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Proposition for Drug Testing

When California voters approved Proposition 36, it was with the intention of providing a rehabilitative alternative to the incarceration of those convicted of nonviolent drug offenses. Although the jury is still out on whether the law and its attendant programs are working, it is clear that the existing probation structure has been overwhelmed by the number of court referrals.

Enacted in July 2001, Proposition 36 offers those convicted of a nonviolent drug offense an alternative: supervised probation and drug treatment. Initial predictions, at least by the initiative's proponents, were that the workload for probation officers would be significantly decreased because monitoring duties would be shared by probation departments and local treatment providers. To date, however, the reverse has been true.

"We anticipated an influx of 4,200 the first year," says Connie Havens, division director of the Orange County Probation Department. "But the reality will be about 28 percent above that. We're getting an average of 90 to 100 new cases per week, and expect about 5,000 new cases by this July. We were funded for an additional supervising probation officer and eight new officers. We have already exceeded their capacity."

"We've captured a population that wasn't prison bound," says Vicki Markey, deputy chief of the San Diego County Probation Department. "These are people who would have been referred to summary probation, which is court supervision, or to a few days in jail, but who would not have been introduced to the formal probation system. The good thing is that these are desperate people who have been plagued with drug use and abuse for many years. Proposition 36 opens the door to treatment. The bad thing is that we've opened that door through the criminal justice system, and I don't know that we're prepared for that."

One of the most daunting and expensive tasks facing the two probation departments is drug testing, usually done through urinalysis. Demand for drug screening has increased, yet funding for drug testing or increased monitoring was not included in the original bill. Although funding provisions have since been added, the additional funding may not be enough to address each county's needs adequately.

At the request of criminal justice officials from San Diego and Orange Counties, the Border Research and Technology Center (BRTC), part of the National Institute of Justice's National Law Enforcement and Corrections Technology Center system, initiated a workshop on current noninvasive drug-screening technologies. Those who attended, which included members of the State's judiciary, probation, and treatment communities, said they required a technology that would reduce the number of urine samples taken and handled and reduce testing costs. In addition, the technology would have to be affordable, reliable, durable, portable, easy to use, relatively maintenance free, and user friendly. It would have to be able to identify a range of drugs. It would need to be gender neutral, usable by adults and juveniles, and safe for the staff. And it would need to provide immediate results admissible in court at a later time.

Although no technology commercially available today meets all of these requirements, BRTC was able to present drug screening technologies that incorporate many of them and informed the participants as to market readiness. These technologies included:

- **Skin patches and sweat tests.** These products detect several classes of drugs by analyzing sweat. One product is a test device that is put under the client's arm; a positive result shows up as a specific color inside the window of the device. This product can also be used to test surfaces or liquids for such drugs as opiates, marijuana, cocaine, and methamphetamine. Another product is a skin patch that a client wears for up to 7 days. The patch is then removed and analyzed for the presence of excreted drugs. It works by allowing oxygen, carbon dioxide, and water to evaporate while trapping

illicit drugs and their metabolites, which have a larger molecular weight. The patch will detect substances used while it is worn, as well as any used 24 to 48 hours before it is applied.

- **Saliva testing.** Probation officers use a test swab for saliva collection, which is put into a disposable cartridge. The cartridge is then inserted into an instrument that analyzes the sample, giving results similar to those of a blood test. In 5 minutes or less, such a system can test individually or simultaneously for alcohol, marijuana, cocaine, PCP, opiates, and methamphetamine.

- **Trace and portable detection scans.** These devices detect drugs and explosives by analyzing vapors and particles on people, their possessions, or the air around them. Already in use in some correctional facilities and airports, this technology either uses a walk-through portal that blows puffs of air at a person to dislodge particles in clothing or has an operator who swabs purses, computers, briefcases, or any other items the person may have touched. Ion scanners can detect microscopic traces of cocaine, heroin, marijuana, PCP, LSD, and MDMA and such explosives as TNT, C4, RDX, PETN, Semtex, HMX, and ammonium nitrate.

- **Pupil scans.** This technology, initially used to test for fatigue among commercial truck drivers, has since been adapted to measure impairment caused by current or previous alcohol and drug use. Pupil scanners quickly flash light at the eye, then measure the pupil's involuntary reaction. One system is a handheld device that fits over the eyes and gives a 100-millisecond flash of light and measures the pupil's response for the following 6 seconds, repeating the procedure four times. The test takes about 2 to 3 minutes per person. A second type of eye screen, in which probationers look into a desktop machine for a 30-second scan, requires a drug-free baseline measurement and then compares subsequent tests to the baseline. If the system identifies impairment, it recommends a confirmatory test and suggests specific drugs for which to test.

Such technologies could eliminate several problems inherent in urinalysis, which is cumbersome and expensive, yet is the only type of drug-test evidence currently admissible in court. However, a major problem with urinalysis lies in gender—in the disproportionate number of male clients to female probation officers, Havens says.

"Approximately 80 percent of the probationers are male and about 70 percent of the field probation officers are female. This leaves the male staff spending a larger amount of their time witnessing urine samples."

"Urinalysis is invasive for the client and for the officer who has to observe," says Peg Ritchie, deputy director for BRTC and a veteran corrections official. "You find that the officers start avoiding them, or they get sloppy and don't do them effectively. Although that is a management issue, you can eliminate some of those problems by adopting new, noninvasive technologies."

The technologies shown at the BRTC workshop were not touted as definitive drug screening tools, but as cost-saving, probable-cause measures. Typically, 80 percent of clients who require testing test negative. "If we had a way to screen out that 80 percent, we could save a great deal of money and time," Markey says. "We would only have to do a drug screen on the remaining 20 percent."

As a result of the workshop, Ritchie says, San Diego County field tested an eye scan device and found it to be 98-percent accurate against blind urine analysis tests. It is estimated the technology will save the county $5,000 within 6 weeks, with complete cost recovery within 2 months. Orange County also is field testing the same device. Susan Bower, criminal justice coordinator for San Diego County's Alcohol and Drug Services and supervisor of Proposition 36 Quality Assurance Specialists, says of the workshop, "BRTC encouraged us to get beyond the usual lament of, 'We're the county; we have no money,' and develop a broader perspective to include several stakeholders, funding resources, et cetera, in order to creatively expand our array of detection services."

For more information regarding the workshop on drug screening technologies sponsored by the Border Research and Technology Center, contact Peg Ritchie, 888–656–2782, or e-mail pritchi@brtc.nlectc.org.

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