

A Model Design for the Implementation of SACPA: Making Prop. 36 Work in Your County



<http://www.modelplan.org/#>

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I. Introduction

The passage of Proposition 36, the Substance Abuse and Crime Prevention Act of 2000 (“SACPA”), by 61% of the California electorate precipitated a sweeping change in the state’s drug policy and in the delivery of substance abuse treatment services. SACPA announced a fundamentally new way for state and local officials to address low-level drug offenders-- including probationers and parolees-- as *persons* deserving of treatment and ancillary services, rather than jail or prison. SACPA represents a recognition that treating chemically dependent individuals is an effective way to decrease drug misuse and drug-related crime in California. As its title suggests, *A Model Design for the Implementation of SACPA: Making Prop. 36 Work in Your County* is meant to assist in assessing and improving SACPA implementation and evaluation in a manner consistent with the basic tenet of this law, namely that drug dependence and addiction should be addressed first and foremost as matters of public health.

SACPA also was a public mandate for professionals in the health, substance abuse, and criminal justice systems, as well as community members, drug users and their families and friends to initiate *and sustain* a collaborative process for designing and implementing SACPA at the county and municipal levels throughout the state.

The *Model Design* is meant to assist county stakeholders – county officials, SACPA clients and their families, service providers, criminal justice players, and others – in developing SACPA programs driven by treatment and public health priorities. This document is itself the product of an intense collaborative effort that spanned the full array of professional disciplines and government agencies responsible for SACPA. Over a year in the making, the *Model Design* draws from and responds to the varied experiences of California counties during SACPA’s first 20 months (November 2000-July 2002).

The goal of the *Model Design* is to provide stakeholders with the best information available about how to successfully provide SACPA services consistent with the intent of the law, the most promising and proven practices of the substance abuse field, and the demands of the criminal justice system. It is hoped that the *Model Design* serves as a bridge between experience and research, on the one hand, and practice on the other, with the former informing the latter. Some parts of the *Model Design* will always be a work in progress, just like the SACPA program of any given county. New information will be incorporated into future iterations of the *Model Design* as counties experiment with different ways to deliver services, researchers publish evaluations of SACPA, new drug treatments and harm reduction measures gain widespread acceptance, and our understanding deepens with respect to drug use, drug abuse, drug dependence and drug addiction. In this same vein, the authors of the *Model Design* encourage SACPA stakeholders to share with them their responses to the *Model Design* and ideas about SACPA implementation to be incorporated into the document.

The success of SACPA depends in large part upon an ongoing dialogue by SACPA stakeholders about the various issues addressed in this *Model Design*. We hope you find it useful and look forward to hearing from you.

II. The Role of SACPA Lead Agencies

A behavioral health or alcohol and drug services agency/division should be designated as the lead agency for SACPA implementation. Each county in California is required by the Department of Alcohol and Drug Programs (DADP) to select a lead agency to oversee SACPA implementation. Lead county agencies are critical to the success of SACPA because they are responsible for the organization and implementation of all SACPA related activities. As a part of their duties, they are required to submit a county implementation plan to DADP to receive annual funding. As the primary fiscal and regulatory agency for all SACPA activities in each county, the lead agency coordinates the roles of the participating entities, and will supply or contract most of the services used by SACPA clients. County Health or Alcohol and Other Drug (AOD) agencies should be the designated lead agency since probation and other criminal justice departments have neither the programmatic nor the clinical expertise to oversee and coordinate health, substance abuse, and ancillary social services. Additionally, if the lead agency is criminal justice-oriented, SACPA's implementation is more likely to be shaped by punitive rather than rehabilitative goals, which is antithetical to the purpose and intent of SACPA.

Planning

It is imperative that the county planning process be participatory, collaborative, and transparent. In order for a court mandated substance abuse treatment program to work successfully, it must have the acceptance and support of leaders in diverse sectors of the community, as well as in county government.

It is important that a wide variety of community groups and agencies are included in the planning process to provide support for and express concerns about SACPA implementation. County lead agencies should strongly encourage public participation, and public meetings should be held in numerous, accessible locations throughout the county to ensure that all relevant ethnic and socioeconomic groups are included.

An advisory group or task force, made up of community organizations and relevant county agencies, should be established to approve the planning process. The lead county agency is responsible for writing the county implementation plan, and an advisory group or task force approves that plan. As a practical matter, it is difficult for large groups to do detailed planning. It is possible, nevertheless, to elicit ideas and concerns from all relevant stakeholders and form an advisory group or task force that represents treatment providers, treatment recipients, behavioral health organizations, ancillary services, local government, criminal justice, and relevant community organizations. It is important to note, however, that *all* interested parties should have direct and unobstructed access to this advisory group in the interest of participatory and transparent program development.

Each county is unique and will establish its task force or advisory group in a manner suited to its needs. However, in order to implement SACPA in a fashion that is consistent with the intention of its authors, whenever the following relevant stakeholders are present in a given county, they should be part of a SACPA advisory group¹ or task force:

Relevant Stakeholders

1. Substance Abuse Treatment Services
 - Treatment Providers*
 - Case Management*
2. SACPA Treatment Clients
3. Behavioral Health
 - Public Health Agency*
 - Mental Health*
 - Local Hospital*
4. Ancillary Services
 - Social Services: Housing, Child Welfare*
 - Mental Health*
 - Vocational Services*
 - Schools*
5. Criminal Justice
 - Judge, Parole, DA*
 - Defense Bar, Pre-Trial Services,*
 - Probation, Sheriff*
6. Community Organizations
 - Family Organizations/Support Groups*
 - Culturally Relevant Groups*
 - Faith-based Organizations*
 - Neighborhood Associations*
 - Other Relevant Community Groups*
7. Government
 - Lead County Agency*
 - Neighboring County Lead Agency (where appropriate)*
 - County Commissioner*
 - Board of Supervisors Representative*

Funding

SACPA is designed to amplify the diversity and quality of substance abuse treatment. Lead county agencies are responsible for dedicating the vast majority of SACPA allocated county funding to a full continuum of drug treatment and ancillary services.

Costs that do not clearly and directly advance Alcohol and Other Drug (AOD) service provision are to be minimized.

SACPA appropriated \$60 million in start up funds in FY 2000-01, and \$120 million for each of the five subsequent fiscal years. SACPA requires that these funds are provided in addition to those already budgeted for substance abuse treatment services by the state. All 58 California counties are required to submit an implementation plan in order to receive SACPA funding from the Department of Alcohol and Drug Programs (DADP).

Counties that allocate significant percentages of SACPA funds to services other than treatment or ancillary social services are misappropriating SACPA funds. While a small portion of the SACPA funds can cover administrative and criminal justice costs, the primary focus of funding allocation should be on treatment. For a full explanation on funding distribution, please see the Drug Policy Alliance Report Card Criteria². Given the public health focus of SACPA, no more than 10% of total funding should be allocated to probation.

State and County Collaboration

Cooperation at both the state and county level is crucial to the successful implementation of SACPA. The California State Department of Alcohol and Drug Programs, while serving as the primary funding source for lead agencies, relies on individuals from key sectors of the SACPA system within each county to participate in an advisory group or task force³ which meets regularly to discuss ongoing implementation and monitoring of the law, as well as budgeting and evaluation issues. It is important that DADP provide counties with ongoing opportunities to inform DADP about local SACPA implementation issues and to seek assistance in training and technical issues.

Inter-County Collaboration

Inter-county cooperation can be invaluable. Inevitably, a number of non-violent drug offenses take place in counties where the offender neither lives nor works. Accordingly, county courts and agencies should establish mechanisms for the transfer of jurisdiction of SACPA cases, and/or the transfer of supervision of SACPA clients between counties.

Economies of scale can substantially increase treatment capacity and efficacy. For smaller, rural counties, especially those with a limited substance abuse treatment infrastructure, collaboration with other nearby counties may be the best way to provide a diverse range of treatment and social services. It is critical that cooperation complies with the SACPA requirement to supplement and never supplant existing treatment capacity in each county. SACPA prohibits the loss of treatment slots in a voluntary or court ordered treatment network to extend the treatment needs of other counties. It is recommended that smaller counties coordinate their services, and invest in the services that others in the region may lack, so that together the counties offer a full continuum of care. Similarly, neighboring counties should collaborate in the training and continuing education of SACPA personnel.

Licensing and Certification

Under SACPA, all treatment providers must be state licensed in order to contract with lead county agencies and provide services. While the primary focus of licensure is health and safety concerns, certification signifies that a program is in compliance with state program standards.

In order for treatment needs to be met, it is imperative that county and state agencies work together to bring current programs up to approved standards and provide technical assistance to help newer programs navigate the licensure/certification process. Before the introduction of SACPA, certification was voluntary for all outpatient and residential treatment centers; now many providers are struggling to get certified in the wake of new requirements. Training should be offered to help programs navigate the licensure process.

California counties must expand their contract base to include a full range of services. Although much early attention has been focused on the need to expand long term residential care -- hence the certification of 2700 additional residential treatment beds in California between July 1, 2001 and June 2002 -- the licensure of a diversity of treatment services is needed. A full range of programs should be considered for licensure to ensure that a complete continuum of care is available. The California Society of Addiction Medicine⁴ provides a complete list of all the approaches and levels of care that make up a complete continuum

Cross Training

Cross training in relevant sectors of county government creates smooth processes and better long-term outcomes. Because SACPA requires inter-agency collaboration, it is important that the different agencies that participate in SACPA understand how they fit into the larger whole and how the other agencies function with respect to SACPA clients. For example, court and pre-trial service personnel must understand the principles and practices of drug treatment programs, while public health officials must have a grasp of the basic workings of the court. Only then can appropriate treatment plans be made and modified. The successful implementation of SACPA depends on collaborative, non-adversarial relationships between agencies.

Training in all sectors should include harm reduction principles⁵. In addition, each county should provide trainings in the following areas:

- **Criminal Justice** (i.e. police officers, court personnel, District Attorneys): The efficacy of treatment, data on treatment recidivism, relapse, mental health issues, ancillary services, best practices for developing positive incentives.
- **Public Health**: Treating severe chemical dependency, how to work with difficult clients, dual diagnosis, court processing, probation processing, data collection.
- **Probation**: Harm reduction principles, AOD treatment, levels of care, relapse, mental health issues, ancillary services.

The California Department of Alcohol and Drug Programs⁶ and the Harm Reduction Training Institute⁷ sites provide additional information on the trainings currently available.

Annual Plan

In order to receive funding for SACPA from the State Department of Alcohol and Drug Programs, counties must submit a SACPA implementation plan by May 1 of each year. The plan must be developed in collaboration with all county stakeholders -- including drug treatment providers and impacted community parties – and then approved by the County Board of Supervisors.

Counties have an opportunity each year to revise their plans based on assessments of their (and other counties') implementation efforts and information about promising or best practices. This revision process is crucial in ensuring successful SACPA implementation and should reflect the input of all relevant stakeholders, including SACPA clients and other community members. Only by revisiting the SACPA implementation process on a regular basis can counties effectively respond to changing needs and circumstances.

Evaluation

Statewide evaluation of SACPA implementation does not account for the nuances of each county plan, and without county input, state officials will not adequately understand the issues facing and successes achieved by the state's many counties. At the same time, individual county assessments are invaluable tools for the counties to measure the efficacy of their SACPA implementation plans and improve the delivery, quality and proper diversity of treatment services to SACPA clients.

For these reasons it is imperative that counties establish and maintain meaningful standards for SACPA data collection and analysis, particularly in regards to client needs and outcomes. Even if a county is not one of the ten target counties included in UCLA's statewide evaluation⁸, it is still obligated to submit data to the Department of Alcohol and Drug Programs that takes into account client counts and characteristics. Please see "Part VIII: Evaluation" at the end of this document for more information.

In addition to the statewide evaluation, various researchers are conducting smaller-scale evaluation efforts that will shed important light on how SACPA works.

III. ENTRY INTO SACPA SYSTEM

Eligibility

SACPA was drafted to encompass the widest possible variety of non-violent drug possession offenders. SACPA applies to non-violent drug possession offenses, which include unlawful use, possession, or transportation for personal use of controlled substances, as well as drug paraphernalia, such as syringes, pipes, etc.

The term “transportation for personal use” was specifically included in SACPA in order to maintain eligibility for individuals who possess small amounts of controlled substances for personal use, with no intent to traffic or sell, even though they were arrested in a motor vehicle.

Judicial discretion should be exercised consistent with SACPA’s goal of rehabilitation, maximizing the number of offenders referred for SACPA treatment. Persons convicted of non-violent drug offenses must be offered SACPA probation, unless they are expressly excluded from SACPA. Categories of exclusion are:

- 1. Persons convicted in the same proceeding of a non-drug related misdemeanor or felony⁹. While persons convicted of crimes that fall in this category are technically excluded from participation in SACPA, **it is important that courts evaluate each individual case to determine if some people excluded under this category would be appropriate candidates for SACPA.** Many non-violent crimes – e.g., many thefts or burglaries -- are the direct product of drug addiction. In such cases, treating the underlying chemical dependency is often the most effective way to address criminal behavior and reduce recidivism. Accordingly, courts should be encouraged to exercise their discretion pursuant to Penal Code Section 1385 to dismiss the non-drug charges “in the interest of justice” when doing so will result in treatment being offered to addicted non-violent offenders who would otherwise be ineligible for SACPA.*
- 2. Individuals who have been convicted of a violent felony within five years of their current arrest are not eligible for the SACPA program¹⁰. Individuals who have not served any prison time for or been convicted of a violent offense for the past five years are SACPA eligible.*
- 3. Individuals who while in possession of a firearm, unlawfully possess cocaine, heroin, methamphetamine, or phencyclidine are not eligible for SACPA¹¹.*
- 4. Persons who refuse treatment are not eligible for SACPA¹².*
- 5. Persons who have already been sentenced to SACPA probation on two prior occasions are not eligible for SACPA probation upon their third conviction for a SACPA offense.¹³*

Arrest

The criminal justice system should make every effort to ensure that non-violent drug offenders are directed toward treatment rather than incarceration. Overcharging inappropriately diverts many possible SACPA clients to jail instead of treatment. The number and combination of charges brought against an individual at arrest largely determine the punitive measures likely to be applied. Police are afforded substantial discretion in how non-violent drug offenders are charged. Counties must ensure that overcharging does not occur.

To avoid overcharging at arrest, lead county agencies should:

- Pass local ordinances to indicate publicly that it is county policy to not permit overcharging, either at arrest or at re-booking;
- Institute a county-based monitoring system of arrests, charges and convictions that will advise police that charges are being monitored for overcharging at arrest;
- Recognize that, in the interest of assisting chronic drug abusers, some police may prioritize enforcement of Cal Health & Safety Code § 11550.¹⁴ Therefore, departments need to be informed of the limits of SACPA resources, and policies set to target individuals most likely to be incarcerated.
- Recommended state action: The State should also institute a monitoring system to evaluate and correct overcharging by counties.

Booking

Police, district attorneys, defense counsel and judges need to work together in order to divert eligible offenders to the SACPA program. Of the myriad charges that can often be levied against a potential SACPA client, the final charges are left to the discretion of the District Attorney. Some prosecutors face significant pressure to secure convictions on the greatest possible number of charges and/or a conviction on the most serious charge possible. In certain cases this pressure can result in the denial of SACPA treatment for non-violent drug offenders who would greatly benefit from such treatment. A sensitive appraisal by the court, defense counsel, treatment professionals and the prosecution of what resolution best serves society's interest in public safety and public health can prevent the unnecessary overcharging of non-violent drug offenders.

Overcharging can lead to the unnecessary and prolonged detention of non-violent drug offenders, to the detriment of their health and safety. When a series of charges are brought against a potential SACPA client, bail is often set too high for many defendants. The result is the prolonged incarceration of persons who will be released upon conviction

of a SACPA-eligible offense. (The detrimental effects of pretrial incarceration are discussed further in the Pretrial Release section.)

In order to avoid unnecessary booking or rebooking on charges that will result in the improper exclusion of persons who should get the benefit of SACPA, counties should:

- Establish standardized guidelines for booking/rebooking decision and charging decisions to avoid abuse of discretion;
- Implement a charging review for all non-violent felony charges that come into the system to identify and correct overcharging decisions;
- Train the criminal defense bar to recognize and challenge overcharging decisions; and
- Institute a county-based monitoring system of arrests, charges and convictions that will put police on notice that charges are being monitored for over-charging at arrest.

Screening

Any information used to make a determination of denial of SACPA eligibility should be provided to the defense attorney. The first substance abuse screening under SACPA is likely to be for the purpose of determining eligibility for the SACPA program and is most likely to be conducted by the District Attorney's office prior to arraignment. The information gathered from this screening ought to be available to the defense so that all information relevant to the possible exclusion of the defendant can be adequately addressed in court.

A substance abuse screening tool should be simple enough that a wide range of health professionals can administer it. This tool is meant to provide a brief snapshot, not a full evaluation of the client, a task left to the assessment stage. The screening tool should focus on substance use severity (primarily consumption patterns) and a core group of associated factors such as legal problems, mental health status, educational functioning, and living situation. Clients' awareness of their problem, their thoughts on it, and their motivation for changing behavior should also be solicited.

In clinical terms, screening determines the need for a comprehensive assessment; it does not establish definitive information about diagnosis or possible treatment needs. According to the Substance Abuse and Mental Health Services Administration (SAMHSA), the hallmarks of a good screening tool are:

- (1) ability to be administered in about 10-15 minutes
- (2) broad applicability across diverse populations.

SAMHSA, 1994

A wide range of standardized screening tools^{15 16} has been developed. View these online links for an additional list of screening tools and the best environments in which to use them.

The screening of each individual SACPA should result in care and supervision according to need. See the section on Probation Assessment for more information on screening and assessment within the criminal justice system.

Pre-Trial Release

Every effort should be made to reduce or eliminate the period of pre-trial incarceration of potential SACPA clients. SACPA was designed to help non-violent drug offenders move toward more productive lives by allowing non-violent offenders to take advantage of treatment as an alternative to incarceration upon conviction, either through a plea bargain or conviction after trial. Prolonged pre-trial detainment of SACPA-eligible offenders can disrupt employment opportunities and family relations and expose offenders to increased risk of violence and stress present in many jails. Moreover, because drugs are prevalent in virtually all jails, pretrial detention does not shield offenders from drug use; nor do most jails offer drug treatment programs. In short, prolonged pretrial detention undermines the spirit and purpose of SACPA.

County funds are better spent on substance abuse treatment, rather than extended pre-trial incarceration. A variety of programs exist to allow individuals to access drug treatment programs even before the resolution of their case. Several tools available to counties to achieve this end include:

- Expand existing pre-trial release programs such as Own Recognizance (“OR”) projects and Supervised Pre-Trial Release Programs to allow for a diversity of options for people incarcerated for SACPA eligible offenses. Individuals should be screened for non-financial pre-trial release, which does not require the posting of bail.
- Train court staff, treatment assessors, and counsel about the various pre-trial release options.
- Utilize Cal. PC §4004¹⁷, an underutilized law that permits pre-trial release to a treatment program;
- Recommend State Action: Request an amendment to Cal. PC §4004¹⁸ to expressly apply to SACPA sentencing and drug treatment facilities. This may allow for additional funding for these treatment slots. (Link)

SACPA should not interfere with any pre-trial release programs. Any SACPA-eligible individuals should automatically be screened for pre-trial release, as well as PC 1000 drug diversion programs and pre-trial drug courts, where appropriate. Individuals released for treatment through pre-trial programs are still eligible for SACPA.

See the Types of Plea Programs section for additional information on programs that divert drug offenders to treatment.

IV. Court - PLAYERS AND PROCESS

The Role of Judge

Under SACPA, it is not the court's role to determine the treatment needs of SACPA clients. The Court will typically see the SACPA client during the initial court proceeding, for probation revocation hearings, and for motions to dismiss the charges based on the client's successful completion of treatment. When the client is in drug treatment, the court may monitor the client's progress in treatment and the treatment program's delivery of services in compliance with the client's treatment plan and the program's contract with the county. Quarterly SACPA progress reports submitted to the court need only inform the court that the SACPA client is, or is not, continuing to comply with their SACPA treatment plan. More detailed reports including details about an individual's treatment may violate the confidentiality rights of clients protected by federal law.¹⁹

It is the duty of the courts to ensure that non-violent drug possession offenders receive appropriate treatment, not punishment.

- **Individualized Treatment:** No single treatment modality is appropriate for all individuals or even the same individual at all points in time. Individuals should be assessed – and when appropriate, reassessed -- by a trained treatment professional and assigned to treatment that matches their level of addiction.

Overcharging: Courts should exercise their supervisory function to guard against and correct overcharging of defendants by prosecutors. SACPA should not be circumvented by “piling on” charges in order to exclude defendants from eligibility. Under Penal Code section 1385 and *Romero*, the court has the discretionary power to dismiss allegations of a prior strike, or to strike some of the counts in the charging document, in order to render a defendant eligible under Prop 36.²⁰ See the Overcharging section for more detail.

- **Probation Revocation Hearings:** Treatment as a condition of probation should not be revoked except where it is clearly necessary. Probation should not be revoked for relatively minor and foreseeable setbacks in a client's treatment. Modifications in treatment will often be necessary as individuals may fail at one level of treatment but succeed when reassigned to a higher level of intensity.

SACPA expects the court to defer considerably to the determinations of trained treatment professionals regarding the appropriateness of treatment programs.

- **Feedback on Treatment Programs:** Courts should be encouraged to provide feedback to county health officials on the success and weaknesses of certain treatment providers and ancillary services. This feedback should include input from clients, defense attorneys, district attorneys, probation officers, social workers and others.

Training on SACPA and the continuum of effective drug treatment services is vital. The Administrative Office of the Courts as well as the State Department of Alcohol and Drug Programs and county health agencies should provide regular seminars for judges specifically on substance abuse treatment and ancillary services, and should disseminate information for courts through websites and circulars.

Role of the District Attorney/Prosecution

The District Attorney's office should bear the goals of SACPA in mind when litigating the case. SACPA enacts sweeping sentencing reforms that address drug use first and foremost as a medical and public health issue. The prosecuting office in each county should seek to adhere to the spirit and letter of SACPA. Under the rationale of this statute, the appropriate sentence for a non-violent drug possession case is drug treatment. It is imperative that every county incorporate the reasoning and rationale of Prop 36 into their charging guidelines and when negotiating plea bargain agreements for defendants who may fall within SACPA. For more information, please see the Booking section.

Screening by the District Attorney: The District Attorney's office will often conduct the initial screening for Prop 36 eligibility. The information relied upon in a specific case to determine eligibility should be provided to defense counsel at the initial appearance. The District Attorney should promptly consider any corrections or additional information that can be provided by the defense that would render a client eligible for SACPA. See the sections on Screening and Assessment for more information on the issue of when and how much the prosecutor's office should screen the defendant.

Role of the Criminal Defense Attorney

The criminal defense attorney's first duty is to represent the interests of his or her client. The attorney must also inform the client of all available legal options and explain in straightforward, understandable terms the implications of each of these options for the client, as well as the likelihood of any particular option coming to pass. This includes discussing the strengths and weaknesses of the case against the client, as well as all possible resolutions to the criminal case.

If a client wants treatment under SACPA, the defense attorney should seek to ensure the most appropriate treatment for that client. Typically, this means securing the least

restrictive placement and terms of probation that are consistent with the treatment recommended by an independent substance abuse assessment.

Some clients may not want treatment, and will instead wish to take their matter to trial. The defense attorney should assist these clients in pursuing their Sixth Amendment right to trial. The availability of treatment under SACPA should never be used by counsel to deter defendants from exercising their right to a trial. The attorney must inform the client of any and all factual or legal defenses that are presented in the case, and be prepared to pursue these defenses if the client so desires.

Counsel must be educated on SACPA in order to best advise clients and advocate for them. This includes becoming familiar with the various protections afforded by SACPA, the likely challenges to SACPA by the prosecution, and the full range of treatment and ancillary service options. There is a need for ongoing continuing education programs on different aspects of SACPA, and drug treatment professionals should be included among the trainers.

For more details on the California Public Defenders Association's interpretation of SACPA, please see their *Proposition 36 Defense Practice Manual*.²¹

SACPA Client Confidentiality

Courts must safeguard the privacy rights of clients by ensuring that only limited information is released by treatment providers. Treatment providers are required to supply notice of the client's success or failure in treatment, which can be accomplished through a limited release of information.²² Under federal law, disclosure of information about substance abuse treatment clients gained in the course of providing treatment can only take place with prior written consent. Federal law prohibits the use of records gained in the course of providing treatment under SACPA to bring criminal charges against a treatment client, as the information is to be used solely for the purpose of assisting the client to comply with their treatment plan. 42 U.S.C. §290dd-2²³ is also specific about the form written consent must take, making it clear that once consent has been obtained, it should be limited to the minimum information needed. Any additional client information will require further written consent.

*Most importantly, disclosure of confidential information that violate the client's confidentiality impair the therapeutic relationship between a treatment provider and a client, eroding trust that is essential to successful treatment. The American Public Health Association, the American College of Obstetricians and Gynecologists, all agree that "a climate of confidentiality is essential if patients are to disclose drug-use and/or seek continued care and counseling from health professionals in order to reduce the potential harms caused by substance abuse," Amicus Brief of American Public Health Association, South Carolina Medical Association, American College of Obstetricians and Gynecologists, et al., *Ferguson v. City of Charleston, South Carolina*, 121 S.Ct. 1281 (U.S. 2001) (No. 99-926).²⁴*

Arraignment

At arraignment, the defendant will be formally charged and enter his or her plea, or the case may be discharged. Courts should be wary of holding a SACPA-eligible individual in jail, since pretrial detention of defendants charged with offenses for which incarceration is statutorily prohibited raises significant equal protection concerns. Additionally, courts should carefully consider whether an individual who is otherwise SACPA eligible is being overcharged to assure an excessive bail. The court should exercise its discretion in setting bail in such cases in a matter that is consistent with the spirit and letter of Prop. 36.

Pleas

An individual may have a number of opportunities to enter treatment at various stages of the court process, ranging from before a plea is entered to after a conviction is obtained. These programs include diversion, deferred entry of judgment and drug court.

Point in the Process	Programs Available
Pre-Plea	<ul style="list-style-type: none">• Diversion (a program available through Drug Court in some jurisdictions)
Post-Plea (pre-conviction)	<ul style="list-style-type: none">• Drug Court (a few jurisdictions)• PC 1000: Deferred Entry of Judgment
Post-Conviction	<ul style="list-style-type: none">• SACPA• Drug Court (majority of jurisdictions)

In deciding whether to enter a plea, individuals should weigh their interest in fully litigating their case, their desire for prompt adjudication, the appropriate type and level of intensity of drug treatment program for their needs, and the negative collateral effects of a guilty plea or conviction.

Pre-plea diversion programs have several advantages over post-conviction programs. If an individual successfully completes a pre-plea program, the charges against him or her will be dismissed. Many negative collateral effects attach to a felony drug conviction. Persons convicted of drug felonies may jeopardize their SSI benefits, CalWORKS, food stamps, public housing, TANF, federal financial aid for college students, and, in the case of non-citizens, such a conviction can result in deportation. Successful completion of a pre-plea drug program allows the individual to avoid these negative consequences. In addition, entering a pre-plea treatment program allows individuals to obtain treatment sooner.

Post-plea diversion programs include PC 1000, Drug Court, and SACPA: Each program has different eligibility requirements, different procedures and rewards successful completion of treatment in different ways.

More About the Types of Plea Programs

PC 1000: Deferred Entry of Judgment

PC 1000, when combined with SACPA, gives counties a richer set of options for treating low-level drug offenders. PC 1000, the deferred entry of judgment program, is a pre-conviction scheme that applies only before there has been a conviction. It allows first-time drug offenders to plead guilty and enter a treatment program. The entry of judgment of their conviction is “deferred” until after completion of a drug treatment program, at which time the case is dropped. PC 1000 can save counties money, conserves judicial resources, and allow the defendant who successfully completes treatment to avoid the stigma and negative collateral consequences of a conviction. In short, PC 1000 is another valuable tool that counties can use to help fight addiction, reduce recidivism and improve public health.

The Attorney General has concluded that SACPA does not repeal PC 1000. SACPA and PC 1000 coexist in California law. They are not in conflict or inconsistent with one another; rather, they are compatible schemes with the shared intent to treat and rehabilitate non-violent drug offenders without incarcerating them. PC 1000 operates exclusively before conviction, whereas SACPA applies only after conviction. Please see A Defense Lawyer’s Guide to Proposition 36²⁵ and the Attorney General’s Opinion²⁶ for more on the differences between PC 1000 and SACPA. Currently Alameda, Los Angeles, Mariposa, San Francisco and Solano counties use PC1000 to provide services for substance using clients.

Offenders may still be eligible for SACPA if they are unsuccessful under PC 1000. If an individual fails under the PC 1000 program and is otherwise eligible for Prop 36 sentencing, he or she can enter a more intensive treatment program pursuant to Prop 36. This incremental approach has been found by many counties to be a more effective and cost-efficient way to process drug offenders.

Drug Court

Contrary to popular misconception, SACPA is not Drug Court. There are two main differences:

- **SACPA is statewide, has uniform eligibility requirements, and guarantees treatment to those who qualify; Drug Court is available to only a small portion of qualified drug offenders, and only then in certain parts of the state at the discretion of the prosecutor.** Drug Court eligibility varies widely across the state, depending on the local eligibility rules imposed by judges and prosecutors in each Drug Court. Moreover, Drug Court is in the pilot stage in many areas of California, so it is not available in all counties. Where Drug Courts do exist, their capacity is often quite limited, so only a small percentage of eligible offenders – only 5% on average – can actually gain admission to Drug Court and get treatment. By contrast, all non-violent drug offenders who meet SACPA requirements are both eligible for

SACPA and also have the right to get SACPA treatment, regardless of where in California they reside.

- **SACPA emphasizes the judgment and experience of treatment professionals and the diversity of proven treatment options; Drug Courts typically emphasize the primacy of judicial decision-making and give clients only one or two treatment options.** Drug court is often characterized by frequent court appearances, and the pre-eminent role of the drug court judge in making critical decisions regarding a defendant’s drug treatment protocol. In contrast, SACPA allows for a variety of treatments and modalities, including narcotic replacement therapy (prohibited by most Drug Courts), requires treatment decisions to be made by trained treatment professionals, and emphasizes the central role of treatment providers (rather than the court).

Drug Court may be appropriate for more serious offenders who are not eligible for SACPA. Intensive criminal justice monitoring and high frequency of court attention that are the hallmarks of Drug Court may make Drug Court better suited for individuals who have committed more serious offenses as a result of addiction. See the Drug Court Partnership final report for more information on the effectiveness of Drug Courts in California.

Drug Court may be an option for persons who do not succeed in SACPA or other drug treatment programs. Drug Court should be considered for individuals who have repeatedly failed SACPA treatment or other drug treatment programs.

SACPA

SACPA is a post-conviction statute. If the defendant pleads guilty or is convicted, he or she may be eligible for Prop 36. Prop 36 redefines certain terms of probation only *after* persons have been convicted of Prop 36 eligible offenses. This post-conviction scheme allows the defendant to fully litigate his or her case while still ensuring access to drug treatment after conviction, but also exposes him or her to possible negative collateral effects of the conviction.

Sentencing

Upon conviction of a non-violent drug offense, and unless the individual is for some reason ineligible for SACPA, the Court will sentence the SACPA participant to treatment as a condition of probation. The court’s sentence should reflect an individualized mix of substance abuse treatment and any ancillary services determined to be necessary through assessment of the client by a substance abuse treatment professional. Additional jail time must **not** be a condition of probation. The role of judges in sentencing is described in more detail in “The Judicial System & Prop 36”.²⁷

Acquittal

If a defendant is acquitted, he or she is not legally required to enter drug treatment.

V. ASSESSMENT

After conviction, the SACPA client will undergo a substance abuse assessment to help define the appropriate drug treatment and ancillary services for that individual.

Assessment and Referral Centers

A skilled and responsive Assessment/Reassessment and Referral Center is a critical centerpiece of a county's SACPA system. Quality substance abuse treatment is inextricably linked to the accuracy of the assessment (and reassessment) and referral (and revised referral) to treatment programs. Thus, the SACPA assessment and referral center is a pivotal part of the treatment system that shapes the effective delivery of services and serves as a checkpoint for quality control. In order to achieve accuracy and objectivity – and be seen by all stakeholders as unbiased and conflict-free -- the county's Assessment and Referral Center should not be affiliated with any treatment center or the court. The best place for the center is the county health agency. That agency can, in turn, protect county treatment funds by referring SACPA clients only to treatment providers that will provide the services recommended by the assessment and which meet or exceed state and county standards for the provision of such services.

Diversity and individualized care should be a primary concern when conducting assessments: the same assessment tool is not appropriate for all SACPA clients. While economies of scale may find it advantageous to outline one central assessment center, a range of assessment tools²⁸ and personnel should be available to address cultural, ethnic, and gender specific needs. Please see the Treatment section for more information on gender and cultural specificity.

The assessment and referral center will also provide the reassessments and re-referrals of clients who, for a variety of possible reasons, require a change in treatment placement. More information is available in the Assessment section of this text.

The majority of counties in California are using the Addiction Severity Index (ASI) as their primary assessment tool. The ASI, however, is limited in its ability to accurately provide comprehensive assessment to a variety of populations. Women, adolescents, and other people with a diverse set of linguistic and cultural needs require specific attention. A wide range of standardized assessment tools²⁹ is available. Assessment tools for these specific groups, as well as tools to assess mental health issues, are also available through the NIAAA.³⁰

Where, When, and How

Under SACPA, assessment and treatment should work independently from the court in order to preserve confidentiality of treatment-related information. Assessment and treatment provided through the court system is designed to end or alleviate a client's substance abuse. In this light, the individual(s) conducting the assessment, like treatment providers both must preserve the client's privacy and trust while providing required information to the court. Ideally, an assessment will result in an appropriate treatment plan that will then be approved by the court. Client rights to privacy and confidentiality protections should always be secure to prevent a compromise in the criminal case. Required information can be transmitted to the court in the form of a limited reporting form consistent with the limited release of information to the court signed by the SACPA client, an example of both can be viewed online.³¹

Under SACPA a trained substance abuse treatment professional should undertake the assessment promptly, and services should be made readily accessible. The intake assessment for SACPA clients must take place within the first seven days after sentencing and conviction. Assessment services should be available in the area where the client resides; if not, the county should provide mobile assessment or transportation to the assessment center.

There are strong clinical and legal grounds for prompt, independent assessment. In pre-conviction assessments the client may be motivated to speak untruthfully in order to exaggerate substance abuse history and qualify for the program. Simultaneously, the fear of having information from an assessment used against them at trial may motivate untruthfulness about their substance use and other events. "Even the possibility that treatment professionals will share personal medical records and test results with police-let alone that they might perform such tests with the purpose of obtaining incriminating information- does lasting harm to the relationships necessary for medical care and is injurious to the broader public health."³²

Probation Criminal Justice Risk Assessment

When placing SACPA clients on probation, the assessment made by the probation department should be individual to each client. Contrary to the spirit and intent of SACPA, certain counties, have assigned all SACPA clients to the highest level of probation supervision regardless of any indication in their criminal history that they present any danger to society or that they are a flight risk, or that the higher supervision will somehow assist in meeting their treatment needs. **This uniform placement of SACPA clients in the highest level of probation supervision is inappropriate and wasteful. High levels of supervision artificially raise the level of funding needed by county probation departments thereby diverting scarce resources from treatment and other county services. Because SACPA establishes a mechanism whereby clients receive regular ongoing supervision from treatment providers, there is decreased need for duplicative supervision by probation departments for many, if not most SACPA clients.** Probation supervision should be focused on those SACPA

clients with the most serious criminal histories and the most difficulties complying with treatment program rules and obligations. The role of probation within the SACPA model is more detailed in other sections of this document.

Treatment Placement

A key to successful treatment is placing the client in the proper level of care, in a program that utilizes an approach best suited to the client's particular needs. Standardized assessments often include a developed scoring system that will recommend a level of care for the individual. In addition, patient placement criteria, such as the American Society of Addiction Medicine Patient Placement Criteria for the Treatment of Substance-Related Disorders (ASAM PPC-2R) and the Diagnostic and Statistical Manual of Mental Disorders (DSM-IV) for the diagnosis of mental health disorders, must be utilized.

Treatment planning is the basis of good service provision. A treatment plan is a written outline of the intervention prescribed for a chemically dependent client: developing the plan is a collaborative process carried out by clinical staff, the client, family and other interested parties. In order to ensure that treatment service providers are comprehensive in their efforts, county funded assessment centers should review the treatment plan of each individual they have assessed. Based on information gathered from the assessment, the treatment planning process should include the client, a spouse, family member, treatment counselors, and mental health professionals, as well as service providers for any additional ancillary services.

Reassessment

Under SACPA, a poor treatment match should not be interpreted as a probation violation. This is key to a successful SACPA system. If an inappropriate level of care or treatment modality, or even treatment program is first included in an individual's treatment plan problems are bound to arise. In this case, it is not productive, nor consistent with SACPA, that the client is charged with a violation of their probation. Instead, a re-assessment and revised placement in a different treatment program, and often a different level of treatment intensity, can resolve the problem without requiring the client to return to court. Reassessment and placement are often a necessary part of the recovery process, and court should be notified of the transfer per the terms of the client's signed consent. After the first year of SACPA implementation, more counties are considering resolving disputes or problems with treatment programs outside of the courts, opting for a reassessment center to help reassess and refer clients who were improperly placed. These efforts not only save the county money, but also keep more people who can really benefit from SACPA in the pipeline where they are able to access services.

Relapse is part of recovery and does not necessarily mean that the client is "non-compliant" in or unamenable to treatment. Reassessment recommendations prompted by a client's relapse should identify on a case-by-case basis the challenges to client compliance that may be addressed through different/additional family, social or

psychological services. In the best reassessment models, treatment providers work with county probation departments to avoid client court appearances.

VI. TREATMENT

Essential Elements of AOD Treatment

Regardless of the forum in which alcohol or drug (“AOD”) treatment will take place -- be it through the court system or accessed voluntarily -- numerous studies conclude that the most successful treatment programs contain certain essential elements.

It is recommended that county substance abuse agencies, as well as the local treatment providers with which they contract services, seek out or adopt these fundamental treatment components:

- Screening and Assessment
- Treatment Placement
- Utilization of Proven Treatment Approaches
- Ancillary Services
- Gender and Cultural Specificity
- Qualified Staff
- Aftercare
- Evaluation

Motivating the Drug Dependent Client

SACPA can help motivate persons with chronic and severe addiction problems to access treatment services, stick with and succeed in treatment. To achieve this worthy goal, counties will need to provide a broad spectrum of treatment services that meet the diverse needs of a heterogeneous client base, and augment traditional drug treatment with ancillary services such as vocational and educational training and job placement. Counties may also need to experiment with a variety of positive incentives for SACPA clients to access and remain in treatment.

Positive incentives are an effective means by which to help individuals seek treatment.

A number of effective tools exist to motivate individuals to participate in treatment: family, friends, employers, counselors and courts are often powerful motivators for persons with drug abuse problems to seek help. Moreover, positive incentives such as praise, transportation, food, music or movie tickets, and ancillary services remove physical and psychological barriers to treatment and reinforce constructive behavior. So-called “treatment failures” —people who fail treatment by way of a relapse -- reflect first and foremost on the treatment system and provide important occasions for SACPA

agencies and providers to identify weaknesses in the delivery of care systems, evaluate how those weaknesses can be corrected, and experiment with new models that can reduce the number of persons who either refuse treatment or fail to succeed in treatment programs.

Clinical motivational techniques can be utilized to move individuals toward change. Although motivational approaches and aftercare are essential elements of substance abuse treatment for drug offenders, surprisingly few providers utilize these techniques because of a lack of formal training in motivational enhancement approaches or the ongoing need for extended aftercare funding. Counties that procure treatment services should request that specific standardized services in these areas are made available, and budget accordingly.

In addition to standard motivational techniques, a number of Recommended Treatment Approaches that utilize positive built-in incentives have been listed further in this document in this document.

Flash incarceration is prohibited by SACPA as medically inappropriate. Flash incarceration is a short-term response used by some drug courts to the long term, multifaceted issue of chronic substance abuse. There are presently no studies indicating that flash incarceration – as opposed to the many other factors (family, job, court, treatment or the general threat of a long prison sentence, etc.) – leads to more successful treatment outcomes. The threat of jail is not used in any other medical or treatment context, nor is it endorsed by any professional medical or treatment organizations. Moreover, the notion that placing a drug abusing client in jail will help improve their health or well-being is highly questionable: not only are drugs prevalent (and often more dangerous) in California’s jails, but drug treatment and health care, including mental health services, are notoriously lacking. In addition, jails frequently house violent offenders in proximity to non-violent drug offenders. As a result, drug addicted individuals are often exposed to increased health and safety risks without offering any clear benefits.

Utilization of Proven Treatment Approaches

A wide range of services and approaches are currently utilized in the treatment of AOD disorders. Individual counties need to make sure that SACPA clients have access to the proper level of care and the correct approach based on their needs. In addition to a full continuum of care, the approaches used should be evidence based, having undergone methodologically robust randomized clinical trials.

A continuum of treatment options is crucial to individualized care, and must include ancillary services in order to be effective. Please read the Ancillary Services section to learn more about the types of services that should be made available to the SACPA client.

Levels of Care

Counties must provide a full continuum of services to SACPA clients:

- Drug Education³³
- Screening, Assessment, Diagnosis, Intervention and Referral
- Outpatient Services
- Mental Health Services
- Structured Day Treatment
- Short and Long Term Residential Treatment Services
- Narcotic Replacement Therapies, such as Methadone Treatment
- Freestanding and Outpatient Detoxification
- Hospital Based detoxification
- Case Management Services

When such services do not exist in the community, county agencies should create these services or coordinate activities with a neighboring county.

Approaches

Within each county, a diverse range of treatment approaches must be made available. Most counties have more than one treatment provider; some counties have dozens or hundreds of such providers. Providers in some counties offer different and dynamic methods of working with diverse populations; however, in many counties the majority of treatment services are typically provided by one or a handful of large facilities. The centralization of treatment services into one or two providers can lead to a quick expansion of treatment slots but at the expense of treatment diversity. Since it is an axiom of drug treatment that “one size does not fit all” and that even one person may experience different treatment needs at different points in his or her life, it is critical that counties emphasize diversity of treatment services as they strive to expand treatment capacity. Lead county agencies can achieve treatment diversity by voting with their SACPA dollars to contract with SACPA providers that represent a broad range of clearly defined therapeutic approaches and by providing assistance to smaller and mid-sized programs to apply for certification and licensing that they need to qualify for SACPA contracts.

Treatment programs should provide training in each of the approaches that are formally offered. County lead agencies should contract with treatment programs that provide training to staff in the evidence-based approaches offered. Treatment providers often declare that they employ a number of treatment approaches according to the needs of the individual; however, such programs often fall short on treatment quality. Frequently, programs that claim to employ different treatment approaches lack formal training for their staff in these approaches. Comprehensive training of staff is therefore a key to successful expansion of responsible treatment programs.

There are a variety of approaches to AOD treatment. The following is an outline of the most common approaches utilized in the field. These approaches have undergone extensive evaluations in randomized clinical trials and are currently the strongest substance abuse interventions.

- *Cognitive Behavioral Therapy (CBT):* Cognitive-behavioral therapy is an action-oriented form of psychosocial therapy that assumes that maladaptive, or faulty, thinking patterns cause maladaptive behavior and "negative" emotions. (Maladaptive behavior is behavior that is counter-productive or interferes with everyday living.) The treatment focuses on changing an individual's thoughts (cognitive patterns) in order to change his or her behavior and emotional state. Behavioral therapy, or behavior modification, trains individuals to replace undesirable behaviors with healthier behavioral patterns.

CBT does not focus on uncovering or understanding the unconscious motivations that may be behind the maladaptive behavior. In other words, strictly behavioral therapists do not try to find out why their patients behave the way they do; rather, they teach patients to change their behaviors. CBT has been found to be effective in treating nearly all drugs of abuse, but has been found to be especially effective with cocaine.

- *Motivational Enhancement Therapy (MET):* is a client-centered counseling approach for initiating behavior change by helping clients to resolve ambivalence about engaging in treatment and stopping drug use. This approach employs strategies to evoke rapid and internally motivated change in the client, rather than guiding the client stepwise through the recovery process. This therapy consists of an initial assessment battery session, followed by two to four individual treatment sessions with a therapist. The first treatment session focuses on providing feedback generated from the initial assessment battery to stimulate discussion regarding personal substance use and to elicit self-motivational statements. Motivational interviewing principles are used to strengthen motivation and build a plan for change. Coping strategies for high-risk situations are suggested and discussed with the client. In subsequent sessions, the therapist monitors change, reviews cessation strategies being used, and continues to encourage commitment to change or sustained abstinence.
- *Narcotic Replacement Therapies (NRT):* NRT is unquestionably the gold standard treatment for chronic and severe opiate dependence. NRT is usually conducted in outpatient setting. NRT programs use a long-acting synthetic opiate medication, usually methadone, buprenorphine, or Levomethadyl acetate hydrochloride (LAAM), administered orally for a sustained period at a dosage sufficient to prevent opiate withdrawal, block the effects of illicit opiate use, and decrease opiate craving. Patients stabilized on adequate, sustained dosages of methadone, buprenorphine or LAAM can function normally. They can hold jobs, avoid the crime and violence of the street culture, and reduce their exposure to

HIV by stopping or decreasing injection drug use and drug-related high-risk sexual behavior.

To prevent against the reticence of many courts in referring individuals to NRT, it is explicitly included as a form of treatment covered under SACPA.

Patients stabilized on narcotic replacement therapy can engage more readily in counseling and other behavioral interventions essential to recovery and rehabilitation. The most effective opiate agonist maintenance programs include individual and/or group counseling, as well as provision of, or referral to, other needed medical, psychological, and social services.

- *Twelve Step Facilitation*: Also known as the Minnesota Model, the approach is highly structured and involves detoxification, psychological evaluation, general and individualized treatment planning, group therapy, lectures, and individualized counseling. (Winters,1989) Group counseling is a key therapeutic technique which involves using more advanced residents to pass on knowledge, experience, and values to newer patients. The 12 steps are carefully studied, and patients are referred to the meetings of Alcoholics Anonymous (AA) and Narcotics Anonymous (NA) as part of their therapy after treatment to prevent relapse (Winters and Schiks,1989). Many studies have been completed to evaluate the outcomes of the 12 Step Facilitation method.

12 step programs such as AA, NA, or CA do not constitute treatment in-and-of-themselves. There are indications that some county judicial systems have mandated 12 step programs in lieu of treatment to cut costs. 12 step programs are not AOD treatment, and lack the basic services required by severely dependent individuals.

- *Therapeutic Community (TC)*: The TC is a social-psychological form of treatment for addictions and related problems. In the TC model, substance abuse is a symptom of much broader problems; TCs use a holistic treatment approach in a long-term residential setting where peers and professional staff serve as therapists in the treatment process. A key difference between TCs and 12 Step Facilitation is the belief that the individual is responsible for their own addiction or recovery (DeLeon., 1994).
- *Relapse Prevention*: A cognitive-behavioral therapy, relapse prevention was developed for the treatment of problem drinking and adapted later for cocaine addicts. Cognitive-behavioral strategies are based on the theory that learning processes play a critical role in the development of maladaptive behavioral patterns. Individuals learn to identify and correct problematic behaviors. Relapse prevention encompasses several cognitive-behavioral strategies that facilitate abstinence as well as provide help for people who experience relapse.

The relapse prevention approach to the treatment of cocaine addiction consists of a collection of strategies intended to enhance self-control. Specific techniques include exploring the positive and negative consequences of continued use, self-monitoring to recognize drug cravings early on and to identify high-risk situations for use, and developing strategies for coping with and avoiding high-risk situations and the desire to use. A central element of this treatment is anticipating the problems patients are likely to encounter and helping them to develop effective coping strategies.

- *The Matrix Model*: Treatment materials for the matrix model draw heavily on other tested treatment approaches. Thus, this approach includes elements pertaining to the areas of relapse prevention, family and group therapies, drug education, and self-help participation. Other components include family educational groups, early recovery skills groups, relapse prevention groups, conjoint sessions, urine tests, 12-step programs, relapse analysis, and social support groups.

Potentially Useful Approaches for Different Drugs of Abuse

Stimulants:

Cognitive Behavioral Therapy: (Listed Previously in Approaches Section)

The Matrix Model: (Listed Previously in Approaches Section)

Day Treatment with Abstinence Contingencies and Vouchers: developed to treat homeless people addicted to crack. For the first 2 months, participants must spend 5.5 hours daily in the program, which provides lunch and transportation to and from shelters. Interventions include individual assessment and goal setting, individual and group counseling, multiple psycho-educational groups (for example, didactic groups on community resources, housing, cocaine, and HIV/AIDS prevention; establishing and reviewing personal rehabilitation goals; relapse prevention; weekend planning), and patient-governed community meetings during which patients review contract goals and provide support and encouragement to each other. Individual counseling occurs once a week, and group therapy sessions are held three times a week. After 2 months of day treatment and at least 2 weeks of abstinence, participants graduate to a 4-month work component that pays wages that can be used to rent inexpensive, drug-free housing. A voucher system also rewards drug-free related social and recreational activities.

Community Reinforcement Approach (CRA) Plus Vouchers: is an intensive 24-week outpatient therapy for treatment of cocaine addiction. The treatment goals are twofold:

- To achieve cocaine abstinence long enough for patients to learn new life skills that will help sustain abstinence.
- To reduce alcohol consumption for patients whose drinking is associated with cocaine use.

Patients attend one or two individual counseling sessions per week, where they focus on improving family relations, learning a variety of skills to minimize drug use, receiving vocational counseling, and developing new recreational activities and social networks. Those who also abuse alcohol receive clinic-monitored disulfiram (Antabuse)³⁴ therapy. Patients submit urine samples two or three times each week and receive vouchers for cocaine-negative samples. The value of the vouchers increases with consecutive clean samples. Patients may exchange vouchers for retail goods that are consistent with a drug-free lifestyle.

This approach facilitates patients' engagement in treatment and systematically aids them in gaining substantial periods of cocaine abstinence. The approach has been tested in urban and rural areas and used successfully in outpatient detoxification of opiate-addicted adults and with inner-city methadone maintenance patients who have high rates of intravenous cocaine abuse.

Opiates:

Narcotic Replacement Therapies: (Listed Previously in Approaches Section)

According to the California Society of Addiction Medicine (CSAM), 50% of California citizens that receive publicly funded treatment suffer from opiate addiction. CSAM recommends³⁵ that individuals who abuse opioids be assessed for opioid dependence by a health professional knowledgeable about narcotic replacement therapy, and, where appropriate, be referred to narcotic replacement therapy treatment, such as methadone maintenance treatment, for their opioid addiction.

To deny methadone maintenance to heroin dependent SACPA clients violates SACPA, defies the considered judgment of the nation's leading medical and substance abuse professionals and undermines public health. Many courts in California are currently denying heroin-dependent offenders access to methadone maintenance. The World Health Organization, Institute of Medicine, National Institute on Drug Abuse, Center on Substance Abuse Treatment, Department of Health and Human Services, the Office of National Drug Control Policy, the National Association of Drug Court Professionals, and California's Department of Alcohol and Drug Programs all endorse methadone maintenance as a proven treatment approach.

SACPA clients are not required to discontinue methadone use in order to successfully complete treatment under the law. SACPA is clear in language and intent on the utilization of methadone maintenance as treatment intervention, and allows for ongoing methadone maintenance upon completion of SAPCA requirements. (CSAM 2/2002)

Voucher-Based Reinforcement Therapy in Methadone Maintenance Treatment:
There is some evidence that awarding clients with vouchers for services or goods when they provide a drug-free urine sample may help clients in methadone treatment achieve and maintain abstinence from illegal drugs.

Ancillary Services: A Multi Dimensional, Holistic Approach to Treatment

Ancillary services are an essential element of effective substance abuse treatment. Ancillary services are central to SACPA. Indeed, ancillary services such as vocational training, literacy training, GED and other educational courses, family counseling, etc., may be more important than traditional drug treatment for helping many clients turn their lives around, reducing or eliminating drug use, and becoming productive citizens. Accordingly, it is necessary for the courts and lead county agency to insure that the agencies and private providers that offer ancillary services are part of the coordinated network of SACPA providers that includes the courts, probation, parole, and treatment. Ancillary services should be made part of clients' individualized treatment plans so that conflicts are not created, for example, between clients' treatment schedules, their job training obligations and any duties to report to court.

Ancillary services should not be used to create additional obligations that can then be used to violate someone from their SACPA probation, (for example for missed appointments to a counselor or failure to pass a vocational education class) but instead as a means of assisting the individual to succeed in their treatment.

Ancillary services are vital to program retention and completion. Clients with substance use disorders need certain basic services as they enter the community. Foremost among these needs are:

- Housing
- Vocational training
- Family support
- Peer support
- Transportation
- Education
- Primary health care

Many Prop 36 clients lack more than one item on this list, and services must be prioritized for each individual from the initial treatment plan through program completion. To ensure that each client has basic needs met when returning to the community, it is essential for the provider to provide an effective assessment upon

program completion. The results of the assessment³⁶ shape the transition plan, and the transition team, which includes probation and relevant community programs, has the responsibility to integrate service delivery as much as possible.

Gender and Cultural Specificity

Treatment provided through SACPA should be tailored to the needs of individuals with diverse backgrounds. While the goal of SACPA is to provide quality treatment to all SACPA clients, achieving this goal requires a diversity of treatment options in order to address a broad array of backgrounds and needs of the SACPA population.

Women

Chemically dependent women often suffer from myriad problems and 'one-size-fits-all' treatment will not work. Many women who use drugs have faced serious challenges to their well being during their lives. For example, research indicates that up to 70% of drug abusing women report histories of physical and sexual abuse. Data also indicate that women are far more likely than men to report a parental history of alcohol and drug abuse. Often, women who use drugs have low self-esteem and little self-confidence and may feel powerless. In addition, minority women may face additional cultural and language barriers that can affect or hinder their treatment and recovery.

Women frequently report that their drug-using male partners initiated them into drug abuse, and research indicates that drug-dependent women have great difficulty abstaining from drugs when the lifestyle of their male partner is one that supports drug use.³⁷

Traditional drug treatment programs may not be appropriate for women because those programs may not provide much needed services. For women in particular, a continuing relationship with a treatment provider is an important factor throughout treatment. Relapse is part of recovery, and women particularly need the support and encouragement of those closest to them. After completing a drug treatment program, women also need services to assist them in sustaining their recovery and in rejoining the community.

Women are often presented with special parenting issues that demand specialized programs that are designed to meet their unique family needs. While not solely an issue for women, there is a real problem that many residential drug treatment programs and facilities do not accept children in residence; this is something that should be encouraged at the local provider level.

Women receive the most benefit from drug treatment programs that provide comprehensive services for meeting their basic needs, including access to the following:

- Food, clothing, and shelter
- Transportation
- Job counseling and training
- Legal assistance
- Literacy training and educational opportunities
- Parenting training
- Family therapy
- Couples counseling
- Medical care
- Child care
- Social services
- Psychological assessment and mental health care
- Assertiveness training
- Family planning services
- Prenatal care

Culture and Ethnicity

County agencies should make every effort to license and contract with treatment service providers that reflect the local population. There are many cases where small, specialized programs are available, yet they currently lack state licensure. Diverse communities will be more effectively served through collaboration among county agencies and providers to expedite the licensure process.

A drug treatment program with a diverse population is not necessarily diverse in its approach. While there are numerous substance abuse treatment programs which host a diverse population of clients, few programs offer services specifically tailored to linguistic or cultural groups. Counties and the state must make special efforts to cultivate and license treatment providers that specialize in services for Latinos, Native Americans, African Americans and Asian Americans. In smaller counties where these services may not be available, lead agencies should contract with service providers in neighboring counties.

Aftercare

The nature of care for the SACPA client after the initial treatment intervention is an important but often neglected component of substance abuse treatment. A client released into his or her home community may be ill equipped to translate the skills and practices learned during treatment into daily practice. Persons in recovery face many temptations to fall back into their former lifestyle and patterns. SACPA encourages county agencies

to provide ongoing services for SACPA clients in order to foster long-term substance abuse recovery.

Aftercare should be included as part of the treatment plan, and re-evaluated when the client is near program completion. Continuing care of the SACPA client after completion of the treatment program depends on a number of factors, such as patient motivation to participate in recovery, family support and involvement, funding, and the continuing care resources available. Information is typically gathered in these areas during the patient's initial treatment period through a review of the assessments completed by the individual, and reports of observed progress compiled by program staff. This information is then supplemented by knowledge gained through working with an individual on an ongoing basis. Generally, there are four basic options for the patient once they have completed their treatment regimen:

- *Decreased Level of Care:* Based on the funding available, a decreased level of care is usually the next step for individuals who complete some form of treatment. If a residential treatment of 4 to 6 weeks has just been completed, continuing care may range from a daily therapy group to outpatient treatment with sessions one, two or three times a week. An adult who has just received outpatient treatment may continue outpatient therapy sessions on a less frequent basis.
- *Recovery Maintenance Facilities:* (Also referred to as a Halfway House/Recovery Home.) A halfway house is a residential drug free environment where patients are often sent immediately upon release from inpatient care or upon relapse after completion of a treatment program. Unlike a residential treatment facility, recovery maintenance facilities do not offer clinical services on site, and are not monitored 24 hours a day; yet state licensure is still required. Employment and other ordinary activities often resume during this period. Regular attendance at AA or NA meetings and securing a 12-step sponsor are encouraged.
- *Sober Living:* Much like a halfway house, sober living environments offer a temporary environment where patients can readjust to daily life while remaining in an environment where abstinence is emphasized. Sober living environments do not offer clinical services and licensure is not required. Like halfway houses, nightly Alcoholics Anonymous and Narcotics Anonymous meetings are often held on site.

Qualified Staff

Staff must understand the chemically dependent population with whom they work, and be trained to properly address client needs. Individual staff members must have specific training in the treatment approach utilized by the provider, substance abuse issues, mental health issues, and an awareness of treatment options. It is important for county agencies that procure treatment services to know how programs are staffed and what skills those staffs possess.

Treatment providers should provide their staffs with the training necessary to carry out assessments and work with client families. Psychiatrists should possess board certification. These skills are essential to identify mental health problems, and differentiate between clients who act out and those with real disorders.

County agencies should ask specific questions about staff when seeking local providers. What training/qualifications do the programs' clinical supervisors and primary staff possess? How is staff supervised? How long have staff members been on board?

Outcomes

SACPA is designed to expand and improve community-based drug treatment for non-violent drug offenders: data about treatment outcomes will help shape how counties and the state provide treatment and ancillary services in years to come. Outcomes measurements inform the voting public and policymakers about how SACPA is being implemented and its impact on individuals, families, communities and bureaucracies. To be sure, a plethora of studies have repeatedly shown that providing quality drug treatment services is successful at combating drug and alcohol addiction. But few treatment providers have the funds or staffing to reliably collect and analyze SACPA-specific data, which will be relied on by policy makers and the public to decide future implementation issues. Accordingly, counties and the state must work to further develop outcomes measures and methods for collecting this information.

Program retention rates are not always valid or the most valuable indicators of success. Because population differences, a county's geographic size, and socioeconomic and cultural differences can greatly affect the length that SACPA clients remain in treatment, other indicators measured at various points in time provide valuable information about the impact of SACPA on individuals' families and communities. Those additional indicators include, but are not limited to:

- Improved health status
- Improved psychological well-being
- Length of abstinence from drugs
- Decreased drug use
- Continued access of community services and resources
- Length of period free from arrest, and/or re-incarceration
- Employment status
- Income - both level and source
- Family unity
- Status of primary health
- Improved job skills
- Educational or literacy improvement
- Housing status

Please see information on county and state evaluation measures³⁸, and the statewide evaluation conducted by UCLA for a discussion of county and statewide evaluations.³⁹

VII. PROBATION

Role of Probation

Each SACPA client should be individually assessed for the proper level of probation supervision. In some counties, SACPA clients are placed on the highest level of probation supervision regardless of, or without prior assessment. This is an unwise use of limited probation resources. Frequently, minimal supervision is all that is required in the management of low-level, non-violent drug possession offenders who have been sentenced to treatment under SACPA. The level of probation should match the client's needs assessment and should be as least restrictive as possible.

Treatment providers – not probation officers – should be mainly responsible for supervising SACPA clients. It is the goal of SACPA to shift basic supervisory duties for non-violent drug offenders from probation offices to treatment programs. Thus, under SACPA, treatment providers are required to supervise clients and submit quarterly progress reports to the court. SACPA seeks to reduce, not enhance, the daily duties of probation with respect to SACPA clients so that probation can refocus its limited resources on tracking and working with more serious and dangerous felons. Despite SACPA's intent, some California counties have claimed that SACPA requires increased probation funding and have requested (and in a few instances received) substantial portions of SACPA appropriations. For more information on the funding allocations for different counties, see County Report Cards⁴⁰ and The California Drug and Alcohol Program Analysis of Plans Document.⁴¹ This unnecessary bolstering of probation services diverts funding from drug treatment, and is opposed by the proponents of SACPA. The majority of funding should be allocated for treatment, with no more than 10% going towards probation and other law enforcement costs.⁴²

SACPA should have little effect on current probation staffing and caseload levels. Most SACPA clients would be part of the criminal justice system irrespective of SACPA and thus would have been monitored by probation regardless of the pre- or post-plea program they enter. Moreover, probation supervision responsibility should be reduced by Prop 36, as much of the supervisory role normally undertaken by the county probation department will now fall on treatment provider staff.

In general terms, the role of probation should be to:

- Present the determination made by public health professionals and consistent with any terms of relevant plea agreement, of substance abuse treatment placement

- Monitor non drug-related conditions of probation
- Petition the court for a modification or revocation of probation, upon a report from the treatment provider, or where one exists, a re-assessment center, that the individual is being recommended for modification of treatment or revocation
- At the request of court, serve as the conduit for the quarterly reports from the treatment provider that is required by the language of SACPA. Reports to the court should be in a standard, simplified format.

Probation/Parole Revocation Proceedings

The goal of SACPA is to place nonviolent drug offenders in treatment rather than jail: When relapse occurs it should be viewed as cause for reassessment instead of incarceration. Every effort should be made to keep clients who relapse into drug use in community-based treatment under SACPA. Clients who relapse may be in need of reassessment of their treatment needs. (See the section on Reassessment for further information.)

Under SACPA, a proven violation of a non-drug related term of probation can lead to exclusion from SACPA and a return to pre-SACPA sentencing options.⁴³ Judicial discretion still exists to keep an individual in SACPA and reassess them for a different treatment approach or level of care, and an individual's probation officer can play an important role in making recommendations to the court, where appropriate, that he or she believes treatment is still beneficial.

SACPA sets forth the scenarios under which clients can be removed from SACPA treatment. Upon a first nonviolent drug related offense or drug-related violation of probation, the state can move to revoke probation, but the court can revoke probation only if the offender is found to pose a danger to the safety of others.⁴⁴ The issue then arises whether a probationer in this situation should be held in custody pending a hearing on the violation and/or revocation of probation. By its express terms, SACPA requires the offender to be returned to treatment absent a finding that s/he poses a danger to others; accordingly, the court should refrain from ordering detention unless the prosecution files an affidavit declaring that the state intends to prove by a preponderance of evidence that the probationer indeed presents a danger to the safety of others. When there is a lack of such evidence, the probationer should remain in treatment pending a reassessment and any required probation violation hearings. This approach is closest to the spirit of SACPA. It achieves substantial cost savings, reduces jail overcrowding, and prevents the incarceration of nonviolent drug possession offenders who would be best served in treatment.

On a second nonviolent drug related offense or drug-related violation of probation, probation can only be revoked if the offender is found to pose a danger to the safety of

*others, or is unamenable to treatment.*⁴⁵ Again, the court should refrain from ordering the detention of the probationer unless the prosecution files an affidavit to declare that evidence exists which proves that the probationer is a danger to the safety of others or unamenable to treatment. Under parole, the parolee is no longer Prop. 36 eligible after the second violation.

On a third nonviolent drug related offense or drug-related violation of probation, the individual is no longer eligible for Prop. 36 probation.

In the case of a non-drug related offense, probation can be revoked at any time

Unamenable to Treatment

Unamenability should be carefully defined in accordance with medical principles. SACPA permits the court under certain circumstances to discontinue treatment if a client is shown to be “unamenable” to treatment. The determination of unamenability should be made by a team of credentialed substance abuse treatment professionals knowledgeable about the client’s condition and treatment history. As with all other aspects of SACPA, to the extent that a dichotomy exists between the medical/treatment model and the criminal justice model for defining this or other terms, the medical/treatment model should take precedence.

Repeated relapse or failure to appear at treatment sessions is not in-and-of-itself grounds for finding a client unamenable to treatment. Clients who remain unmotivated toward recovery – for example, by failing to appear to treatment -- are often in the earliest stage of recovery (pre-contemplation). Motivational interviewing techniques can be a useful and important intervention for such clients, who may require more intensive services. Similarly, clients who experience repeated relapse with respect to drug use are exhibiting the classic symptoms of addiction, which, by its very definition, is a chronic, relapsing condition. Traditionally, repeated relapses have not been tolerated or well handled by the criminal justice system. SACPA seeks to change the system’s response from a punitive one to a therapeutic one. Accordingly, clients who suffer relapse should be reassessed by a treatment professional to determine whether a change in the treatment program or related services is warranted.

When asked to determine whether a client is unamenable to treatment, treatment professionals should be aware that they are playing dual roles within the health care and legal systems. A determination of “unamenability” to treatment has legal consequences for client. The finding will lead to the revocation of treatment under SACPA, and perhaps to incarceration.

*The District Attorney’s guide to SACPA interprets “unamenability” as applicable to an individual who is “incapable of changing his or her behavior, regardless of the treatment measures that are employed.”*⁴⁶ This analysis underlines the conclusion that a

determination of unamenability should not be made simply because an individual has a relapse, which is a predictable part of the recovery process, or if the treatment program is not an appropriate match for them.

It is recommended that a treatment panel, rather than any single treatment professional, be authorized to make the unamenability determination. Furthermore, it is recommended that motivational interviewing be implemented before a determination of unamenability is ultimately rendered. If a SACPA client has been determined to be unamenable to treatment by a panel of professionals, s/he may contest this determination. A final legally binding determination of unamenability can be made by the court upon hearing all relevant evidence that the relevant parties have to offer.

In general, the following principles should guide a determination of whether a client is unamenable to treatment:

- Relapse or termination/self discharge from a treatment program are not by themselves evidence of unamenability.
- A client's willingness (or unwillingness) to remain in the assessment/treatment process – e.g., appear for crisis intervention and/or detoxification services, participate in reassessment and the development of new treatment plan, etc, are valid indicia of unamenability;
- Persistent patterns of disengagement from treatment should not be ignored or minimized. Such evidence may indicate that the client is insufficiently motivated for treatment at the present time.

Drug Testing

The funds originally allocated under SACPA cannot be used for drug testing. SACPA mandates that no portion of appropriated funds – \$660 million over five and one-half years -- be used for drug testing. The drafters of SACPA imposed this limitation to insure that the vast majority of SACPA monies would be used to expand, diversify and improve substance abuse treatment and ancillary services, rather than simply offer more drug testing. Contrary to the belief of many officials in the criminal justice system, drug testing is not akin to or a form of drug treatment – rather, it is a tool used by drug treatment professionals.

SACPA was amended to allow funding for drug testing where such drug testing is used as a treatment tool. Senate Bill 223⁴⁷ signed into law in October 2001 provided \$8.4 million for drug testing SACPA clients. SB 223 also added section 1210.5 to the Penal Code, which provides that “[i]n 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.* In other words, drug testing as part of SACPA – whether

administered by the drug treatment program, probation, parole, or other entity -- is not to be used as a basis for punishing the client, by holding a probation revocation hearing, removing the client from treatment, or by imposing any other criminal justice sanctions. The rationale behind PC § 1210.5 is quite simple: drug testing is to drug treatment what a scale is to a weight-loss clinic-- a method by which to track progress, recognize setbacks, and, when necessary to prompt dialogue between the client and the service provider to determine evaluate the appropriateness of the current treatment regimen. Converting drug testing from a treatment tool into a punitive criminal justice benchmark undermines the therapeutic encounter and violates both the letter and spirit of SACPA.

Only reliable drug testing methodologies should be used. Although an increasing variety of drug tests are being marketed, as of 2002, only urine analysis and blood screens have been proven reliable – and then, only when administered by trained personnel and analyzed by laboratories certified by state and federal governments. Drug testing by any other method carries an unreasonably high risk of false positive results.

The use of sweat testing has been repeatedly proven unreliable and should not be used under any circumstances. In the mid-1990's PharmChem began marketing its PharmCheck Drugs of Abuse Patch, more commonly known as the "sweatpatch" to courts and probation offices around the country. The sweatpatch collects perspiration, which is then analyzed for drug metabolites excreted in sweat. Recent studies, including internal studies done by PharmChem itself, have shown that the sweat patch is unreliable, and since 1999, dozens of cases have been dismissed in state and federal courts due to the unreliability of sweat patch evidence.

Successful Completion and Dismissal

Courts should defer to the judgment of treatment providers in determining if an individual client has successfully completed their Treatment Plan. The real issue to be decided is whether an individual has completed the steps set out in their Treatment Plan, and this determination should be made by a public health professional such as a treatment providers or an assessor. Where possible, success should be gauged in terms of progress in treatment, with abstinence being just one gauge of success.

SACPA allows for the dismissal of charges for defendants who have successfully completed treatment. The dismissal of nonviolent drug charges and the sealing of the records of conviction are important steps in the SACPA process. For many, this is a critical motivating factor helping clients make it through the treatment process. These acts confer upon SACPA clients critical benefits and protections from discrimination in the workplace, housing arena, and other areas that will increase their opportunities to lead productive and healthy lives.

Case dismissal allows former SACPA participants to regain eligibility for welfare, food stamps, educational loans, public housing, employment and other important building blocks for success. SACPA participants must, however, disclose their arrest when applying for law enforcement.⁴⁸

The process for case dismissal should be triggered automatically upon completion of treatment, simple for a client to complete, and allow multiple means of proving that treatment has been successfully completed. During the same court proceeding that the court makes the determination that the SACPA client has successfully completed treatment, a petition should be made requesting that the SACPA case be dismissed pursuant to PC 1210.1(d)(1).⁴⁹ Notice of the petition must be served on defense counsel, the district attorney and the probation department that the petition to dismiss will be heard by the court. (See the endnote section for a sample petition⁵⁰ to the court . Where a court does not dismiss the SACPA charges at the first request by the participant, subsequent petitions can be filed for dismissal.

Public Defender offices should identify a person or persons responsible for SACPA dismissals. Of course, each defense counsel is best aware of the status of a given client's case. However, establishing a dismissal/expungement unit in the public defender's office helps ensure that this critical step in the SACPA process is completed.

VIII. EVALUATION

Evaluation Design

SACPA evaluation should be a participatory process, and should include the views and priorities of a wide range of stakeholders. Just as the SACPA planning process should be open and inclusive, so too should the process by which SACPA is evaluated. An effective evaluation should reflect the values and concerns of treatment providers, SACPA clients, county public health professionals, and criminal justice professionals and any other sector that is being scrutinized as part of the evaluation process. Not only should these varied interest groups be represented in determining what should be measured as part of the evaluation process, they should also help analyze the data collected and determine what improvements should be made to SACPA implementation and evaluation efforts.

Research Questions and Measures

The overarching goals of a SACPA evaluation should be to examine the ways that the delivery and quality of assessments, treatment, and ancillary services can be improved. The starting point for any evaluation – statewide or county specific – must be to measure how SACPA in practice is furthering the basic objectives behind the Act: 1) decreasing the number of people incarcerated for non-violent drug offenses; 2) increasing the

number of people participating in appropriate drug treatment; and 3) improving the quality of the lives of Californians who are addicted to drugs and their families.

Although reducing recidivism and lowering the costs associated with decreased incarceration rates are important goals that resonate with taxpaying voters, the passage of SACPA by 61% of the electorate is a clear message from the voters that we cannot arrest our way out of the drug problem. Accordingly, the chief focus of a SACPA evaluation should be how well counties are providing a diversity of quality services that adequately meet the varied needs of non-violent drug offenders and how these services are working to improve the quality of participants' lives.

SACPA is a law that involves complex legal and health care related processes, and the evaluation should address a broad range of research questions. The development of research questions for a SACPA evaluation should address the following issues:

- **Implementation**

The evaluation should describe and assess the efficacy of the processes by which each of the stake holding agencies handles clients as they proceed through the SACPA system, from arrest to the completion of treatment and to the eventual dismissal of the conviction. The evaluation should compare key steps in the county's implementation process with different methods employed by other counties to justify or question certain aspects of the county's SACPA implementation plan.

For example, in the evaluation of the treatment assessment process, a county will look at several different factors. If a county has designated probation officers to administer the treatment assessment to SACPA clients, the evaluation should address what benefits or drawbacks this choice may have on the quality of assessments and retention of clients in treatment as compared to counties which employ substance abuse professionals to administer and interpret the assessments. Similarly, Counties which schedule clients for assessment several weeks after release from detention (or at assessment sites far from clients' residences or work) should evaluate what impact this has on client retention rates, particularly as compared to counties which provide client assessments immediately upon release from custody (at a location convenient for the client). Finally, an evaluation of the demographics of people who were placed in and succeeded in the treatment program where they were referred after assessment should be done to assess the effectiveness of the assessment tool in understanding the needs of individuals from different cultural and ethnic groups.⁵¹

- **Cost Offset**

Chemically dependent persons often rely on a wide range of social services during the height of their illness; the change in use of a range of social services by SACPA clients as they make progress in recovery should be measured to more accurately quantify the fiscal impact of SACPA. Criminal justice, corrections,

health services, public housing, and public safety are just some of the agencies that expend resources dealing with the fallout of substance abuse. A thorough evaluation of SACPA's fiscal impact should examine any costs saved as a result of any reduction of burden on these and other agencies stemming from SACPA treatment. Please see the accompanying list of research questions⁵² which greatly expand the scope of SACPA's fiscal impacts.

- **Offender Outcomes**

Treatment outcomes and recidivism rates only tell part of the story. In addition to looking at drug treatment outcomes and client recidivism rates, a wide range of outcome indicators should be measured which assess various changes in clients' physical and mental health, productivity, family life, social reintegration, satisfaction, financial stability, etc. Please view the list of additional research questions⁵³ that document other effects of substance abuse treatment for further information.

Web Links:

- 1 State Advisory Group web page: http://www.adp.cahwnet.gov/SACPA/Prop36_SAG.shtml
- 2 Report Card Criteria for Prop 36 Implementation: <http://www.prop36.org/report.html>
- 3 State Advisory Group web page: http://www.adp.cahwnet.gov/SACPA/Prop36_SAG.shtml
- 4 California Society of Addiction Medicine (CSAM): <http://www.csam-asam.org>
- 5 Harm Reduction Training Institute: http://www.hrti.org/www_hrti_org.html
- 6 California Department of Alcohol and Drug Programs:
http://www.adp.cahwnet.gov/SACPA/P36_TechnicalAssistance
- 7 Harm Reduction Training Institute: http://www.hrti.org/www_hrti_org.html
- 8 UCLA Statewide Evaluation of SACPA: <http://www.medsch.ucla.edu/som/mpi/DARC/SA/index.htm>
- 9 Full text of SACPA 2000 Available at: <http://www.drugreform.org/prop36/fulltext.tpl>
- 10 See endnote #9
- 11 See endnote #9
- 12 See endnote #9
- 13 See endnote #9
- 14 Cal Health & Safety Code § 11550: <http://www.prop36modelplan.org/fulltext/hsc11550-11555.html>
- 15 Standardized screening tools: <http://www.prop36modelplan.org/fulltext/tools.html>
- 16 National Institute on Alcoholism and Alcohol Abuse (NIAAA): <http://www.niaaa.nih.gov>
- 17 Cal. PC §4004: <http://www.prop36modelplan.org/fulltext/pc4004.html>
- 18 Cal. PC §4004: <http://www.prop36modelplan.org/fulltext/pc4004.html>
- 19 California Public Defenders Association analysis of court monitoring:
<http://www.prop36modelplan.org/fulltext/cpdaprop36analysis.pdf>
- 20 People v. Superior Court (Romero), 13 Cal.4th 497, 518, (1996).
- 21 California Public Defenders Association: *Proposition 36 Defense Practice Manual*:
<http://www.cpda.org/CPDAProp36Analysis.pdf>
- 22 Limited release of information: <http://www.prop36modelplan.org/fulltext/samplerelase.html>
- 23 42 U.S.C. §290dd-2: http://caselaw.lp.findlaw.com/scripts/ts_search.pl?title=42&sec+290dd-2
- 24 Ferguson v. City of Charleston, South Carolina, 121 S.Ct. 1281 (U.S. 2001) (No. 99-926):
<http://www.prop36modelplan.org/fulltext/ferguson.html> (reprinted with permission from Westlaw).
- 25 “A Defense Lawyer’s Guide to Proposition 36”:
http://www.cacj.org/whats_new_cacj_comments.htm#prop36
- 26 Attorney General’s opinion letter: http://www.prop36modelplan.org/fulltext/ag_pc1000.html
- 27 California Campaign for New Drug Policies, fact sheet “The Judicial System & Prop 36”:
<http://www.drugreform.org/prop36/judicial.tpl>
- 28 See notes 14 & 15.
- 29 See notes 14 & 15.
- 30 See note 15.
- 31 See note 20.
- 32 Drug Policy Alliance brief for Ferguson v. City of Charleston, South Carolina, 121 S.Ct. 1293 (2001):
http://www.prop36.org/fulltext/ferguson_amicus_brief.html
- 33 Safety First: www.lindesmith.org/library/safetyfirst.pdf
- 34 Antabuse Information: <http://www.healthplace.com/medications/disulfiram.htm>
- 35 CSAM opioid recommendation letter: http://www.prop36modelplan.org/fulltext/csam_methadone.pdf
- 36 See note 14.
- 37 Source: Center for Substance Abuse Treatment TAP 23
- 38 Currently Under Revision
- 39 See endnote #8
- 40 County Report Cards: <http://www.prop36.org/report.html>
- 41 DADP Analysis of Plans Document: <http://www.adp.cahwnet.gov/SACPA/pdf/SACPA-AnalysisOf58CountyPlans.pdf>
- 42 See Bill Zimmerman’s Letter to La County online: www.prop36modelplan.org
- 43 Full text of SACPA 2000 Available at: <http://www.drugreform.org/prop36/fulltext.tpl>
- 44 Full text of SACPA 2000 Available at: <http://www.drugreform.org/prop36/fulltext.tpl>
- 45 Full text of SACPA 2000 Available at: <http://www.drugreform.org/prop36/fulltext.tpl>

⁴⁶ “Implementing Prop. 36,” District Attorney guide by Dabney: http://www.cdaa.org/prop_36.doc

⁴⁷ Senate Bill 223: http://www.leginfo.ca.gov/pub/bill/sen/sb_0201-0250/sb_223_bill_20011011_chaptered.html

⁴⁸ Full text of SACPA 2000 Available at: <http://www.drugreform.org/prop36/fulltext.tpl>

⁴⁹ Full text of SACPA 2000 Available at: <http://www.drugreform.org/prop36/fulltext.tpl>

⁵⁰ Sample Petition: <http://www.prop36modelplan.org/fulltext/index.html?main=intro.html>

⁵¹ See endnote #38

⁵² See endnote #38

⁵³ See endnote #38