



CITY OF LONG BEACH

DEPARTMENT OF HEALTH AND HUMAN SERVICES

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CITY OF LONG BEACH

September 4, 2001

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

SUBJECT: Report on Local Implementation of Proposition 36

DISCUSSION

This is in response to a request from Councilwoman Bonnie Lowenthal made at the June 26, 2001 City Council meeting for a report on the impact of Proposition 36.

Background and Key Provisions

In November 2000, California voters approved the passage of Proposition 36, the Substance Abuse and Crime Prevention Act of 2000. This initiative amends the California Health and Safety Code and Penal Code to require probation and drug treatment for persons convicted of possession, use, transportation for personal use, or being under the influence of a controlled substance, and related parole violations. Proposition 36 eligibility is limited to non-violent drug use and/or possession offenses. Persons with new convictions for drug offenses qualify for treatment provided they are not convicted of drug sales or manufacture, or any non-drug crime at the same time. Offenders are also excluded if they have a prior violent felony conviction.

The goals of the Proposition are as follows:

- To divert nonviolent defendants, probationers, and parolees from incarceration into community-based substance abuse treatment programs for personal possession or drug use offenses.
- To halt the wasteful expenditures each year on the incarceration and re-incarceration of nonviolent drug users who would be better served by a community-based treatment program.
- To reduce drug related crime and preserve jail and prison cells for more serious and violent offenders. Furthermore, to improve public health by reducing drug abuse and dependence through effective treatment strategies.

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Proposition 36 does not directly affect the laws against drug possession or related crimes. It only affects the punishment imposed on persons who meet the criteria for eligibility for treatment instead of jail time. Those who qualify are granted probation and required to complete a community-based treatment program for up to one year, with up to six months of aftercare services. Under Proposition 36, a judgment of conviction is entered prior to receiving drug treatment services, and the charges and conviction may be dismissed after successful completion of drug treatment.

Currently, a suspect arrested for a nonviolent drug-related crime may be afforded four options: diversion, drug court, Proposition 36, or incarceration.

1. Diversion is afforded to first time offenders. Diversion is a pre-conviction program and is an informative and education based program. Once Diversion is completed, the court dismisses the case and the defendant is not convicted.
2. Drug Court is also a pre-conviction option that provides strong links between the Criminal Justice System and treatment providers. Drug Court assigns one judge, one prosecutor, one defense attorney, and one treatment provider to a given defendant to work together to guide, monitor and support the defendant through a treatment and recovery program. In exchange for successful completion of the treatment program, the court may dismiss the original charge, reduce or set aside a sentence, offer some lesser penalty, or offer a combination of these.
3. Proposition 36 is a post-conviction program whereby incarceration is replaced with treatment. Upon completion of the program, the defendant may petition the sentencing court for dismissal of the charge. If the court determines that the defendant successfully completed the treatment and complied with the conditions of probation, the court shall set aside the conviction and dismiss the incident or information against the defendant. Regardless of the completion of drug treatment, the arrest and conviction on which the probation was based may be recorded by the Department of Justice and disclosed in response to any peace officer application request or any law enforcement inquiry. Offenders may be eligible for Proposition 36 two times before mandatory incarceration is imposed.
4. Incarceration is post conviction and will continue to be imposed as set forth in the California Penal Code and Health and Safety Code.

Determination as to which option a particular person is eligible for or utilizes will be made in the criminal justice system. Offenders may also opt out of Proposition 36 and accept incarceration.

Funding for Proposition 36

A statewide total of \$60 million in FY 2000-2001 has been designated for planning and start-up costs of Proposition 36, and \$120 million annually has been designated for drug treatment services from FY 2001-02 to FY 2005-06. Los Angeles County has been allocated \$15.7 million in FY 2000-01 and \$30 million for FY 2001-02. Funds will cover local costs for treatment, probation supervision, court monitoring, and other costs necessary for implementation. The Board of Supervisors has designated the County of Los Angeles Department of Health Services Alcohol and Drug Program Administration (ADPA) as the lead County agency for administration of the program.

Under Proposition 36, all participating drug treatment programs are required to be State certified (non-residential treatment) or licensed (residential treatment) by the State Department of Alcohol and Drug Programs (ADP).

Treatment Implementation

Implementation of Proposition 36 began on July 1, 2001. Twenty-six designated courts will monitor cases under this initiative. Long Beach has one full time court with Judge Gary Ferrari hearing Proposition 36 cases and one part-time court with Commissioner Castner hearing cases. Additionally, there is a part-time court in San Pedro with Judge Thomas Simpson handling the greater San Pedro area cases including Long Beach.

The first point of contact for a Proposition 36 participant is at a Community Assessment Service Center (CASC) which provides initial clinical assessments and treatment recommendations to the court. Initially, eleven CASCs will handle Proposition 36 participants, expanding to twenty sites as the caseload increases. Probation staff is co-located at the CASCs to conduct orientations and make recommendations to the courts. Participants then must report to their treatment program for enrollment (see Attachment 1).

Prior to the implementation of this initiative, CASC sites were in place to provide screening and referral services for members of the general public seeking assistance for substance abuse problems. In addition, CASCs provide clinical assessments for the Department of Public Social Service clients, General Relief and Calworks. The CASC in Long Beach is located at Behavioral Health Services, 1775 N. Chestnut Avenue, 90813.

The courts, with the recommendation of the CASCs and probation, accept participants under Proposition 36 and refer to placement in the appropriate level of treatment. Proposition 36 treatment follows a three level model: Level one consists of outpatient treatment for a minimum of 90 days; level two may include outpatient counseling, narcotic treatment, daycare habilitative treatment, and/or residential treatment for a minimum of 180 days; and level three includes outpatient counseling, narcotic

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treatment, daycare habilitative treatment, and/or residential treatment for a minimum of 270 days. All levels of treatment include random, observed drug testing and up to six months of aftercare, which may include periodic outpatient counseling sessions, relapse/recovery groups, self-help groups, and mentorship programs.

In the first phase of Proposition 36 implementation, only current Los Angeles County ADPA contracted, state certified or licensed treatment programs are receiving referrals from the CASC's to provide treatment services. In the first week of July 2001, contract augmentations were distributed to existing, county contracted and state licensed/certified programs, increasing provider's current county contracts by 15%.

In September 2001, the LA County ADPA will release Requests for Proposals to address treatment service gaps (insufficient capacity for specific service modalities, underserved populations, and underserved geographic areas). The ADPA will implement these contracts in January 2002.

Drug Treatment Services

As many as 15,000 to 20,000 new participants are expected to enter the system of care under Proposition 36. Funding is considered to be inadequate for the projected number of individuals eligible under this initiative. The predicted costs for providing necessary services is estimated at \$54.8 to \$74 million each year, exceeding the \$30 million per year available to LA County (ADPA, 2001). According to the LA County Alcohol and Drug Program Administration, given the lack of available funds, outpatient services will carry the bulk of the caseload. Only the most serious cases, estimated at about one-quarter of participants, will receive residential care.

All eligible treatment services are required to be state certified non-residential treatment, or state licensed residential treatment. The licensing application process includes a thorough review of the applicant's facility and program services. Facilities licensed by the State ADP must provide education/group/individual sessions and/or detoxification services, and recovery and/or treatment plans.

In the City of Long Beach, as of June 2001, there are 23 drug and alcohol programs licensed and/or certified by the State of California Department of Alcohol and Drug Programs (eleven of these programs provide residential treatment services). Sixteen of these facilities have current contracts with LA County ADPA.

The California Department of Alcohol and Drug Programs is the sole licensing authority for residential non-medical alcoholism or drug abuse recovery or treatment facilities. Local officials are involved in zoning of the property for commercial and residential use and issuance of use permits and business licenses. Facilities providing services to six or fewer persons are exempt from certain local land use, zoning ordinances (not exempt from ADP licensure) and other restrictions, under HSC Section 11834.23.

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The State notifies the Long Beach Department of Planning and Building when requests for licensing of these facilities are made. They also indicate, depending on the specific license requested, what separation is required between similar uses. Based on the City's database of facilities (which is not comprehensive), the Department of Planning and Building advises the State if there are similar facilities within the prescribed radius. The issuance of the State license is decided solely by the State; the City has no discretion in the decision.

Concerns have been expressed regarding the lack of local government authority over residential facilities serving six or fewer residents. When directly questioned about the potential for new, small licensed residential facilities serving six or fewer residents which may appear in Long Beach, a representative from LA County ADPA stated that the county will not contract with "fly-by-night" facilities. The representative continued by stating that in the second phase of funding, which will be the first Request for Proposals under Proposition 36, the County will be looking to fund established, licensed facilities with proven and evaluated track records.

Of the eleven currently licensed residential programs in Long Beach, three agencies provide services to six or fewer residents (see attachment 2).

Non-treatment facilities

Another concern that has been expressed is the potential to see new, unregulated sober living facilities in Long Beach. Sober living environments, or alcohol and drug free housing, provide cooperative living arrangements for persons recovering from substance use. They do not provide any treatment or detoxification services, or recovery support services.

As sober living facilities do not provide treatment services, they do not require state licensure and will not be contracted as Proposition 36 treatment providers. Components of the treatment and recovery continuum however may include referrals to transitional living facilities as an adjunct to treatment. Client housing may be reimbursed as a miscellaneous cost if the client is concurrently receiving treatment services and the housing facility is affiliated with a drug treatment program that has a contract with the county lead agency to provide housing pursuant to the Act. According to the County ADPA, provision of drug treatment is the current priority, and given the lack of funding, an action plan regarding adjunct housing has not yet been addressed at the county level.

The Long Beach Department of Health and Human Services is of the opinion that the lack of available funds, the mechanism for funding (mainly to established facilities), and the state licensing requirements will discourage small start-up facilities.

This matter was reviewed by Deputy City Attorney Donna Gwin on August 23, 2001.

Conclusion

At this early stage in the implementation of Proposition 36, there are too many variables to forecast its impact. All of the city departments who participated in the writing of this report agree that it will take time to see how Proposition 36 will be fully implemented. However, the county experts responsible for implementation of this new law are unanimous in their belief that the current funding levels are insufficient.

The following departments have contributed to the body of this report: Police, Planning and Building, and Community Development.

TIMING CONSIDERATIONS

The report was requested by Councilwoman Bonnie Lowenthal on June 26, 2001.

FISCAL IMPACT

There is no direct impact on the City's budget. There is a significant impact to the State budget and several Los Angeles County agencies (Alcohol and Drug, Probation and Sheriff's Department/Jail) will be impacted.

IT IS RECOMMENDED THAT THE CITY COUNCIL:

Receive and file this report.

Respectfully submitted,



RONALD R. ARIAS
DIRECTOR
HEALTH AND HUMAN SERVICES

APPROVED:

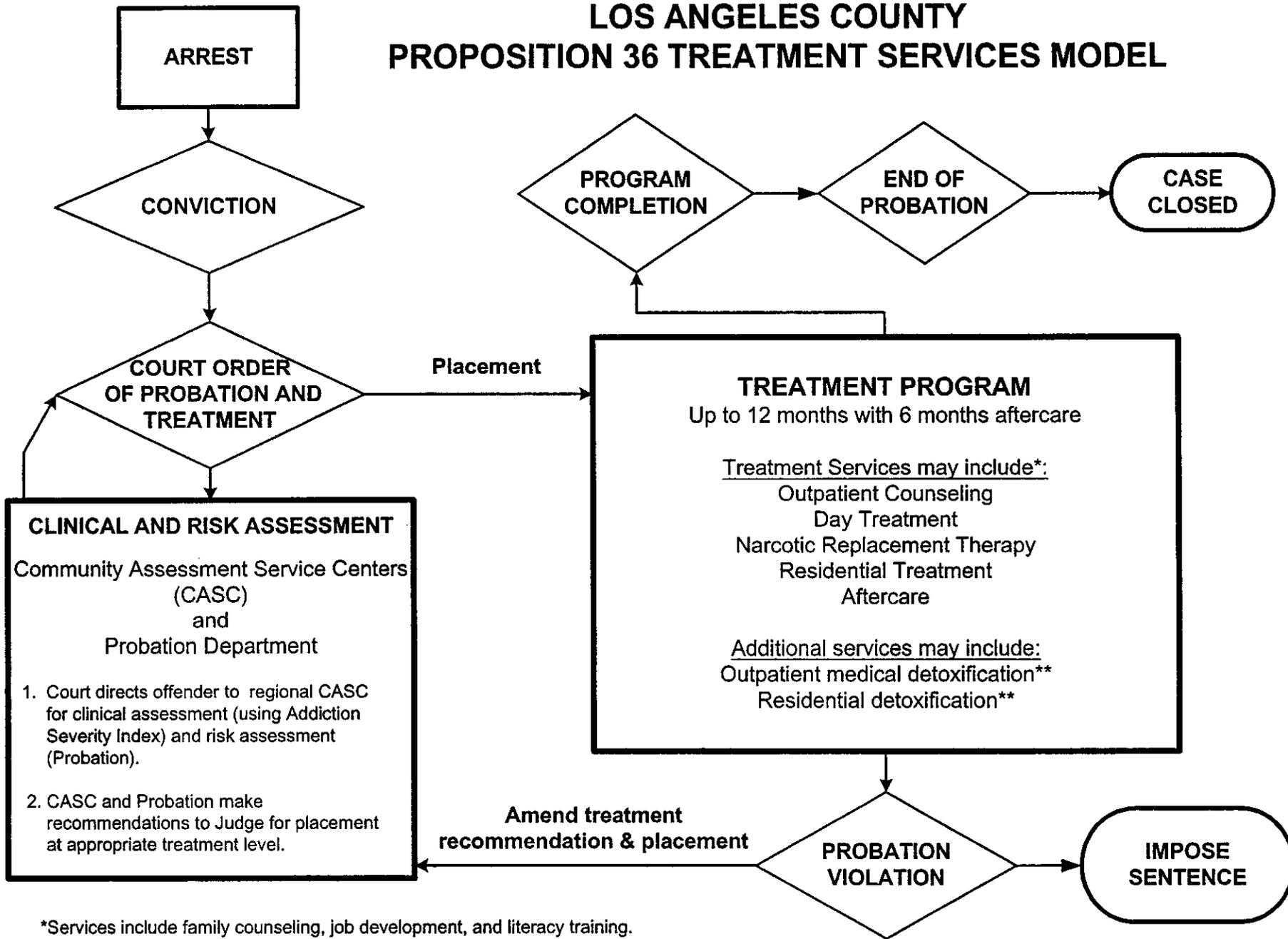


HENRY TABOADA
CITY MANAGER

ATTACHMENTS

Attachment #1

LOS ANGELES COUNTY PROPOSITION 36 TREATMENT SERVICES MODEL



CLINICAL AND RISK ASSESSMENT
Community Assessment Service Centers (CASC) and Probation Department

1. Court directs offender to regional CASC for clinical assessment (using Addiction Severity Index) and risk assessment (Probation).
2. CASC and Probation make recommendations to Judge for placement at appropriate treatment level.

TREATMENT PROGRAM
Up to 12 months with 6 months aftercare

Treatment Services may include*:
Outpatient Counseling
Day Treatment
Narcotic Replacement Therapy
Residential Treatment
Aftercare

Additional services may include:
Outpatient medical detoxification**
Residential detoxification**

*Services include family counseling, job development, and literacy training.

**Medical detoxification followed by required treatment services.

Attachment # 2

**City of Long Beach
Licensed and/or Certified by the State of California Department of Alcohol and Drug Programs**

As of June 2001

<i>Name of Agency</i>	<i>Address</i>	<i>City Council District</i>	<i>Residential Y/N</i>	<i>Bed Capacity</i>
Sobriety House of Long Beach- Sub. Abuse Foundation	Various locations- 90804		N	
Atlantic Recovery Services	944 Pacific Avenue, 90813	1	N	
Redgate Memorial Recovery Center	1775 Chestnut Ave, 90813	1	N	
The Liro Zone	306 Elm Ave., 90802	1	N	
Women to Women Residential Program	836 Atlantic Ave., Long Beach, 90813	1	Y	12
Flossie Lewis Recovery Center	341 East Sixth Street, 90802	1	Y	12
Flossie Lewis/New Life Center	615 Elm Ave, 90802	1	Y	Res. 6/tot. 12
Flossie Lewis Recovery Cntr.	351 East Sixth Street, 90802	1	N	
Baby Step 2 & 3	757-59 Loma Vista Drive, 90813	1	Y	12
Men's Twelfth Step House, Harbor Area	1005 East Sixth Street, 90802	2	Y	48
A New Day Center- Outpatient Sub. Abuse Foundation	3125/3137 East 7 th Street, 90804	2	N	
House of Levi Christian Men's Home	725 Rose Ave., 90813	2	Y	6
New Found Life	2211/2137 East Ocean Blvd., 90803	3	Y	24

<i>Name of Agency</i>	<i>Address</i>	<i>City Council District</i>	<i>Residential Y/N</i>	<i>Bed Capacity</i>
Baby Step Inn	1755 Freeman Ave., Apt. 1,2,3,4, 90804	4	Y	Res.16/ Total 24
Substance Abuse Foundation	1046 Redondo Ave., 90804	4	N	
City of Long Beach Alcohol and Drug Rehabilitation	2525 Grand Avenue, 90806	5	N	
American Indian Changing Spirits	2131/2133 Pacific Avenue, 90806	6	Y	15
Greater Long Beach Child Guidance Center	501 East 27 th Street, 90806	7	N	
Greater Long Beach Child Guidance Center- Connection	3491 Elm Ave., 90806	7	N	
Tarzana Treatment Center- LB	2101-2145 Magnolia Ave., 90806	7	Y	84
Greater Long Beach Child Guidance Center- North LB	4343 Atlantic, 90807	8	N	
Woman to Woman Outpatient Services	3750 Long Beach Blvd., 90807	8	N	
Freedom House	268 East Louise Street, 90805	8	Y	6

23 Total/11 Residential