

IMPLEMENTING PROPOSITION 36: ISSUES IMPACTING DRUG TREATMENT SERVICES IN LOS ANGELES COUNTY

The Substance Abuse and Crime Prevention Act of 2000 (Proposition 36) requires that qualifying persons who have been convicted of a non-violent felony or misdemeanor drug possession charge or for being under the influence of drugs are to be placed on probation and ordered into drug treatment for up to one year.

According to the principles of effective drug addiction treatment established by the National Institute on Drug Abuse (NIDA), no single treatment approach is appropriate for all individuals. Treatment services should be matched to particular problems and needs of the individual. To most appropriately serve the needs of the Proposition 36 offenders, an assessment of each offender's substance abuse/addiction history and severity serves as the bases for which to place her/him in one of three levels of treatment services. The levels of admission criteria and treatment increase in terms of severity from Level I to Level III. Treatment program completion is followed by 6 months of aftercare services.

Introduction - Description of Proposition 36 Provisions

On November 7, 2000, California voters approved the passage of Proposition 36, the Substance Abuse and Crime Prevention Act of 2000. The initiative was sponsored by the California Campaign for New Drug Policies. The sponsor's stated purpose of the initiative was to enhance public safety by reducing drug-related crime and preserving jail and prison space for violent offenders by providing community-based substance abuse treatment programs for non-violent defendants, probationers, and parolees charged with simple drug possession or drug use offenses.

The main provisions of the initiative are:

The initiative amends the State of California Health and Safety Code and Penal Code to require qualifying defendants who have been convicted of non-violent felony and misdemeanor drug possession or being under the influence of drugs to be placed on probation and ordered into drug treatment for up to one year;

Incarceration is prohibited as a condition of probation and certain prohibitions and restrictions are placed on the incarceration of probation and parole violators. In-custody treatment is specifically prohibited as a condition; and

The State is required to establish a Substance Abuse Trust Fund to offset local costs for implementation of the initiative with appropriations of \$60 million in FY 2000-01 and

\$120 million per year for the next five fiscal years. Funds will be distributed by formula to counties to cover local costs for treatment, probation supervision, court monitoring and other costs necessary for implementation. Costs for drug testing are specifically excluded.

Existing System of Drug Treatment Services in Los Angeles County

No single treatment approach is appropriate for all individuals. Within any given segment of the population in need of treatment, the scope, duration and intensity of those services will vary. For each individual, a different approach to services is required based on his/her degree of bio-psycho-social impairment and the supports and barriers to recovery present in his/her life.

As persons enter or move within the treatment portion of the continuum of services, they are placed in or transitioned to a level of care commensurate with their need. Scarce drug

treatment resources are used more effectively and cost savings realized as client retention and outcomes improve. The use of validated assessment and placement tools is a key element.

Components of a treatment and recovery continuum should include:

Early intervention

Outpatient detoxification (followed by appropriate treatment)

Residential detoxification (followed by appropriate treatment)

Outpatient treatment

Intensive outpatient treatment

Day treatment

Short/long term residential treatment

Narcotic replacement therapy

Transitional living (coupled with the appropriate treatment level or recovery support)

Aftercare

Each component may contain additional elements, for example, case management, education and supportive services such as transportation or child care. Lastly, clients may be referred outside the drug treatment system of coordinated services in the health, mental health, social service, child welfare, or justice systems. (CADPAAC, 2000)

The National Institute on Drug Abuse (NIDA) recently published a set of *Principles of Drug Addiction Treatment* based on research findings. These principles guide the practices of most reputable treatment programs in the United States and are used by Los Angeles County as the accepted "best practices" for its contracted services. (NIDA, 1999)

The Alcohol and Drug Program Administration (ADPA) of the Department of Health Services presently provides a wide array of alcohol and other drug treatment and recovery programs and services for adult County residents through contracts with community-based organizations. These programs and services comprise a treatment and recovery system of services that includes the following components: *{Figure 1 provides a graphic description of the ADPA-funded system of alcohol and drug treatment and recovery services.}*

Referral sources - Persons are referred for treatment and recovery services from the following sources:

Self-referrals

Community programs

Courts

Criminal courts

Delinquency courts

Dependency/family courts

County departments

Department of Health Services facilities

Area Health Officers

Community health clinics

Emergency departments

Public health programs

Department of Children and Family Services

Department of Mental Health

Department of Public Social Services

General Relief Program

CalWORKs/GAIN Program

Probation Department

Public Defender

Sheriff

State Corrections and Parole

Local Police Departments

Intake, screening, assessment and placement services

Community Assessment and Service Centers (CASC) - Presently 18 CASC sites are distributed throughout the County's 8 Service Planning Areas to provide screening, comprehensive assessment, and referral services for members of the general public seeking assistance for their alcohol and other drug problems. In addition, CASCs provide clinical assessments for Department of Public Social Services clients (General Relief and CalWORKs). CASCs also provide infectious disease screening, handle calls from the ADPA Referral Line, and link local residents with other needed human services. CASCs have adopted a standardized instrument (the Addiction Severity Index) widely used in the addiction field to determine the level of each person's substance abuse problems and other life situations. Using the findings from the assessment interview, CASCs assist each person to access the level of treatment services and other needed human services commensurate with the severity of the conditions.

Residential and nonresidential detoxification services

Detoxification involves a planned medical treatment intended to terminate current alcohol and other drug use. Medical and psychological support is provided as needed during the supervised period of abstinence required for physical withdrawal from alcohol and other drugs. These services are generally offered as preparation for entry into a treatment and recovery program. Detoxification programs include:

Residential detoxification services; and

Chemically-assisted outpatient detoxification services.

Residential treatment and recovery services

Residential services are supervised 24-hour live-in programs within structured treatment and recovery environments. Types of residential programs include:

Short/long term residential treatment and recovery services; and

Residential treatment and recovery services for women and their children.

Nonresidential treatment and recovery services

These programs provide participants with a structured, non-live-in setting including crisis intervention, individual, group and family counseling, and case management services. Types of nonresidential programs include:

Outpatient treatment services;

Community recovery programs;

Intensive day treatment services; and

Day care habilitative services.

Drug Court services

A Drug Court is a full- to part-time court that has been specifically designated and staffed to supervise non-violent felony drug defendants who have been referred to a comprehensive and judicially-monitored program of drug treatment and rehabilitation services. Twelve Drug Courts presently operate in Los Angeles County, including two juvenile Drug Courts. Although primarily an outpatient treatment program, residential treatment services are also available when needed. In-custody treatment programs are also operated for men at the Biscailuz Rehabilitation Center and for women at the Twin Towers Detention Center as a component of the County-wide Drug Court program. The in-custody treatment program serves as a sanction alternative at the discretion of the Drug Court judge. The Drug Court judge, the District Attorney, the Public Defender, Probation and the treatment provider work together as a nonadversarial team to guide, monitor and support the defendant through a one-year treatment and recovery program.

Narcotics replacement therapy

Narcotic replacement therapy programs offer methadone(a synthetic opiate substitute), Levo-Alpha Acetyl Methadol (LAAM), or naltrexone to block the effects of opiates for addicted

persons including pregnant women. These programs maintain the person's (and her fetus') stabilization and/or prevent the onset of opiate withdrawal symptoms, thereby allowing the person to gradually withdraw from opiate addiction and to pursue a crime-free lifestyle.

Types of programs include:

Outpatient methadone detoxification;

Outpatient naltrexone treatment;

Outpatient LAAM treatment;

Outpatient methadone maintenance services; and

Perinatal methadone maintenance services.

Transitional and aftercare activities and services

Transitional and aftercare activities and services offer persons in recovery sober living environments and peer support to maintain their recovery and to assist in their transition from treatment programs back into the community.

Types of programs include:

Alcohol- and drug-free living centers/recovery maintenance facilities - These are self-supporting "sober" group living facilities for persons in recovery; and

12-step and peer support/self-help meetings - Many treatment facilities host

12-step group meetings, such as Alcoholics Anonymous and Narcotics Anonymous, and other self-help group meetings for alumni of their programs, family members, and other recovering persons as a community service.

Diversion services

Court Referral Information Services Program (CRISP) - ADPA information and referral specialists are stationed at 16 courthouses to assist judges in making appropriate dispositions in driving under the influence (DUI) cases and to track offenders to ensure compliance with court orders and attendance in State-certified Drinking Driver programs.

Drinking driver programs - Drinking driver programs offer persons convicted of driving under the influence of alcohol an educational alternative to incarceration.

First offender program - This program is a three month-long educational and counseling service for persons convicted of a first offense of driving under the influence.

Multiple offender program - This program is an 18 month-long educational and rehabilitative program for persons convicted of a second or subsequent offense of driving under the influence.

Third or subsequent offender programs - This program is a 30 month-long intensive educational and rehabilitative services for persons convicted of a third or subsequent offense of driving under the influence.

Drug diversion programs (Penal Code 1000) - Penal Code 1000 Programs are deferred entry of judgement diversionary programs where defendants charged with violating certain drug-related laws enter conditional guilty pleas and are allowed to attend a 20-week education and rehabilitation program. Upon successful completion of the program, the charges are dismissed. In most cases, the defendants are non-violent first offenders.

Drug testing

Drug testing, such as through urinalysis and other means, is used by many treatment programs as a therapeutic tool to monitor participants' drug use during treatment. Lapses to drug use can occur during treatment. The objective monitoring of participants using drug tests can help them withstand urges to use drugs. It can also provide early evidence of drug use so that the individual's treatment plan can be adjusted. Feedback to participants who test positive for illicit drug use is an important element of monitoring. (NIDA, 1999) Drug testing utilizes a strict protocol to ensure proper handling of samples against tampering and to address participant challenges of results.

Counselor Competencies

Effective treatment services require competent staff with attitudes, knowledge, and skills that support the program and its participants to achieve positive outcomes. Key areas of counselor competency include: clinical evaluation, treatment planning, referral, service coordination, counseling, education, documentation, and professional ethics. Effective staff requires the proper training as preparation for entering the treatment field and continuing education for staying current with the latest treatment methods and approaches. A listing of counselor competencies as identified by the Addiction Technology Transfer Center Program is included in Appendix A (SAMHSA, 1998). Cultural and linguistics competencies of program staff are additional key areas required to address the needs of Los Angeles County's diverse population.

Program Outcome Evaluation and Data Collection

Proposition 36 requires the State Department of Alcohol and Drug Programs to engage a public university in California to conduct a long term study evaluating the effectiveness and financial impact of the programs funded under the Act. However, in addition, it is critical for Los Angeles County to also compile data on its own program and to conduct process and outcomes monitoring. These should be done to allow for implementation improvement. These processes also give Los Angeles County the ability to assess the overall effectiveness and cost effectiveness of its program's diverting non-violent offenders to treatment and to identify differential effects on subgroups of defendants. As discussed in Michael L. Pendergast's paper presented at the Proposition 36 conference in Sacramento on December 18, 2000, the following outcome measures, at a minimum, should be monitored:

Client level outcomes

Reductions in drug abuse/dependence;

Reductions in criminal activity; and

Improvements in health and productive living.

Program level outcomes

Number and modality of licensed/certified treatment programs;

Type of treatment services offered;

Budget requirements to treat Proposition 36 clients; and

Relationships and reporting practices with probation and parole.

System level outcomes

Reductions in the number of nonviolent drug users in jail and prison;

Increase in jail and prison space for serious and violent offenders (as a result of the above);

Reductions in aggregate criminal activity within the county (particularly in income-generating crimes);

Improvements in public health (overall reductions in drug use and in drug-related diseases); and

Reductions in various criminal-justice related costs.

Collection of data on these outcomes should rely as much as possible on existing data systems, such as the Los Angeles County Participant Reporting System/California Alcohol and Drug Data System (CADDs) and criminal justice databases. (UCLA-DARC, 2000)

Capacity of Treatment and Recovery Programs in Los Angeles County

According to the California Department of Alcohol and Drug Programs (ADP), there are 65 certified nonresidential programs, 110 certified Drug Medi-Cal clinics, and 158 licensed residential facilities in the County of Los Angeles. (ADP, 2000)

Residential facilities in Los Angeles County were licensed for a total capacity of 5,415 beds.

ADPA-contracted programs operate 114 facilities for a total licensed capacity of 4,160 beds.

ADPA presently contracts for a total of 1,800 beds.

Nonresidential (outpatient counseling and day care) programs in Los Angeles County had a capacity of 8,124 participant slots according to the most recent *Drug Abuse Treatment Access Report*, published by the California Department of Alcohol and Drug Programs. Methadone (outpatient methadone detoxification and maintenance) programs were certified for a capacity of 9,928 participants. (ADP, 2000)

Average length of treatment visits per participant according to FY 1999-2000 Los Angeles County Participant Reporting System data were the following for each type of service:

Outpatient drug free treatment services- 126.7 counseling visits per participant (approximately 2 visits per week);

Methadone services- 365 visits per participant (treated daily, 7 visits per week);

Day care habilitative treatment services - 115.2 counseling visits per participant

(4 visits per week); and

Residential treatment services - 65 days in treatment per participant (treated daily).

In Fiscal Year 1999-2000, ADPA-contracted treatment and recovery programs admitted 48,992 persons according to the following distribution:

Residential treatment and recovery services - 19,848 admissions;

Nonresidential treatment and recovery services - 21,765 admissions; and

Narcotic replacement therapy (LAAM, methadone, naltrexone services) - 7,379 admissions.

Implementation Issues

CCJCC Implementation Task Force - On November 15, 2000, the Countywide Criminal Justice Coordination Committee (CCJCC) established a County-wide task force to develop and coordinate a Proposition 36 implementation plan. The task force is comprised of approximately 40 members representing County and City criminal justice agencies, judicial officers, the Department of

Health Services, the Department of Mental Health, the Department of Public Social Services and community-based drug treatment programs, as well as community members.

The Honorable Ana Maria Luna, a judge of the County of Los Angeles Superior Court, chairs the task force. Patrick L. Ogawa, Administrator for the Alcohol and Drug Program Administration (ADPA), represents DHS on the Task Force.

Eligible populations - The following populations are eligible for the Proposition 36 program:

Drug offenders convicted in court – Offenders convicted of "nonviolent drug possession" (felony or misdemeanor criminal charge for being under the influence of illegal drugs or for possessing, using, or transporting illegal drugs for personal use), excluding cases involving possessing for sale, producing, or manufacturing of illegal drugs.

Parole violators – Parole violators found to have committed a nonviolent drug possession offense or to have violated any drug-related condition of parole.

Allowable services - Proposition 36 funds the following services:

Drug treatment (up to one year);

Vocational training, family counseling, and literacy training;

Probation supervision;

Court monitoring; and

Compliance with State reporting requirements.

ADPA administrative requirements - ADPA will be responsible for the following administrative functions involved with administering treatment and recovery services for drug offenders eligible for the Proposition 36 program:

Contracting with community-based treatment and recovery service providers;

Compliance monitoring of contracted service providers; and

Compiling and reporting data on characteristics of participants served and on services provided.

Allocation of Funds - The initiative establishes a Substance Abuse Treatment Fund with \$60 million for Fiscal Year (FY) 2000-01 and \$120 million for FY 2001-02 and for each year thereafter through

FY 2005-06. The Secretary of Health and Human Services distributes the funds through the State Department of Alcohol and Drug Programs (SDADP). The SDADP is responsible for allocating the funds to counties for various costs associated with Proposition 36 implementation. Los Angeles

County was allocated \$15,743,011 for FY 2000-01 and anticipates about \$30 million for each subsequent year through FY 2005-06.

Service need projections - As many as 22,400 new participants are expected to enter the Los Angeles County alcohol and drug treatment system of care with 63% expected to require nonresidential services and 37% to require residential services (based on distribution of participants according to

FY 1999-2000 Los Angeles County Participant Registration System data). The following describes the numbers of participants projected for each type of service:

Assessment services - 22,400 persons

Nonresidential (outpatient) treatment services – 14,134 persons

Outpatient treatment services – 9,447 persons

Narcotic Replacement Therapy – 3,913 persons

Intensive day treatment and day care habilitative services – 774 persons

Residential treatment services – 8,266 persons

ADPA resource allocation/implementation approach

Phase 1 (Start-Up): ADPA administratively augment contracts with current providers in

Spring 2001 for immediate program implementation on July 1, 2001.

Phase 2 (Expansion): ADPA implements a competitive Request for Proposals process to handle the expanded level of services needed for full program implementation. (Release RFP in August, 2001 and implement new contracts by October 31, 2001.)

Figure 2 (Implementation of Proposition 36 in Los Angeles County) presents a draft flow chart of

Proposition 36 program operations.

Maintenance of existing Los Angeles County Drug Court Program

Over its six years of operation, the Los Angeles County Drug Court Program has proven to be an effective program for non-violent pre-plea drug defendants as an alternative to prosecution and

for convicted felony drug offenders as an alternative to commitment in State institutions. ADPA intends to continue its funding and technical support for adult and juvenile Drug Courts in

Los Angeles County currently in operation and in planning.

Challenges/Barriers

ADPA and its system of treatment and recovery services must address the following significant challenges in order to successfully implement the Proposition 36 program for the projected number of eligible drug offenders:

Availability of Treatment Services - CCJCC projects that as many as 22,400 drug offenders may be eligible for drug treatment services through Proposition 36. This large potential influx of participants may test the capacity of the existing community-based drug treatment system. Residential programs may be most affected, since demand already exceeds the availability of treatment beds. The existing drug treatment system provides services at a high level of quality consistent with the principles of effective addiction treatment established by the National Institute on Drug Abuse. Overutilization of programs may result in the erosion of standards of services and dilution of program effectiveness.

Adequacy of Funding for Drug Treatment Programs - The cost for providing drug treatment services is projected at \$54.8 to \$74.0 million each year to handle the estimated 22,400 drug offenders eligible under Proposition 36 provisions. This amount exceeds the \$30 million per year expected to be allocated to Los Angeles County from the Substance Abuse Treatment Fund established by Proposition 36. ADPA would need to obtain additional funds to provide drug treatment services for all eligible drug offenders.

Funds for Drug Testing - Proposition 36 does not allow the Substance Abuse Treatment Fund to pay for drug testing. Drug testing of participants is a key component of drug treatment programs. ADPA needs additional funds to cover costs for drug testing. It is not yet clear as to the extent of drug testing needed to hold participants accountable to the provisions of Proposition 36.

Capacity of State to fulfill its certification and licensing responsibilities - Proposition 36 requires that treatment services must be provided by State certified or licensed programs. Presently, the State Department of Alcohol and Drug Programs (SDADP) takes at least several months to complete the certification or licensing procedures for a new program. The SDADP must implement provisional certification and license procedures and/or expand its capacity as means for supporting the ability of Los Angeles County programs to ramp up in

time to make sufficient services available for the projected influx of participants.

Availability of suitable recovery maintenance facilities - Transitional drug-free housing and other recovery maintenance facilities will play critical roles in providing housing as adjunct services for program participants in outpatient treatment as an alternative to residential treatment services. State and County agencies must consider procedures for certifying these facilities as a means for ensuring their quality and suitability.

Availability of educational/vocational/job placement services - Educational, vocational, and job placement services for program participants are fundable services under Proposition 36 provisions to assist participants in establishing and maintaining drug-free and crime-free lifestyles. ADPA and its contracted treatment programs must expand their linkages with educational, vocational, and job placement resources for program participants.

Establishment of a working partnership between the criminal justice system and the treatment and recovery system - The courts, the Probation Department, and treatment programs in Los Angeles County have established to work together to effectively implement the Drug Court Program. This partnership must be deepened and expanded to encompass the provisions of Proposition 36. The Countywide Criminal Justice Coordination Committee and key treatment and recovery service provider associations have already taken a key step by agreeing to participate in the Countywide

Proposition 36 Program Implementation Task Force.

Development of the Treatment and Recovery Workforce - The existing drug treatment system already faces a shortage of qualified counselors, particularly women and bilingual counselors. The need for a rapid expansion of services resulting from implementation of Proposition 36 will exacerbate the situation. The shortage of qualified counselors limits the speed in which programs can expand. Therefore, ADPA and its contracted treatment programs must work aggressively with training institutions to recruit and train counselors to enter the field. They must also consider employee incentives, compensation reforms, and other methods to support the retention of qualified counselors in the treatment and recovery field.

Conclusion

The implementation of Proposition 36 poses major challenges for the existing system of drug treatment services in Los Angeles County in terms of its infrastructure capacity and program practices. However, the Los Angeles County system of community-based alcohol and drug treatment services provided services to close to 50,000 persons last year, including many persons with arrest histories for drug-related offenses. The success of the Drug Court program over the past five years has demonstrated the effectiveness of treatment for non-violent drug offenders as a means for ending the revolving door of arrests and addiction for this population through the close partnership between the criminal justice and drug treatment systems. Successful implementation of the Proposition 36 program also hinges upon the continued effective partnering of these two systems.

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