



# Promising practices for delivery of court-supervised substance abuse treatment: Perspectives from six high-performing California counties operating Proposition 36

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## ABSTRACT

Operative for nearly a decade, California's voter-initiated Proposition 36 program offers many offenders community-based substance abuse treatment in lieu of likely incarceration. Research has documented program successes and plans for replication have proliferated, yet very little is known about *how* the Proposition 36 program works or practices for achieving optimal program outcomes. In this article, we identify policies and practices that key stakeholders perceive to be most responsible for the successful delivery of court-supervised substance abuse treatment to offenders under Proposition 36. Data was collected via focus groups conducted with 59 county stakeholders in six high-performing counties during 2009. Discussion was informed by seven empirical indicators of program performance and outcomes and was focused on identifying and describing elements contributing to success. Program success was primarily attributed to four strategies, those that: (1) fostered program engagement, monitored participant progress, and sustained cooperation among participants; (2) cultivated buy-in among key stakeholders; (3) capitalized on the role of the court and the judge; and (4) created a setting which promoted a high-quality treatment system, utilization of existing resources, and broad financial and political support for the program. Goals and practices for implementing each strategy are discussed. Findings provide a "promising practices" resource for Proposition 36 program evaluation and improvement and inform the design and study of other similar types of collaborative justice treatment efforts.

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## 1. Introduction

Since its inception in July 2001, California's voter-initiated Substance Abuse and Crime Prevention Act, commonly known as Proposition 36, has matured into a well-known criminal justice diversion option that offers community-based substance abuse treatment to nonviolent offenders in lieu of incarceration. Implemented statewide on a large scale within a very short time period (Hser, Teruya, et al., 2007), Proposition 36 has prompted over 300,000 admissions to drug treatment thus far (Urada et al., 2009) and the program has resulted in significant system-wide impacts (Hardy, Teruya, Longshore, & Hser, 2005; Hser, Teruya,

et al., 2007; Niv, Hamilton, & Hser, 2009). The primary goal of the Proposition 36 program is to divert substance using offenders from likely incarceration into the community where they can access and benefit from substance abuse treatment. From a policy perspective, Proposition 36 has been credited with incorporating a public health approach into drug law (Klein, Miller, Noble, & Speigman, 2004) and has been celebrated as one of the few correctional reforms to have been fully implemented this decade (Ehlers & Ziedenberg, 2006). Since the inception of Proposition 36, more than 20 states have considered, and some have implemented, similar legislation (The Avisa Group, 2005).

Much of the research on Proposition 36 has focused on who participates and the outcomes of those served. For example, studies have documented offender characteristics and treatment needs (Anglin et al., 2007; Brecht, Stein, Evans, Murphy, & Longshore, 2009; Hser et al., 2003; Longshore et al., 2005; Prendergast, Greenwell, Farabee, & Hser, 2009; Urada et al., 2009; Wiley et al., 2004), treatment services utilization and outcomes (Cosden et al., 2006; Evans, Hser, & Huang, 2009; Evans,

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Li, & Hser, 2008; Farabee, Hser, Anglin, & Huang, 2004; Fosados, Evans, & Hser, 2007; Hser, Evans, Teruya, Huang, & Anglin, 2007), and cost effectiveness (Hawken, 2008; Longshore, Hawken, Urada, & Anglin, 2006).

Collectively, studies on Proposition 36 have indicated that the program generally improved offender functioning and yielded significant taxpayer cost savings, yet, in contrast to reported program successes, very little is known about *how* the Proposition 36 program works and practices utilized for achieving optimal program outcomes. Considerable county-level variation exists in Proposition 36 program operation (Ford, Brookes, & Hauser, 2005; Gelber & Rinaldo, 2005; Hardy et al., 2005; Hser et al., 2003; Klein et al., 2004; Percival, 2004), characteristics of participating offenders (Hser et al., 2003), and outcomes (Hser, Evans, et al., 2007). However, significant gaps remain about elements that comprise the Proposition 36 program and which program elements work best, for whom, and in what contexts. This paper describes policies and practices perceived by program implementers to be responsible for the successful delivery of court-supervised community-based drug treatment under Proposition 36.

### 1.1. Therapeutic courts

Proposition 36 is part of the national trend toward the integration of criminal justice and health service systems to divert substance-dependent offenders away from criminal justice settings and to treat and supervise them in the community. Known by an assortment of terms such as “collaborative justice,” “therapeutic jurisprudence,” “problem-solving courts,” and “specialty courts,” these efforts have been characterized as partnerships that promote offender accountability by combining judicial supervision with rehabilitation services that are rigorously monitored and focused on recovery (California Courts, 2009). There is growing support for therapeutic courts, as evidenced by their proliferation and use with different types of populations such as mentally ill offenders (Broner, Lattimore, Cowell, & Schlenger, 2004; Erickson, Campbell, & Lamberti, 2006; Grudzinskas, Clayfield, Roy-Bujnowski, Fisher, & Richardson, 2005; Gondolf, 2009; Redlich, Steadman, Monahan, Robbins, & Petriola, 2006) and adolescents (Belenko & Logan, 2003; Boles, Young, Moore, & Di-Pirro Beard, 2007; Bryan, Hiller, & Leukefeld, 2006; Gilmore, Rodriguez, & Webb, 2005; Henggeler et al., 2006; Rodriguez & Webb, 2004; Sloan, Smykla, & Rush, 2004).

### 1.2. Drug courts and Proposition 36

Drug courts may be the most widely diffused type of therapeutic court. In operation for more than 20 years, drug court programs have proliferated (Belenko, DeMatteo, & Patapis, 2007; Hora, 2002). Although more research is needed to better understand their operation and impact (Belenko, 2002; Merrill & Bird, 2009; Wilson, Mitchell, & Mackenzie, 2006; Wiseman, 2005), general research consensus indicates that drug courts are more effective than routine criminal justice case processing (Galloway & Drapela, 2006; Gottfredson, Najaka, Kearley, & Rocha, 2006; Krebs, Lindquist, Koetse, & Lattimore, 2007; Marinelli-Casey et al., 2008; Peters & Murrin, 2000; Turner et al., 2002).

Led by the National Association of Drug Court Professionals, in 1997 a diverse group of experts identified ten key components of adult drug courts. These include: integration of drug treatment with criminal justice case processing; a non-adversarial approach; early identification of eligible participants and prompt program placement; access to a continuum of care; frequent monitoring of abstinence; a coordinated response to noncompliance; ongoing judicial interactions; ongoing program performance monitoring

and evaluation; continuing interdisciplinary education; and partnerships between key players (National Association of Drug Court Professionals, 1997).

Intended as a practical guide for the development of effective drug courts, the key components have become an influential and enduring resource. For example, in California the majority of drug courts include intensive treatment services with frequent monitoring and continuing care (Burns & Peyrot, 2003; Judicial Council of California, 2010). In evaluation research, many of these and other practices were associated with positive outcomes including: a non-adversarial approach, graduated sanctions and incentives, frequent testing for alcohol and drug use, a single overseeing treatment provider, volunteer judges with no mandatory rotation off the bench, and a minimum six-month abstinence period prior to program graduation (Judicial Council of California, 2006).

The design of Proposition 36 was largely informed by community experiences with drug courts (Hardy et al., 2005) but Proposition 36 represents a significant “scaling up” of the drug court model. Research on the diffusion of evidence-based practices suggests that multiple factors influence the implementation of research to practice (Rycroft-Malone et al., 2004). For example, tailoring practices to local contexts increases the likelihood of affecting change (Torrey, Finnerty, Evans, & Wyzik, 2003), greater use of empirically based practices is associated with particular organizational characteristics (Henderson, Young, Farrell, & Taxman, 2009), and concerted efforts must be made to implement and sustain practices on a broader scale (Resnick & Rosenheck, 2009). “Drug court-like procedures” have been shown to enhance Proposition 36 program operation (Longshore et al., 2003) but it is unclear whether drug court program elements can maintain their effectiveness if adopted broadly without appropriate modification.

There are significant operational differences between California’s Proposition 36 and drug court programs (Carey, Pukstas, Waller, Mackin, & Finigan, 2008; Evans, Li, Urada, & Anglin, in press; Little Hoover Commission, 2008; Riley, Ebener, Chiesa, Turner, & Ringel, 2000). For example, offense-based eligibility criteria and standards of offender suitability are used to select individuals for drug court participation whereas under Proposition 36, treatment must be made available to all offenders who meet the conviction-based eligibility criteria despite motivation level or other indicators of program suitability. Another programmatic difference, drug court includes intensive judicial supervision and court monitoring (e.g., frequent status hearings with the judge), frequent and random drug testing, and brief incarcerations for program noncompliance. In contrast, Proposition 36 specifies that probation supervision and court monitoring occur, but the type and level of supervision and monitoring are unspecified. Moreover, incarceration of Proposition 36 offenders for program noncompliance is prohibited, although there are indications that judges have found creative ways to exercise judicial sanctioning (including short incarceration stays) (Burns & Peyrot, 2008). A final programmatic difference, upon treatment failure, Proposition 36 must provide up to three opportunities for offenders to try treatment again, whereas under drug court continued treatment following program failures is by judicial discretion.

### 1.3. Process factors influence successful implementation of new policies and practices

Many independent and inter-related components are involved in the operation of drug courts (Logan, Williams, Leukefeld, & Minton, 2000) and drug court processes are influenced by contextual factors as well (Longshore et al., 2001), such as level of collaboration between key stakeholder personnel (Wenzel, Turner, & Ridgely, 2004; Wolfe, Guydish, Woods, & Tajima, 2004),

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