach, spokeswoman for the California Department of Corrections, on the closing of the Northern California Women’s Facility

Source: Mark Martin, “Changing Population Behind Bars: Major Drop in Women in State Prisons,” *San Francisco Chronicle*, April 22, 2002

While the rest of the country struggles to find ways of dealing with methamphetamine abuse, California is providing treatment to tens of thousands of people through Prop. 36.



Sources: UCLA Year 3 Report (Sept. 2005),
Drug Court Partnership Act – Technical Report (June 2002)

than do drug courts. Altogether more than 140,000 people entered treatment in the first four years of Prop. 36 (three-year total was 103,519; initial data show that more than 37,000 people entered in Year 4 – see refs. 2, 3 & 4).

Prop. 36 is also the nation's largest provider of treatment for people addicted to methamphetamine. More than half of all Prop. 36 participants report methamphetamine as their primary drug of abuse (ref. 2, pp. 15-16). Methamphetamine users are succeeding in treatment at rates equal to or better than rates for users of other drugs (ref. 2, pp. 34-36). While the rest of the country struggles to find ways of dealing with this particular drug abuse problem, California is actively providing treatment to tens of thousands of people struggling with methamphetamine abuse, learning which treatment options work best.

The last time Bill was in court, he readied himself for jail, but was instead offered Prop. 36 treatment. He credits Prop. 36 with giving him a second chance at marriage and at raising his children. Bill is now a repair maintenance worker for commercial buildings.

Substantial Savings to California Taxpayers

Prop. 36 not only works better than incarceration, it also costs California's taxpayers much less. Prior to its passage, the state's independent Legislative Analyst's Office (LAO) projected:

This measure is likely to result in net savings to the state after several years of between \$100 million and \$150 million annually due primarily to lower costs for prison operations... [T]he state would also be able to delay the construction of additional prison beds for a one-time avoidance of capital outlay costs of between \$450 million and \$550 million in the long term. Counties would probably experience net savings of about \$40 million annually due primarily to a lower jail population.

As a comprehensive analysis nears completion, early estimates indicate the savings may be even higher than projected – a result of reduced prison time and greater participation in Prop. 36 than originally anticipated.

Expanded Treatment Services Across California

Prop. 36 did more than merely signal a state policy change favoring treatment over incarceration. It nearly doubled state funding for drug treatment, breathing new life and recruiting new talent into a beleaguered health care system.

The measure called for an initial \$60 million for ramping-up costs, followed by \$120 million per year to expand, diversify and maintain substance abuse services. The law further required other state spending for substance abuse treatment to remain level, thereby ensuring that Prop. 36 would increase treatment opportunities for Californians.

Under Prop. 36, the number of drug treatment programs and program slots available statewide has exploded.



BILL
Los Angeles, 52

Bill had been to jail before, but jail did not help him kick the 20-year methamphetamine addiction he picked up in the Navy. The last time he was in court, he readied himself for jail, but was instead offered Prop. 36 treatment.

Bill took the treatment option. Looking back now, after three years clean and sober, he says that without Prop. 36 the only thing that would have gotten him off of drugs would have been an overdose. Bill credits Prop. 36 with giving him a second chance at marriage and at raising his children.

Bill is now a repair maintenance worker for commercial buildings. He has a bank account, a car and a family, and pays taxes. Bill believes Prop. 36, and lots of prayer, helped him find his way.

“We now have greater integration of prevention, treatment and law enforcement.”

Sheriff, quoted in “Proposition 36 Today,” report by Avisia Group, April 2005

California’s treatment system has added more than 700 new state-licensed programs and increased its capacity to serve tens of thousands more people each year (ref. 5, p. 11). Most of this expansion took place, uncharacteristically, in a time of shrinking state budgets.

It was a valuable investment. Effective treatment programs require trained staff and adequate infrastructure. The investment pays off one person at a time, as treatment breaks deeply entrenched cycles of addiction, reduces criminal activity, improves individual and public health, and empties jail and prison cells. Lives, quite literally, are saved. By building up the treatment system, Prop. 36 has been able to achieve more of these positive results more quickly, and on a scale far greater, than anything California has previously seen.

Successful Collaborations Between Treatment and Criminal Justice

Prop. 36 envisions and requires rigorous and comprehensive collaborations among treatment providers, probation and parole departments, prosecutors, defense attorneys and judges. As a result, inter-agency and cross-disciplinary relationships have developed and flourished under Prop. 36, even in counties where agencies and departments had little previous contact or where public officials showed little interest in drug treatment.

“We have increased cooperation and collaboration... [We have] a better working relationship, more information, and [a] focus on client needs.”

Probation officer, quoted in “Proposition 36 Today,” a report by Avisia Group, April 2005

PROPOSITION 36 HAS DELIVERED ON THE VOTERS' MANDATE

Voters wanted more nonviolent drug possession offenders to get treatment. *Proposition 36 delivered:*

- ❖ More than 140,000 people were diverted to treatment in the program's first four years (refs. 2, 3 & 4).
- ❖ Prop. 36 serves 10 times more people each year than California's drug courts.

Voters wanted treatment to be more widely available. *Proposition 36 delivered:*

- ❖ More than 700 new drug treatment programs were licensed in California after Prop. 36 passed – a 66 percent increase (ref. 5, p. 11). Existing programs also increased their capacity to treat tens of thousands more clients.

Voters wanted more people to succeed in treatment, thereby reducing their drug use and increasing their employability. *Proposition 36 delivered:*

- ❖ Nearly 48,000 people completed treatment in the first four years – putting Prop. 36 on track to reach 60,000 by the end of the fifth year (based on a completion rate of 34 percent – see refs. 2 & 3).
- ❖ UCLA reports a 71 percent drop in drug use among Prop. 36 completers, and a 60 percent drop among people who received any Prop. 36 treatment (ref. 2, p. 66).
- ❖ Data show almost twice as many Prop. 36 clients were employed after completing treatment than were prior to treatment (ref. 2, p. 66).



Voters wanted fewer drug offenders in jail and prison, reserving incarceration beds for criminals who have victimized others. *Proposition 36 delivered:*

- ❖ The number of prisoners serving time for simple drug possession fell by 6,279, a 32 percent drop (from Dec. 2000 to June 2005), after voters approved Prop. 36 (ref. 14).
- ❖ UCLA reports that 60 percent fewer low-level drug possession offenders were sent to jail or prison in the first year of Prop. 36's implementation than in a typical year prior to Prop. 36 (ref. 2, p. 59).

Voters wanted to save money by halting the incarceration of nonviolent drug offenders. *Proposition 36 delivered:*

- ❖ Prop. 36 has diverted more than 140,000 people from incarceration, placing them in treatment instead. Average treatment costs per-person are about \$3,300, while a year in prison costs taxpayers \$34,150.
- ❖ Prop. 36 rendered unnecessary the construction of a new men's prison, bringing savings of at least \$500 million.
- ❖ The state shuttered a women's prison.
- ❖ Official UCLA savings data is expected in April 2006.

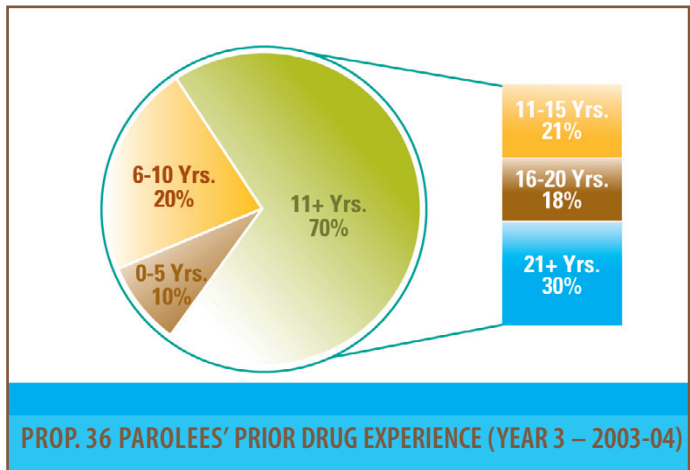
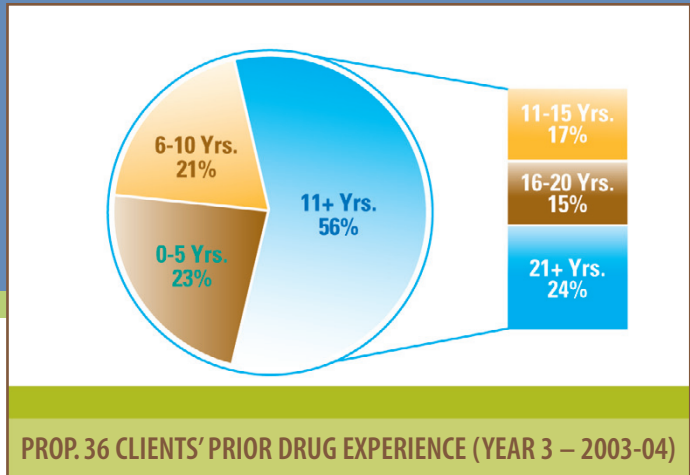
L to R: **Glenn Backes**, Drug Policy Alliance's former director of health policy and the California Capital Office, speaking with treatment counselors **James Wilson** and **Mario Mungaray** at the 2005 International Drug Policy Reform Conference in Long Beach, CA; Prop. 36 Graduate **Peter K.** with his son; California State Assemblyman **Mark Leno** (D-San Francisco), left, is a vocal supporter of refunding Prop. 36 programs in 2006; **Roger Daniel**, still in treatment at Alpha Project in Vista, hopes Prop. 36 funding will come through in 2006; **Leotius Haynes**, now entering Prop. 36 treatment at Alpha Project, with **Rudy**, a recent graduate.

Breaking the Cycle for Many Long-Time Users

Evidence shows that Prop. 36 is now providing treatment to people who have substantial experience with drugs and the criminal justice system, but who had not previously been afforded substance abuse services. *Indeed, one-half of all Prop. 36 participants had never before been in drug treatment* (ref. 2, p. 19, ref. 3, p. 42, & ref. 4, p. 33).

More than one-half (56 percent) of Prop. 36 clients in Year 3 (2003-04) had used illicit drugs for more than a decade. Nearly one in four had used drugs for more than two decades (ref. 2, p. 18).

Most people who enter Prop. 36 treatment do so after an arrest for drug possession. The remainder, roughly 5,000-6,000 per year, are mostly nonviolent prison parolees referred to Prop. 36 by their parole officers (ref. 2, p. 10). They tend to have even more extensive drug abuse histories than other Prop. 36 clients. Seventy percent of parolees in Year 3 (2003-04) had used drugs for more than a decade prior to entering Prop. 36; almost a third of them had more than two decades of drug abuse experience. What is striking about Prop. 36 is the extent to which so many people are accessing treatment for the first time and reaping benefits despite extensive histories of drug abuse.



Source: UCLA Year 3 Report (Sept. 2005)

In just five years, roughly 60,000 people will have completed their Prop. 36 treatment. But for this law, many would have languished behind bars.

LIVES BACK ON TRACK: PROPOSITION 36 GRADUATES

60,000 Graduates in Five Years

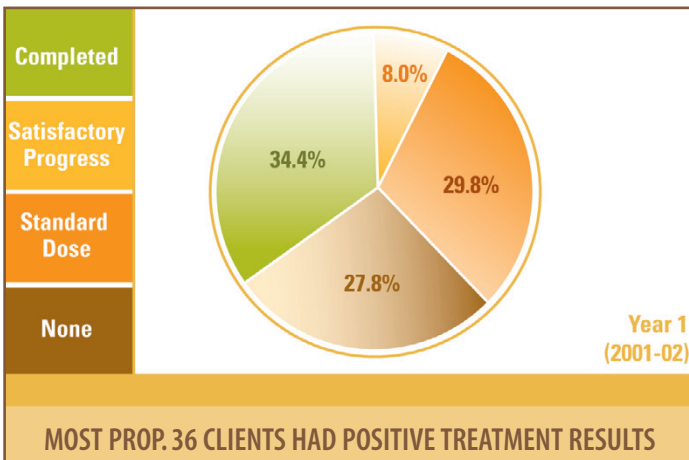
In an average year, roughly 12,000 people complete their Prop. 36 treatment. Another 3,000 are released from treatment after having made “satisfactory progress.” Roughly 7,500 Prop. 36 treatment recipients have their probation revoked, and 2,500 parolees have parole revoked after some Prop. 36 participation (ref. 2, pp. 32, 51-52). The remaining people continue to be active within Prop. 36, in treatment and/or on continued probation or parole.

In just five years, roughly 60,000 people will have completed their Prop. 36 treatment. But for this law, many would have languished behind bars. Instead they are eligible to have their convictions expunged from the record and face much improved life prospects with a reduced likelihood of relapse and re-arrest. An even greater number did not formally complete Prop. 36 but

nonetheless will have benefited from their long-term participation in treatment programs. Indeed, numerous studies have shown that benefits can result even from limited exposure to treatment: people reduce their drug use, reconnect with their families, find work and regain control of their lives.

Time Spent in Treatment

Almost three out of four Prop. 36 participants complete treatment,



Source: UCLA, Year 2 Report (Sept. 2004)

“People have gone from being tax users to being taxpayers. It’s an incredible turnaround, and those numbers are going to keep increasing.”

– Kathryn Jett, director, California Department of Alcohol and Drug Programs
Christina Jewett, “More fuel for debate on drug treatment,” Sacramento Bee, August 9, 2005

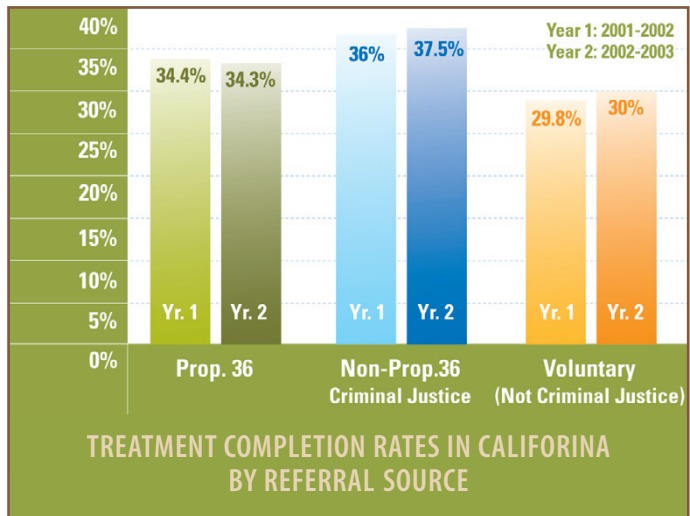
make “satisfactory progress,” or receive a “standard dose” of treatment, according to UCLA researchers (ref. 3, p. 74). Clearly, the system is producing positive results among the vast majority of people entering Prop. 36 treatment.

UCLA researchers define a “standard treatment dose” as spending the same amount of total time in treatment as people who completed treatment, adjusted to match clients in the same form of treatment in the same county. This measure shows most Prop. 36 participants who do not finish their programs nonetheless take them very seriously and participate in treatment services for even more time than those who complete Prop. 36.

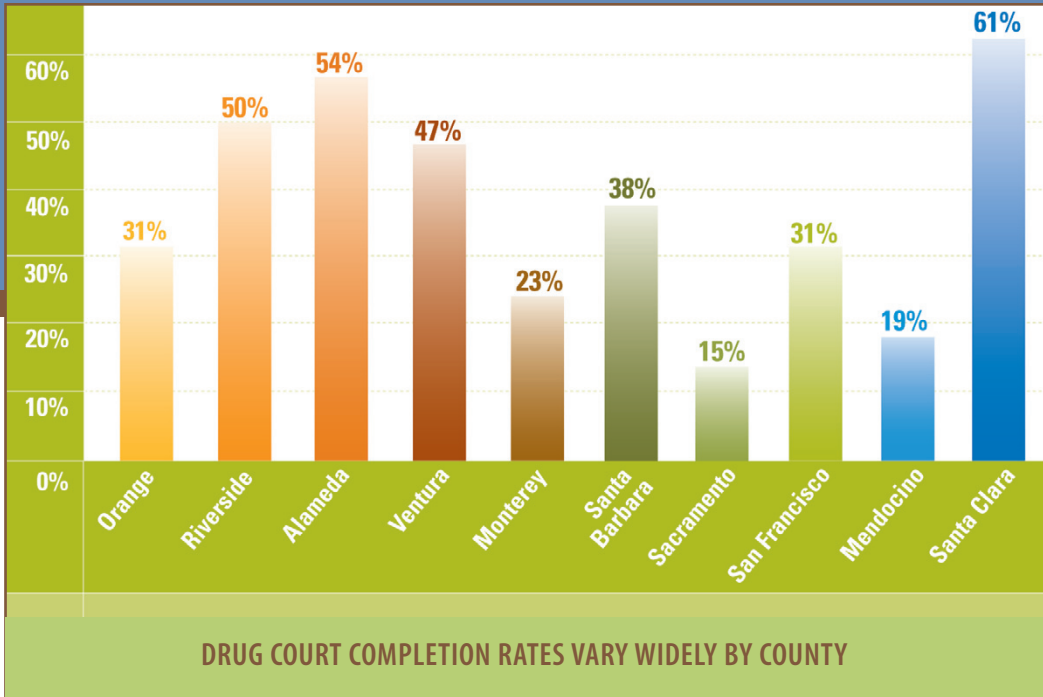
In fact, *Prop. 36 participants spend more time in treatment than people who receive treatment through other criminal justice programs*, laying the groundwork for future success (ref. 3, pp. 80-81 & ref. 6, pp. 572, 574).

HOW DOES PROPOSITION 36 COMPARE?

Treatment completion rates for Proposition 36 compare favorably with similar programs in California and nationwide. For example, in Year 2 (2002-03), Prop. 36 clients completed treatment at a rate of 34.3 percent, just below the statewide completion rate for all other people referred to treatment by criminal justice (ref. 2, pp. 32-33). At the same time, 30 percent of “voluntary” treatment clients completed their programs (ref. 2, p. 33).



UCLA Year 2 & Year 3 Reports (2004-05)



Sources: County data from 1995-99; *Journal of Psychoactive Drugs*, Dec. 2001

And even though Prop. 36 is a universal treatment system reaching every county in the state, research data show that Prop. 36 succeeds on a par with the far more selective, “boutique” diversion programs in California.

While strict comparisons between Prop. 36 and drug courts are difficult (see table on page 19), available data allow for some insights. One academic study published in 2001 reviewed evaluations of 10 California drug courts. Treatment completion rates varied widely, from 15 to 61 percent, with most drug courts experiencing treatment completion rates at or below 38 percent of their handpicked clients (ref. 20, p. 374 – see chart above).

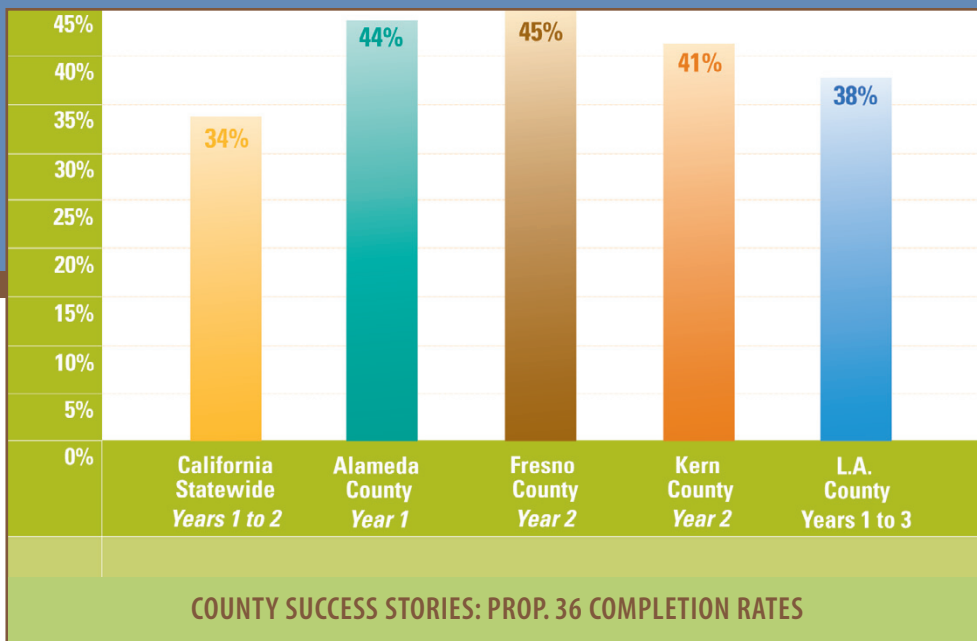
The largest study of any California drug court system examined four drug courts in Alameda County over four years, from 1995 to 1998. These drug courts had a completion rate of 35.7 percent (ref. 16, p.15).

The similarity in results with Prop. 36’s completion rates of 34.3 percent in Year 1 and 34.4 percent in Year 2 undermines arguments to the effect that that good treatment outcomes require greater selectivity of clients and greater punitive powers for courts, particularly jail sanctions to punish relapse and rules violations.

Prop. 36 participants spend more time in treatment than people who receive treatment through other criminal justice programs, laying the groundwork for future success.

COMPARISON OF PROP. 36 WITH DRUG COURTS

	Drug Courts	Proposition 36
Eligibility	Prosecutors, judges decide who gets treatment; variation in rules by county; most counties have only a handful of drug courts; some counties have no drug courts	Universal eligibility for nonviolent drug possession offenders; available in every county
Parole violators	Not eligible	Eligible if nonviolent, after drug-related violation
Participants per year, before July 1, 2001	3,000	—
Participants per year, since July 1, 2001	3,000-4,000	36,000
Approx. total participants (July 1, 2001-June 30, 2005)	12,000-16,000	140,000
Funding for treatment	Varies by county; if treatment is provided, many drug courts use existing publicly funded treatment slots	Provides treatment funding equal to about \$3,300 per client
Definition of treatment	n/a	Includes addiction therapy and education, vocational training, family counseling; methadone expressly authorized for heroin and other opioid users
Degree of court supervision	Intensive supervision; regular hearings; judges must be trained in procedures	Flexible; judge may be active or defer to probation and treatment; no special training required
Urine testing	Extremely frequent; conducted by courts/probation; used to monitor progress and impose sanctions	Law requires results be used only as "treatment tool," not for punishment
Responses to problems during treatment	Jail time, 2-30 days, as "sanction;" treatment intensification	Detox, treatment intensification, or change programs
Benefits of completion	Dismissal of charges	Dismissal of charges; potential expungement of record



Sources: UCLA Year 1 & Year 2 Reports (2003-04), Calif. Dept. of Alcohol and Drug Programs; Los Angeles County

County Success Stories

Prop. 36 completion rates vary among California counties, as is true with drug courts. It is heartening, therefore, that two of the largest counties (Alameda and Los Angeles), as well as two especially challenging counties with severe methamphetamine problems (Fresno and Kern), all boast Prop. 36 completion rates well above the statewide average.

- ❖ **Alameda County** drug courts had a completion rate of 35.7 percent over a four-year study conducted prior to Prop. 36. By contrast, people entering Prop. 36 in Alameda County in the first year achieved a 44 percent completion rate (refs. 16 & 24).
- ❖ **Fresno County's** completion rate for Year 2 (2002-03) was 45 percent, a full 11 percentage points higher than the statewide completion average for Prop. 36 (ref. 24).
- ❖ **Kern County**, which includes the Central Valley city of Bakersfield, had a 41 percent completion rate in the program's second year (ref. 24) compared to the 36 percent completion rate found for Bakersfield's drug court program (ref. 15).
- ❖ **Los Angeles County**, by far the state's largest county, reports that its Prop. 36 clients averaged a 38 percent completion rate over the program's first three years, consistently above the statewide average (ref. 7, p. 24). Los Angeles is distinguished by the fact that it allocates fully 85 percent of its Prop. 36 funds on treatment programs, compared with an average county allocation of 75 percent statewide.

MAKING A GOOD THING BETTER

Preliminary data on Proposition 36 suggest that certain aspects of this program could be improved to help realize its full potential.

Lessons Learned

Over 100,000 people are arrested for drug possession in California each year. Roughly half are convicted and choose Prop. 36 treatment (ref. 2, p. 8). Why so many people annually decline or do not receive Prop. 36 treatment is unclear. Some were not convicted. Some were convicted of simple marijuana possession and had the option of paying a fine, rather than entering treatment. Some drug offenders surely refused treatment because they preferred a relatively short term in jail or prison to the rigors of substance abuse treatment, which could last for a year or more.

About 43,000 of the 50,000 people referred to Prop. 36 annually appear for an assessment of their treatment needs. Of this group, an impressive 86.5 percent actually enter treatment (ref. 2, pp. 8-9). Nonetheless, the benefits of Prop. 36 are lost on those people who initially elect treatment but never appear for it. For these unfortunate “no-shows,” a bench warrant is issued and they can be sentenced to jail or prison. A sizable portion of these “no-shows” are people who have difficulty navigating the bureaucratic hurdles to move from court to probation to an addiction assessment and, finally, to a treatment center. The process involves multiple steps at unfamiliar, and often separate, locations.

There is no question that counties can do more to streamline and simplify the process from conviction to assessing client needs and entering treatment. For example, by locating treatment assessment, referrals and enrollment near court and probation services, and by providing transportation for clients between the courts and probation and treatment centers, counties could reduce the number of “no-shows” and increase rates of treatment exposure and completion.



RUDY
San Diego, 45

When he was arrested for possession after Prop. 36 was enacted Rudy was offered treatment. “Prop. 36 saved my life,” Rudy says.

Rudy was introduced to heroin by a friend, who soon thereafter died of an overdose. This didn't stop Rudy from using, though; nor did losing his job, his family and his freedom over the next two decades. After 35 years of drinking and 25 years of using heroin, Rudy wanted to end his life.

But when he was arrested for possession after Prop. 36 was enacted Rudy was offered treatment. “Prop. 36 saved my life,” Rudy says. “I have a younger brother, Mark, and two cousins in prison for 25 to life. That could have been me,” Rudy reflects.

But after working through treatment for over a year at a residential program in Vista, Rudy graduated from Prop. 36 probation in 2002. Rudy now sponsors men struggling to recover from their own addictions.

Methadone Woefully Underused

Prop. 36 expressly authorizes the use of narcotic replacement therapies for opioid-dependent clients. The law does so because thousands of studies over four decades show beyond a doubt that methadone is the optimal treatment for heroin or other opioid addiction. In fact, methadone maintenance was dubbed in 1990, “the most rigorously studied [drug treatment] modality [that] has yielded the most incontrovertibly positive results,” by the National Academy of Sciences’ Institute of Medicine. More recently, buprenorphine has emerged as an effective treatment option.

Unfortunately – and despite Prop. 36’s clear intention – fewer than one in ten opioid abusers actually gain access to narcotic replacement therapies under Prop. 36 (ref. 2, p. 28). Not surprisingly, heroin-addicted clients have the lowest treatment completion rates of any Prop. 36 participants. The reason is simple: few are being provided with the type of treatment that successfully addresses their unique medical condition. This systematic failure is a victory for old biases and prejudices, and a slap in the face to science and medicine.

The State Department of Alcohol and Drug Programs, county governments and courts must all do more to expand the availability and proper use of methadone, buprenorphine and other narcotic replacement therapies. Doing so will certainly achieve a meaningful increase in treatment completion rates and lower levels of incarceration and crime through the improved health and well-being of opioid-dependent offenders.

“Methadone maintenance is the most rigorously studied [drug treatment] modality and has yielded the most incontrovertibly positive results.”

– National Academy of Sciences’ Institute of Medicine, 1990

Maximizing Dollars for Treatment

Prop. 36 allows counties to use a portion of the program’s funds for expenses not directly related to treatment, such as overhead for court and probation department costs. Unfortunately, some counties have allotted a disproportionate share of their Prop. 36 budgets (over 25 percent in some counties) for non-treatment expenses. This misallocation of Prop. 36 funding short-changes treatment agencies and harms clients.

A new statewide rule restricting non-treatment costs to no more than 20 percent would help guarantee that treatment funds go to treatment.

CONCLUSION

Prop. 36 dramatically shifted the way California approaches drug addiction. The law’s impact is felt throughout the criminal justice system, where far fewer drug offenders face incarceration. Prosecutors, judges and probation officers now collaborate closely with treatment providers in helping people to break the cycle of drug addiction and succeed with their recovery. Treatment programs have grown rapidly in size, scope and sophistication, achieving success rates that com-



GARY
Riverside, 50

When Gary was arrested for possession he was offered the choice between prison and Prop. 36. Gary was 47 when he entered treatment for the first time.

Gary used drugs for 30 years before he was able to turn his life around. He lost job after job, then his home, and was living in a tent in a canyon when he was arrested for possession and offered the choice between prison and Prop. 36.

Gary was 47 when he entered treatment for the first time.

After completing an outpatient program, he was able to move in with his daughter and meet his grandchildren for the first time. He graduated from Prop. 36 in February 2003, and now has his driver's license, owns two vehicles, rents an apartment, and was promoted to manager at an auto parts shop.

pare well against any achieved in California or nationwide under more established systems.

Three out of four people who accessed Prop. 36 recovery services had positive treatment results. By the time initial funding expires after the fifth year, some 60,000 people will have completed treatment. Tens of thousands more will have spent significant time in treatment and made tangible progress toward recovery. At the same time, California has saved hundreds of millions of taxpayer dollars – and possibly over a billion dollars – mainly by freeing up existing prison cells for people convicted of violent or other predatory crimes.

California voters who approved Prop. 36 have every reason to be satisfied, whether they saw in the ballot initiative a chance for fiscal savings, a change in drug policy, or the opportunity for a friend or family member to find hope in recovery. Though this bold experiment is still relatively new, its real-world impact becomes more apparent by the day: one person, one family, one day at a time.

PROPOSITION 36 RESOURCES

UCLA Studies on Proposition 36

1. UCLA Integrated Substance Abuse Program Studies on Proposition 36. Available at: www.uclaisap.org/prop36/reports.htm.
2. Douglas Longshore, Darren Urada, Elizabeth Evans, Yih-Ing Hser, Michael Prendergast, and Angela Hawken, *Evaluation of the Substance Abuse and Crime Prevention Act: 2004 Report* (Los Angeles, CA: UCLA Integrated Substance Abuse Program, 2005).
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Non-UCLA Studies on Proposition 36

5. California Department of Alcohol and Drug Programs, *Substance Abuse and Crime Prevention Act (Proposition 36): Fourth Annual Report to the Legislature*, (forthcoming).
6. David Farabee, et al. "Recidivism Among an Early Cohort of California's Proposition 36 Offenders," *Criminology & Public Policy*, Vol. 3, No. 4, New York: John Jay College of Criminal Justice, November 2004.
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7. Los Angeles County Alcohol and Drug Program Administration, "Proposition 36: Annual Report, 2003-04," Los Angeles, CA: County of Los Angeles, Department of Health Services, March 2005.

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8. Daniel Abrahamson, "A Successful Law with an Uncertain Future: A Review of Prop. 36's Fourth Year on the Books," *California Criminal Defense Practice Reporter*, 2005.
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State and County Level Drug Court Studies

15. D.F. Anspach and A. S. Ferguson, *Assessing the Efficacy of Treatment Modalities in the Context of Adult Drug Courts: Final Report*. Portland, Maine: University of Southern Maine, Department of Sociology, 2003.
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26. J. Tauber, *An Evaluation of the Oakland Drug Court After Three Years* Oakland, California: Oakland - Piedmont-Emerlyville Municipal Court and the Alameda County Probation Department, 1995.

Recommended Viewing

A New Way of Life (Sacramento, CA: Drug Policy Alliance, 2003).

This 13-minute video details the rights and responsibilities afforded to eligible, nonviolent drug offenders under Prop. 36. The video also highlights the social and economic successes resulting from offenders receiving drug treatment instead of incarceration. This video was produced with generous support from the Butler Family Fund. For information on obtaining the video, contact Drug Policy Alliance's Sacramento Office at 916-444-3751, or sacto@drugpolicy.org. Available on VHS and DVD.

Recommended Websites

www.prop36.org

The Drug Policy Alliance's California Capital Office website on Proposition 36 features background information, news, reports, fact sheets and links to other Prop. 36 resources.

www.modelplan.org

The SACPA Model Plan utilizes interactive media to assist county stakeholders in developing SACPA programs driven by treatment and public health priorities.

www.adp.ca.gov/SACPA/prop36.shtml

This California Alcohol and Drugs Program website provides background and resources for individuals and counties concerning Prop. 36.

www.csam-asam.org

This website by the California Society of Addiction Medicine frequently features articles relating to Prop. 36.

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MISSION AND VISION

The Drug Policy Alliance envisions a just society in which the use and regulation of drugs are grounded in science, compassion, health and human rights, in which people are no longer punished for what they put into their own bodies but only for crimes committed against others, and in which the fears, prejudices and punitive prohibitions of today are no more.

Our mission is to advance those policies and attitudes that best reduce the harms of both drug misuse and drug prohibition, and to protect the sovereignty of individuals over their minds and bodies.

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