

Key findings of the Evaluation of California's Proposition 36 (Substance Abuse and Crime Prevention Act) Written Testimony for the Little Hoover Commission

Proposition 36 changed California laws to provide qualifying non-violent drug offenders with the opportunity to receive substance abuse treatment as an alternative to incarceration or probation-without-treatment. The law, which took effect on July 1, 2001, allows eligible offenders to enter a substance abuse treatment program at a state-licensed facility while remaining under community supervision.

The California Department of Alcohol and Drug Programs (ADP) was designated by the Governor's Office to serve as the lead agency in implementing and evaluating Prop. 36. Prop. 36 explicitly required an independent evaluation, and through a competitive bid process ADP chose the University of California, Los Angeles Integrated Substance Abuse Programs (hereafter UCLA) to conduct this work. The resulting, recently completed six-year evaluation represents the most comprehensive statewide research on Prop. 36 available. This testimony summarizes the findings of that evaluation.

With the assistance of ADP, UCLA secured the cooperation of several state agencies to collect comprehensive data on treatment and cost outcomes. Costs were analyzed in eight domains: prison, jail, probation, parole, arrest and convictions, drug treatment, health care, and taxes paid.

The research methods used by UCLA had a number of advantages over previous treatment-evaluation studies. Large sample sizes including the full population of eligible offenders allowed full generalization of findings, reliance on administrative data minimized potential biases from offender self-reporting, follow-up periods of up to 30 months significantly exceeded the follow-up periods found in most treatment evaluation research, and the design allowed more accurate identification of effects attributable to the law. Furthermore, the benefit-cost portion of the research was conservatively based on a "taxpayers' perspective"; that is, only those costs and benefits that affect state or county budgets were taken into account.

In April 2007 the final report from UCLA's statewide evaluation of Prop. 36 was released by the state. The following is an executive summary of that cumulative report, including both key research findings and key recommendations generated over the course of the evaluation.

Offenders Referred to Prop. 36

A total of 48,473 offenders were referred for treatment during Prop. 36's fourth year (July 1, 2004 - June 30, 2005). Of this total, 36,285 (74.9%) entered treatment. Show rates rose slightly in each of Prop. 36's first four years and are comparable to show rates in other studies of drug users referred to treatment by the criminal justice system.

Offenders in Prop. 36 Treatment

Characteristics of Prop. 36 treatment clients have not changed through its first four years. In the fourth year, more than half of Prop. 36 participants who entered treatment reported methamphetamine as their primary drug (55.0%), followed by cocaine/crack (13.7%), marijuana (12.7%), alcohol (8.8%), and heroin (8.6%). Most Prop. 36 treatment clients were men (72.8%). About half (45.9%) were non-Hispanic White, 31.4% Hispanic, 16.3% African-American, 2.8% Asian/Pacific Islander, and 1.7% Native American. Their average age was 34.8 years.

About half of Prop. 36 clients in each of the first four years entered drug treatment for the first time. First-time treatment exposure was more common among Hispanics, men, younger drug users, and marijuana users. Many first-time treatment clients had been using their primary drug for over 10 years. Thus, Prop. 36 reached a large number of drug users who had never received treatment before.

Treatment placements were similar across Prop. 36's first four years. Most treatment clients were placed in outpatient drug-free (non-methadone) programs (84.1% in the fourth year) or long-term residential programs (10.9%). Methadone maintenance, methadone detoxification, other detoxification, and short-term residential treatment were used infrequently.

Treatment Completion and Duration

Analyses of treatment completion and duration require sufficient passage of time to allow clients to complete treatment and have their discharge recorded. Therefore UCLA examined these outcomes for clients admitted to treatment during Prop. 36's third year (July 1, 2003 - June 30, 2004).

About one-third (32.0%) of participants who entered treatment in Prop. 36's third year went on to complete treatment. The completion rates in Prop. 36's first and second years were 34.4% and 34.3%, respectively. These rates are similar to those often found in non-Prop. 36 treatment studies.

Half of Prop. 36 outpatient drug-free treatment clients (50.8%) received at least 90 days of treatment, as did 37.5% of long-term residential treatment clients. These rates are typical of drug users referred to treatment by the criminal justice system. A period of 90 days is widely cited as the minimum length of stay before treatment is likely to have a beneficial effect. Treatment duration and effectiveness is also associated with appropriate level of care, which is discussed below.

Treatment completion was lower for African-Americans and Hispanics than for Whites, Asian/Pacific Islanders, and Native Americans, and lower for parolees than for probationers. These findings highlight the importance of better assessing and addressing barriers to success for these subpopulations.

Methamphetamine users were similar to the overall Prop. 36 population in their rate of treatment completion and treatment duration. Despite potential clinical challenges that may arise from methamphetamine use, methamphetamine users do not do worse than others on treatment completion and duration measures. This suggests that methamphetamine problems are as treatable as problems associated with other drugs.

Treatment completion was lower and treatment duration was shorter for heroin users than for users of other drugs. Few heroin users in Prop. 36 were placed in narcotic replacement therapy (NRT) programs like methadone detoxification or maintenance. Heroin users' performance in treatment may improve significantly if NRT is made more available.

Re-Offending

Re-arrest rates for first-year Prop. 36-eligible offenders were lower over a 30-month period among Prop. 36 offenders who completed treatment than for those who did not complete treatment, controlling for offender background characteristics. These outcomes emphasize the potential value of improving treatment participation and completion rates.

Drug offenders eligible for Prop. 36 in its first year were more likely to have a new arrest for drug or property offenses during the ensuing 30-months than a pre-Prop. 36-era comparison group of similar offenders who would have been eligible for Prop. 36. Most arrests in both groups were for drug crimes. Offenders in the Prop. 36-era spent more time in the community and hence had more time available to re-offend and be re-arrested. These are outcomes among all offenders who were eligible for Prop. 36, regardless of their level of actual participation. Therefore these findings show the effect of Prop. 36 as the policy was implemented, under which some offenders participated in Prop. 36 and others did not.

Arrest patterns were similar in Prop. 36's second year. Outcomes were stable between Prop. 36's first two years.

Crime Trends

Prop. 36 implementation was not associated with a significant increase or decrease in statewide crime trends. UCLA examined California crime trends before and after implementation of Prop. 36 in July 2001. These analyses showed some trends fluctuated slightly upward or downward but there was no reliable evidence of any significant change in any of the crime trends analyzed.

Treatment Differences

Placement rates into residential care were significantly lower for Prop. 36 treatment clients than for non-Prop. 36 criminal justice referrals. This was true even after controlling for client demographics and drug use patterns. Significant changes to treatment and client-composition trends occurred in California after Prop. 36: large increases in the number of new treatment admissions and in the number of heavy users (daily users of an illicit drug) referred to treatment through the criminal justice system occurred. Although the absolute number of available residential placements increased slightly after Prop. 36 implementation, the treatment system was unable to keep pace with the increase in demand. The percentage of heavy users referred to treatment through the criminal justice system that was placed in residential programs declined significantly following Prop. 36 implementation.

Young male Hispanic Prop. 36 treatment clients were less likely to be placed in residential treatment than White clients with similar patterns of drug use. This placement disparity diminished for older offenders. Additionally, there were no placement differences between Whites and African-Americans or between genders.

Placement rates into narcotic replacement therapy are low among opiate-using Prop. 36 offenders. Very low rates of NRT placement were found both for Prop. 36 and non-Prop. 36 criminal justice referrals compared with self-referrals. NRT placement among Prop. 36 offenders was low across the board, but after controlling for other factors, young (under twenty-five years of age) African-American clients were less likely to receive NRT. This placement difference disappears for offenders over twenty-five years of age. Although placement into NRT for criminal justice referrals falls well short of placement rates for self-referrals, a year-to-year improvement was observed. NRT placement rates among opiate-using Prop 36 offenders increased from 11% in the first year to 15% in the third year.

Placement of heavy-using Prop. 36 clients into residential care is related to criminal justice outcomes. Although true for all primary drugs, the effect of treatment placement (residential or outpatient) on criminal justice outcomes was most dramatic for Prop. 36 treatment client reporting methamphetamine as their primary drug. Prop. 36 clients entering residential treatment who had been daily users of methamphetamine had significantly fewer arrests during the thirty-month follow-up period compared with methamphetamine users placed into outpatient treatment. This suggests that expanded use of residential treatment for heavy users, in particular methamphetamine users, should be prioritized.

Among Prop. 36 opiate-users, placement into NRT is related to offender outcomes. Client-treatment and criminal justice outcomes differed significantly depending on whether clients were placed into NRT. NRT clients were significantly more likely to have a successful treatment discharge and, therefore, to comply with the terms of their Prop. 36 probation requirements. They also had significantly fewer arrests in the thirty months following their entry into the program. These results speak to the importance of overcoming attitudinal and access barriers to expanded use of NRT.

Benefit-Cost Analysis

Three studies showed that Prop. 36 yielded cost savings to state and local governments.

Taxpayers saved nearly \$2.50 for every \$1 invested. Study 1, using a pre-Prop. 36-era comparison group and all first-year Prop. 36-eligible offenders yielded a benefit-cost ratio of nearly 2.5 to 1.

Treatment “completers” saved \$4 for every \$1 allocated. Prop. 36 participants who completed their treatment program achieved a benefit-cost ratio of approximately 4 to 1.

Cost savings for the second year of Prop. 36 were similar to cost savings in the first year. This suggests stability in benefit-cost outcomes.

Three conclusions follow from the cost analyses: Prop. 36 substantially reduced incarceration costs, Prop. 36 resulted in greater cost savings for some eligible offenders than for others, and Prop. 36 can be improved.

A number of cost factors are not included in this benefit-cost analysis, including mental healthcare, welfare payments, child welfare services, or the effect of Prop. 36 on criminal justice costs for non-eligible offenders.

Funding Implications of Improvements to Prop. 36

Several options for improving the performance of Prop. 36 are presented along with their associated costs. Four treatment expansion options and one community-supervision enhancement option are considered. In all cases, the improvements would require funding levels that are higher than those currently in place. Additional analyses of data accumulated for the benefit-cost analysis will provide a basis for further projections of costs associated with refinements in Prop. 36 implementation.

Option A: Pre-Prop. 36-Era Placement Parity. Estimates are provided of the incremental cost to provide Prop. 36-era clients with the care they would have received had they been referred to treatment through the criminal justice system in the pre-Prop. 36-era. Providing a pre-Prop. 36-era level of treatment would cost an additional \$19 million.

Option B: Providing an Adequate Treatment “Dose.” Estimates are provided of the cost implications of reducing the number of clients who currently enter Prop. 36 treatment but receive an insufficient treatment “dose” (fewer than 90 days in treatment). It would cost at least \$18 million to get all Prop. 36 offenders who did not receive 90 days of care to a 90-day treatment minimum mark.

Option C: Providing Treatment to Offenders Not Currently Entering Treatment. Estimates are provided of the cost of providing outpatient drug-free treatment to those individuals who are currently untreated. This would increase treatment costs by at least \$13.3 million.

Option D: Providing NRT Treatment to Treatment Clients Not Currently Receiving NRT. Estimates of cost implications of expanded use of NRT for Prop. 36 treatment clients who report opiates as their primary drug are provided. Specifically, all offenders who reported opiates as their primary drug and who were assigned to outpatient drug-free treatment are assigned the cost of receiving NRT. Extending NRT to all medically eligible clients would result in annual cost increase of at least \$3.7 million.

Option E: Enhanced Community Supervision. Estimates are provided of the cost implications of enhanced community supervision under Prop. 36 that depends on the supervision needs of the offender. Offenders' number of prior convictions in the 30-month period preceding their entry into Prop. 36 was shown to be a strong predictor of follow-up recidivism. Estimates are based on a 25% enhancement to the current supervision cost of offenders who enter Prop. 36 with no convictions in the 30 months prior to their Prop. 36 conviction, a 50% enhancement for offenders who enter with one to four prior convictions in the 30 months prior to their Prop. 36 conviction; and the provision of intensive supervision probation (ISP) for offenders who have five or more prior convictions in the 30 months prior to their Prop. 36 conviction. The enhancements in community supervision would result in an increased cost of supervision of approximately \$25 million.

Recommendations

Based on evidence accumulated over the course of the evaluation, UCLA generated the following recommendations for consideration:

- Funding should be allocated to ensure greater availability of favorable drug-treatment options. Residential treatment should be available for those with the most severe drug abuse as determined by a standardized assessment. NRT should be provided as a first line intervention for those Prop. 36 treatment clients with heroin or other opiate use problems.
- Practices associated with better Prop. 36 show rates should be pursued, including locating assessment units in or near the court, performing assessments in a single visit, allowing walk-in assessments without appointments, and incorporating procedures used in drug courts (e.g. a court calendar dedicated to drug offenders, dialog between the judge and offender, close supervision, and collaboration involving judge, prosecutor, defense attorney, and treatment provider). Evidence-based practices established by existing research should also be incorporated wherever possible, and financial incentives should be considered for counties and providers for instituting these practices or for otherwise demonstrating more success on objective measures such as reduced time from Prop. 36 conviction to treatment entry.
- Explore handling offenders with high rates of prior convictions differently. This could include placement into more-controlled treatment settings (e.g. residential treatment), more intensive supervision, or drug court referral.
- Collaboration and coordination among court, probation, parole, and treatment systems should continue to be improved with the goal of

admitting offenders into appropriate treatment in the shortest possible time while maintaining appropriate levels of oversight and supervision.

- Drug testing information should be considered to provide an objective basis for delivery of additional services or for a program of graduated sanctions for offenders who are not complying with Prop. 36 requirements.
- A concerted, collaborative effort should be made to streamline access to and use of state data for authorized evaluation studies. Efforts to improve the quality of data sources such as the Prop. 36 Reporting Information System are also important.
- Further policy-relevant sub-studies should be conducted to address issues that remain, including research on barriers to success and potential implementation improvements for Hispanics, parolees, offenders with co-occurring mental disorders, women, including pregnant women and women with children, and the homeless. Research is also recommended to investigate the net effect of Prop. 36 on crime among the broader population of both drug offenders and non-drug offenders.