



From: Daniel Macallair, Executive Director, Center on Juvenile & Criminal Justice

To: Little Hoover Commission

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Re: Proposition 36— Fulfilling our Commitment to California's Families and Children

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Introduction

It is well established that incarceration has significantly deleterious effects on families, communities, and in particular, on children. The war on drugs and its associated tide of incarceration has dealt a painful blow to tens of thousands of children throughout California, depriving them of their parents and siblings, and subjecting them to mental anguish and economic hardship.

By offering nonviolent drug offenders the opportunity to access treatment, rather than compound their struggle with addiction through incarceration, Proposition 36 is saving taxpayer dollars, relieving the strain on our prisons, and improving public safety. Perhaps more importantly, Proposition 36 is quietly mending the damage wrought by the war on drugs by rebuilding families and communities.

By virtue of its investment in treatment, Prop 36 is also an investment in California's children. UCLA has estimated that in just the first year of the program, Prop 36 eligible offenders were parents to over 70,000 children under the age of 18.¹ More detailed analysis of the effects of Prop 36 on parents and children has yet to be conducted. However, based on this initial estimate, it is likely that up to 200,000 children have been affected since 2001.

In order to maximize the benefits of this vital investment, Prop 36 funding should be expanded to augment family-oriented treatment services. California has allowed too many children to fall between the cracks and into the child welfare and juvenile justice systems. It's time to pursue evidence-based and compassionate approaches to treatment and family reunification.

Children and the Drug War

The number of children with incarcerated parents has doubled since 1991.² A large part of this growth is due to the war on drugs, and in particular, the increasing rate of women's incarceration: "Between 1986 and 1999, the number of women incarcerated in state facilities for drug-related offenses increased by

¹ Testimony of UCLA researcher Dr. Angela Hawken, at the hearing of the Assembly Budget Subcommittee on Health and Human Services, March 14, 2007.

² Keva M. Miller, "The Impact of Parental Incarceration on Children: An Emerging Need for Effective Interventions," *Child and Adolescent Social Work Journal*, Vol. 23, No. 4, August 2006, p. 472.

888 percent.”³ Such statistics have led many to describe the war on drugs as a war on women. Given that most women in prisons are single mothers,⁴ the drug war has had a devastating impact on children.

Sentence durations have increased along with higher incarceration rates. When sentences exceed federally mandated timeframes under the Adoption and State Families Act, parents may permanently lose their children to the child welfare system. The maximum sentence for crack, heroin and methamphetamine felony possession in California is three years; parental rights are terminated if a child is in foster care for fifteen out of twenty-two months.⁵

Not surprisingly, parental incarceration has placed tremendous demands on the foster care system. Researchers have found that, “children with incarcerated parents have become an increasingly large share of the foster care population since the mid-1980s and a notable share of US children living with grandparent caregivers.”⁶ Considering that the children of single mothers are at even greater risk of entering the foster care system,⁷ state expenditures associated with incarcerating a single mother convicted of a nonviolent drug offense are often doubled. Furthermore, systemic failures within the foster care system lead to poor outcomes for many foster youth, such as homelessness and incarceration, creating additional, long term costs to society. These monetary costs are accompanied by significant personal costs: less than three percent of foster care children go on to four year college.⁸

Incarceration’s Vicious Cycle

Parental incarceration is extremely damaging to child development. The removal of an income source, as a parent is taken into custody, subjects children to sudden economic stress. Economic hardship is coupled with shame, grief, and emotional withdrawal at the loss of a parent to the prison system. Research has shown that the children of incarcerated parents often suffer from cognitive and developmental delays, as well as “inappropriate coping strategies,” such as delinquency, teen pregnancy, and drug abuse.⁹

In effect, parental incarceration triggers risk factors for juvenile criminal behavior. We know that the children of the incarcerated are far more likely to

³ American Civil Liberties Union, *Caught in the Net: The Impact of Drug Policies on Women and Families*, March 15, 2005, Executive Summary.

⁴ Miller, 2006, p. 475.

⁵ Miller, 2006, p. 474-475.

⁶ Elizabeth I. Johnson, Jane Waldfogel, “Parental Incarceration: Recent Trends and Implications for Child Welfare,” *Social Service Review*, September 2002, p. 461.

⁷ Miller, 2006, p. 474.

⁸ Mark E. Courtney, et al, “Midwest Evaluation of the Adult Functioning of Former Foster Youth: Outcomes at Age 19.” Chapin Hall, Center for Children at the University of Chicago, Working Paper, revised May 2005.

⁹ Miller, 2006, p. 477.

become incarcerated themselves.¹⁰ Indeed, roughly half of the youth in the juvenile system have parents involved in the adult system.¹¹ Unfortunately, involvement with the juvenile justice system is frequently a prescription for problems down the line.

By providing necessary treatment, rather than incarcerating nonviolent drug offending parents, Prop 36 represents a powerful prevention opportunity in the field of juvenile justice. Preventing delinquent behavior benefits individual youth and entire communities. What's more, as noted by the Justice Policy Institute, "each teen prevented from adopting a life of crime (including, future adult offenses) could save the country between \$1.7 million and \$2.3 million per youth."¹²

Prop 36 Treatment: Supporting Families and Saving Dollars

In contrast to the tremendous cost— social, emotional, as well as monetary— of parental incarceration, treatment for nonviolent drug offenders is both cost-effective and compassionate. According to the Child Welfare League of America, comprehensive treatment programs offer the best hope for "breaking the cycle of alcohol and drug dependence and helping families stay together."¹³ Family-oriented treatment may offer even greater benefits:

"A 2003 evaluation of 24 residential family-based treatment programs showed successful outcomes for mothers and their children, including 60% of mothers who remained clean and sober six months after discharge. The study also showed that 44% of children returned to their mothers from foster care."¹⁴

Prop 36 treatment completion rates stand around 32 to 34 percent; given the nature of addiction, these rates are quite impressive, and compare favorably to other effective drug treatment programs. By expanding family-based treatment programs, particularly residential programs, research shows that the state could significantly augment Prop 36's initial success.

Treatment for parents often means treatment for children. Family-based treatment frequently includes mental health services for the children of Prop 36 clients. Furthermore, parenting skills classes, provided by many treatment facilities working with parenting populations, offer significant benefits to parents and children alike. Conversely, the failure to provide adequate residential family-based care to those in need sets both parents and children up for failure.

¹⁰ Miller, 2006, p. 477.

¹¹ Miller, 2006, p. 477.

¹² Justice Policy Institute, *Cost-Effective Youth Corrections: Rationalizing the Fiscal Architecture of Juvenile Justice Systems*, p. 2.

¹³ Mary Bissell and Jennifer Miller, "Seven Solutions for Fighting Meth, Healing Families," *Children's Voice* (Child Welfare League of America), Volume 16, No 1, January/February 2007.

¹⁴ Bissel, Miller, 2007.

We know that Prop 36 has saved the state millions of dollars in incarceration costs alone. Given that, “residential treatment costs for women with children [are] offset three to four times by savings from reduced costs of crime, foster care, TANF, and adverse birth outcomes,”¹⁵ a more family-oriented Prop 36 has the potential to save the state millions more.

Conclusion

In its first year, Prop 36 offenders were parents to over 70,000 children; since 2001, it is likely that up to 200,000 children have been affected. Prop 36 has provided the first glimmer of hope in stopping the intergenerational cycle of incarceration, and supporting California’s families, while saving the state millions of dollars.

As noted by the Little Hoover Commission in its 2003 report,¹⁶ the state has all too often failed the children most in need: those at risk of becoming involved with child welfare services and the juvenile justice system. By expanding funding to Prop 36 treatment and helping parents get well, the state can begin to live up to that obligation. The state should target funding towards evidence-based, family-oriented treatment, such as residential treatment facilities that accommodate children, outpatient facilities with daycare, and mental health services for children. Anything we can do to reduce the harm of addiction and incarceration, and help families stay together, is to the benefit of us all.

¹⁵ Child Welfare League of America, *2004 Children’s Legislative Agenda, Substance Abuse, Families and Recovery*, <http://www.cwla.org/advocacy/2004legagenda14.htm>, accessed 6/18/07.

¹⁶ Little Hoover Commission, *Still in Our Hands: A Review of Efforts to Reform Foster Care in California*, February 2003.