

Proposition 36 Implementation Fact Sheet¹

Geographic disparities in implementation across counties

Each law enforcement agency and DA is applying Prop 36 differently, producing stark differences in how California's most vulnerable populations are being treated by the justice system. Justice by geography is not justice at all.

- Orange County residents are just one-twelfth of the state's population, but make up more than one in four of the state's drug felonies under Prop 36. This means that county residents face **three times the risk** of Prop 36 drug charging compared to the average Californian.
- Residents of smaller, rural counties are also seeing higher rates of Prop 36 charging than those in larger, urban areas. In the counties with fewer than 200,000 people (24 counties for which we have data), Prop 36 drug felonies are being filed at roughly **twice the state average**.
- There are also striking differences in which component of Prop 36 counties are emphasizing.
 - For example, petty theft and shoplifting are about 75% of Prop 36 felonies in Contra Costa County and 67% in San Mateo County, but just 34% of cases in Placer County, 32% in San Diego County, and 31% in Sutter County.
 - When counties cherry pick the parts of the law they want to enforce, it contributes to problematic differences in how justice is administered across the state.

County specific data points & racial disparities

- Contra Costa:
 - Prop 36 is worsening racial disparities in Contra Costa County. Though Black people make up just 9 percent of the population in the county, they represent 52 percent of the Prop 36 theft charges (PC 666.1) and 30 percent of Prop 36 drug charges (HS 11395).
- Kern:
 - Not only are people struggling to complete mandated treatment under Prop 36 (0 people in Kern County as of June 30th), many are not even being enrolled. Of the 290 people referred to treatment in Kern County under Prop 36, only 100 were admitted into a program (as of October 2025).

¹ Data for the following counties were compiled and analyzed by researchers from the Center on Juvenile and Criminal Justice and Californians for Safety and Justice: Contra Costa, Kern, Kings, Sacramento, Sutter, Napa, Placer, San Mateo, Santa Clara, and Santa Cruz counties. Data for Amador and Madera county were compiled and analyzed by researchers from University of California, Berkeley. Data for Los Angeles County were compiled and analyzed by researchers from the Vera Institute of Justice. Additional resources were compiled at the bottom of this fact sheet by the Vera Institute of Justice. The data were obtained in most counties through county Public Defender offices. Data from six counties were obtained through the Jail Data Initiative. For further information about this fact sheet, please contact Trip Eggert, teggert@vera.org.

- Kings:
 - Prop 36 is worsening racial disparities in Kings County. Black people make up just 4 percent of the Kings county population, but account for 20 percent of Prop 36 theft charges (PC 666.1) and 15 percent of Prop 36 drug charges (HS 11395).
- Los Angeles:
 - Prop 36 is increasing the LA County jail population during one of the deadliest years on record for the jails. The CIO's September snapshot shows 837 people in jail whose top charge is a Prop 36 charge – this population has been increasing steadily since January, when there were 100 people in the system with a Prop 36 charge as their top charge.
 - Black people make up 23% of Prop 36 bookings, despite being only 8% of the LA County population. The disparity is worse for repeat theft (PC 666.1): Black people are represented at almost four times their county population representation (31% compared to 8%).
- Sacramento:
 - In Sacramento County, many people are being charged with felony drug possession under Prop 36, but not benefitting from effective treatment. As of October, the Sacramento DA has filed about 900 Prop 36 drug cases. Of those, just 270 were connected with a treatment program. Once enrolled in treatment, just 40% remained after 30 days and 20% after 90 days. The program lasts more than a year, which means very few people are expected to complete the program and have their felony dismissed.
- Sutter:
 - Residents of Sutter County face a much greater risk of being charged with felony drug possession under Prop 36 than those in other parts of the state. Sutter County's rate of charging HS 11395's is more than five times the state average.
 - Prop 36 is worsening racial disparities in Sutter County. Black people make up less than 2 percent of Sutter County population but account for 10 percent of 666.1 charges.
- Napa:
 - Prop 36 is worsening racial disparities in Napa County. Black people make up just 2 percent of the Napa county population, but account for 26 percent of the 666.1 charges.

Case totals for available counties (through September 2025, unless otherwise noted):

- Amador: 14 charges (12 people) for HS 11395 and 4 charges (4 people) for PC 666.1 *(January-June 2025 only)*
- Contra Costa: 94 charged with HS 11395 and 275 charged with PC 666.1
- Kings: 61 charges (60 people) for HS 11395 and 54 charges (44 people) for PC 666.1
- Madera: 59 charges (50 people) for HS 11395 and 12 charges (9 people) for PC 666.1 *(January-June 2025 only)*

- Napa: 61 cases contain charges (48 people) for HS 11395 and 46 contain charges (33 people) for PC 666.1
- Placer: 65 charges (61 people) for HS 11395 and 32 charges (29 people) for PC 666.1
- San Mateo: 233 charge (151 people) for HS 11395 and 459 charges (319 people) for PC 666.1
- Santa Clara: 426 charges for HS 11395 and 507 charges for PC 666.1
- Santa Cruz: 236 charges (137 people) for HS 11395 and 204 charges (121 people) for PC 666.1
- Sutter: 164 charges (136 people) for HS 11395 and 78 charges (73 people) for PC 666.1

Further potential consequences of Prop 36

According to an analysis of preliminary data for Amador county by University of California, Berkeley researchers, average sentences for drug possession cases increased dramatically post-Prop 36, even as overall sentence lengths in the county decreased.

- For HS 11350 (possession of a controlled substance) cases, sentences increased from an average of 6.3 days to 180 days. For HS 11377 (possession of a controlled substance) cases, sentences increased from 67 days to 97 days.
- Dismissal rates for drug possession cases dropped significantly in Amador County. Cases with HS 11350 charges were dismissed 87% of the time before Prop 36 and only 50% after. Cases with HS 11377 charges were dismissed 60% of the time pre-Prop 36 and 36% of the time after.
- These findings suggest that even for existing drug possession statutes not directly modified by Prop 36, prosecutors are taking harder lines on all drug cases, defendants are accepting longer sentences to avoid new Prop 36 felonies, or judges are imposing longer sentences in response to the passage of Prop 36.

Additional Resources on Proposition 36

[Joint Hearing Senate Public Safety Committee and Senate Budget and Fiscal Review Subcommittee No. 5 on Corrections, Public Safety, Judiciary, Labor and Transportation](#), February 25, 2025.

[Overview of Proposition 36 Fiscal Impacts and Selected Substance Use Disorder Treatment Programs](#), Legislative Analyst's Office, February 25, 2025.

[Assembly Budget Subcommittee No. 6 on Public Safety](#), March 17, 2025.

[Overview of Criminal Laws Created or Amended by Prop 36](#), Committee on Revision of the Penal Code, March 2025.

[Early Implementation of Prop 36 Varies Widely across Counties](#), Public Policy Institute of California, April 23, 2025.

[Property Crime Reached Record Lows in 2024 — Before Prop 36 Even Took Effect](#), Center on Juvenile & Criminal Justice, July 2, 2025.

[Preliminary Proposition 36 Court Data \(December 2024 to June 2025\)](#), Judicial Council of California, October 1, 2025.

Other Resources

[Los Angeles County Jail Population Dashboard](#)

[California Deaths While in Law Enforcement Custody Reporting AB 2761](#), California Correctional Health Care Services

[Assessing the Continuum of Care for Behavioral Health Services in California](#), State of California Department of Health Care Services, January 10, 2022.