



Prop 36 (2024) Prison Data for September 2025

PREPARED BY: MANNY PRUNTY AND JOHANNA LACOE

INTRODUCTION

Proposition 36, enacted by California voters in November 2024, created two new “wobbler” statutes (meaning the prosecutor has the discretion to charge the offense as a misdemeanor or as a felony): Penal Code § 666.1 (PC § 666.1), which makes petty theft or shoplifting a potential felony if the person has two or more prior theft-related convictions, and Health & Safety Code § 11395 (HSC § 11395), which makes possession of a “hard drug” (such as fentanyl, heroin, or methamphetamine) a potential felony for individuals with two or more prior drug convictions. Under HSC § 11395, defendants may be able to complete treatment in lieu of incarceration, with dismissal upon completion.

This analysis is generated by the [California Policy Lab](#) and [Committee on Revision of the Penal Code](#). For questions or suggestions, please contact Tom Nosewicz, tnosewicz@clrc.ca.gov.

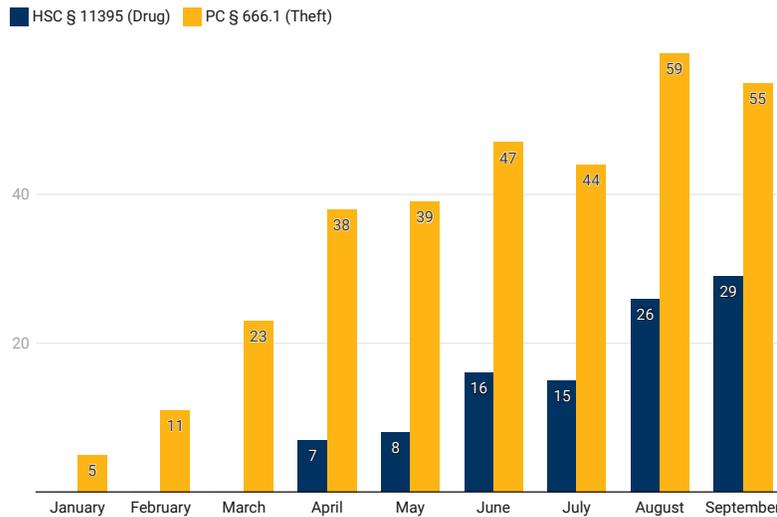
We plan to update this document monthly and make prior versions available on our website. See the most recent update and previous data: <https://capolicylab.org/prop-36/>.

Unless otherwise specified, this data includes only people where the relevant offense was the controlling offense, meaning it was the most serious offense they were convicted of. Counts fewer than five are suppressed to prevent potential reidentification.

Monthly admissions and overall population for PC § 666.1 and HSC § 11395

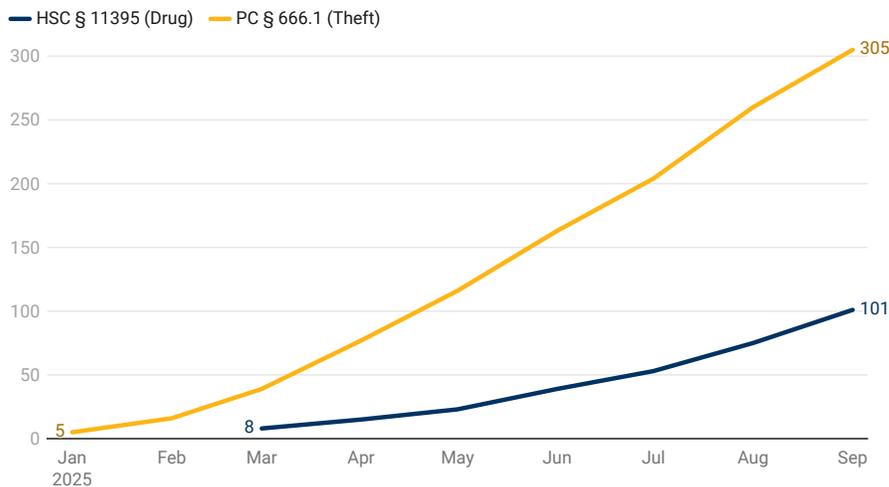
This section shows monthly prison admission and overall population counts for Prop 36 offenses PC § 666.1 (petty theft with priors) and HSC § 11395 (treatment-mandated drug-possession felony) since January 2025. (Proposition 36 became effective in December 2024.)

FIGURE 1: Admissions for Prop 36 Offenses, Jan - Sept 2025



Admissions for HSC § 11395 were less than 5 in January, February, and March.
Source: California Department of Corrections and Rehabilitation (2025)

FIGURE 2: Current Population of People Incarcerated in Prison for Prop 36 Offenses



Note: A version of this figure that circulated before Dec 9, 2025, erroneously included some individuals who had already been released in the "current population counts." This figure has been updated with the correct count.
Source: California Department of Corrections and Rehabilitation (2025)

Treatment-Mandated Drug-Possession Felony (HSC § 11395)

This section focuses on admissions and sentencing for HSC § 11395 cases since January 2025, with sentencing outcomes broken down by second-striker status and race/ethnicity.

Admissions since January 2025

- 109 people have been admitted to CDCR custody since January 2025 with HSC § 11395 (drug) as the controlling offense.
- 91 people have been admitted with the HSC § 11395 (drug) as a subordinate offense.
- In September 2025, 29 people were admitted with HSC § 11395 (drug) as the controlling offense and an additional 16 people were admitted with the HSC § 11395 (drug) as a subordinate offense.

Sentence and demographic information

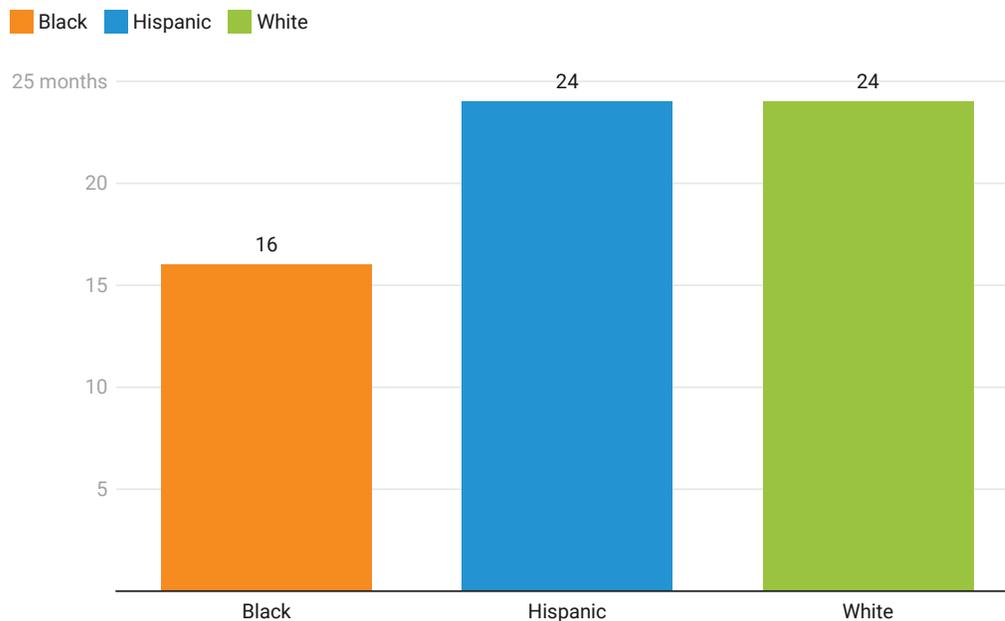
- The average sentence is 28 months. The median sentence is 24 months.
- 31.5% of admissions were sentenced as second-strikers.
 - Second-strikers: The average sentence is 32.4 months. Median sentence is 32.4 months.
 - Non-second strikers: The average sentence is 25.9 months. Median sentence is 24 months.

FIGURE 3: Share of HSC § 11395 Admissions in 2025 by Race/Ethnicity



Source: California Department of Corrections and Rehabilitation (2025)

FIGURE 4: Median Sentence Length for HSC § 11395 Admissions in 2025 by Race/Ethnicity



Source: California Department of Corrections and Rehabilitation (2025)

Petty Theft with Prior Offense (PC § 666.1)

This section focuses on admissions and sentencing for cases with PC § 666.1 as the controlling offense since January 2025, with sentencing outcomes broken down by second-striker status and race/ethnicity.

Admissions since January 2025

- 321 people were admitted to CDCR custody with PC § 666.1 as the controlling offense.
- 95 people have been admitted with the PC§ 666.1 (theft) as a subordinate offense.
- In September 2025, 55 people were admitted with PC § 666.1 (theft) as the controlling offense and an additional 18 people were admitted with PC § 666.1 (theft) as a subordinate offense.

Sentence and demographic information

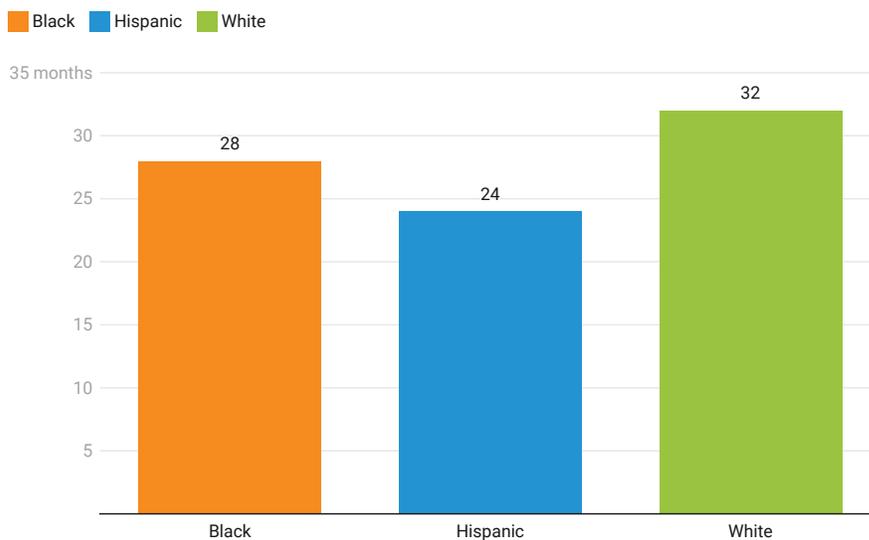
- The average sentence is 27 months. The median sentence is 24 months.
- 43% of those admitted were second strikers.
 - Second-strikers: Average sentence is 34 months. Median sentence is 32.4 months.
 - Non-second strikers: Average sentence is 23.3 months. Median sentence is 24 months.

FIGURE 5: PC § 666.1 Admissions in 2025 by Race/Ethnicity



Source: California Department of Corrections and Rehabilitation (2025)

FIGURE 6: Median sentence length for PC § 666.1 Admissions in 2025 by Race/Ethnicity



Source: California Department of Corrections and Rehabilitation (2025)

Enhancements

Fewer than five people have been admitted to CDCR since January 2025 with PC § 12022.6 (property destruction) or PC § 12022.65 (acting in concert) as part of their sentence.

ABOUT THIS RESEARCH

This research stems from a [partnership](#) between the California Policy Lab at the University of California and the [Committee on Revision of the Penal Code](#), a state agency that studies and makes recommendations to improve California's criminal legal system.

METHODOLOGY

This document uses prison admissions data from the California Department of Corrections and Rehabilitation, accessed through a data use agreement with the Committee on Revision of the Penal Code.

In most figures and tables, the admission is classified by its controlling offense, which is the most serious conviction offense, as defined in the CDCR terms file. A subordinate offense refers to admissions where a person is admitted for a more serious charge, but is also convicted of a Proposition 36 offense. For the analysis presented in Figure 2, a person is defined as being "in custody" for a given month if they were incarcerated on the last day of that month.

Counts fewer than five are suppressed in accordance with the data use agreement to prevent potential reidentification. For this reason, we only report admissions and sentence length for three racial/ethnic categories. We will add additional categories when we have sufficient sample size. All analyses were conducted on the California Policy Lab's secure server.

ACKNOWLEDGEMENTS

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