

Making It Work!

2005

**A Statewide Technical Assistance Conference
for the
Substance Abuse and Crime Prevention Act of 2000 (SACPA)**

**October 26-28
San Diego, California**

Proceedings

Day One

Dr. David Deitch, PhD, Director for the Center for Criminality & Addiction Research, Training & Application (CCARTA), at the University of California at San Diego (CSD) opened the conference by noting that the conference participants included some "survivors and pioneers" who had been present for all four previous Making It Work conferences. He went on by saying "This is our fifth conference, and each year we have learned and discovered much together. In each year we have learned from each other, and we intend to continue in that tradition."

Dr. Deitch then introduced **Kathryn Jett**, California Department of Alcohol and Drug Programs (ADP) Director. Director Jett recalled how earlier conferences dealt with implementation of a program that had never been tried before on a statewide scale, and would draw national attention. She said the effort to implement Proposition 36 began with the benefit of lessons learned from drug courts. At the county level there were "58 models" of how the new system might work. She paid tribute to the California Endowment for its role in making the annual Making It Work conferences possible, opening the way for the exchange of experience and knowledge that has taken place at each event in the last five years. She recalled that Dr. Bob Ross of the California Endowment set the tone at the first conference when he declared that "failure is not an option." She said one observer had declared that making Proposition 36 work would be like "curing Stage Four cancer in five years... People are expecting the impossible." One task has been to set realistic expectations, she continued, and to bring the court system and the treatment field together to seek mutual goals in dealing with addicted individuals. The counties came up with "miraculous" ways of dealing with problems that were never foreseen when people voted for the initiative. The job for her department and the University of California at Los Angeles (UCLA) evaluators are to look at the counties to see what was working and what needed to be fixed. "We realized there would be problems and we relied on you to do everything you could to overcome those problems so that at

the end of the day-where we're getting relatively soon-we can say what has worked and what hasn't." As the time approaches for reauthorization of the original Proposition 36 funding, she said legislators and policymakers will be asking hard questions about what happened to the 100,000 persons who were given an opportunity for treatment under Proposition 36.

Director Jett noted that the UCLA evaluation had produced one finding that is being noted throughout the country-that methamphetamine addicts are faring as well if not better than other addicts under Proposition 36. "Some people back East are actually afraid of methamphetamine addicts," she said. "They've conjured up this psychotic, sort of high-end methamphetamine addict. Those of you who are working in treatment and the courts know that we see a whole gamut of methamphetamine addicts."

She went on to discuss the issue of reauthorization of Proposition 36 funding due to expire on June 30, 2006. At this conference, she said, Judge Manley of Santa Clara County would describe a "collaborative, negotiated, laborious, time-consuming and painful process" involving people from treatment, law enforcement, and the judiciary looking at what needed to be fixed in Proposition 36. The results of that process are found in a proposal that will be reviewed at this conference and discussed by the Legislature next year. The aim, she said, is to improve accountability, and improve the way people get into treatment. Evaluation has shown that for those who get into treatment and complete it the outcomes are very good. "I'm not hearing any discussion of whether treatment works," she said. "The things in question are what elements of the proposition need to be retuned to improve our outcomes." The conference also will look at promising practices-such as using a drug court model and providing on-site assessments which speed up getting people into treatment. She noted that the widely quoted figure of 34 percent as a success rate for Proposition 36 should be viewed as a statewide average, and that some counties are seeing much higher rates.

Director Jett concluded by pointing out that when Proposition 36 was approved by voters five years ago the state government was running a \$12 billion surplus while today the state is looking at a deficit of between \$7 billion and \$9 billion. "It's a different climate in Sacramento. Things have changed in five years and the Legislature will have to make some hard funding decisions about Proposition 36." A clue to current opinion will lie in whether Proposition 36 funding is included in the governor's proposed state budget to be released in January 2006. She said she feels the general thinking in the past year has been that legislators are interested in reauthorizing Proposition 36 at some level, but not without improvements.

Director Jett then introduced **Millicent Gomes**, ADP's Deputy Director of the Office of Criminal Justice Collaboration, who has succeeded Del Sayles. Millicent Gomes said the purpose of this conference was to provide technical assistance and training for the Proposition 36 lead agency teams. She noted that the AVISA group had conducted random interviews with 111 stakeholders from 10 counties during January and February of 2005 for a study of what works and what doesn't work in the Proposition 36 implementation. Those interviews, she said, indicated that the stakeholders support increased funding authorizing

judges to impose graduated sanctions, focusing clinical resources on client motivations to change, and intensified drug testing and case management. The suggested changes for operational improvement include: a return to more vigorous inter-agency collaboration; assurance of availability of a broad range of treatment, i.e., inpatient, outpatient, intensive services, etc.; a system to identify and reward most effective practices; reducing the time between court determination of eligibility and entry into treatment; and providing aftercare based on clinical necessity. There were also suggestions for improvement in the ADP processes for overseeing local efforts, making the oversight efforts more timely and consistent.

Millicent Gomes noted that 26 county plans had been approved so far and 33 are under review. A main endeavor this year has been working with counties that saw a change in their allocation of funds, and the staff is working to approve their plans as quickly as possible. She said Dr. William Ford of Health Systems Research has prepared an analysis of the county plans which has been scheduled for release later this year. The analysis compares current plans to previous years, such as planned and actual client numbers, treatment-related expenditures, criminal justice expenditures, and total expenditures and client referrals.

SACPA Evaluation: Updates on County Research Findings

Douglas Longshore, PhD

Director, UCLA Integrated Substance Abuse Programs

University of California, Los Angeles Adjunct Senior

Behavioral Scientist at RAND

Dr. Douglas Longshore opened his presentation with an overview of the findings of the UCLA evaluation of initial outcomes of Proposition 36--the first look at how offenders have fared under the proposition. He reviewed the topics covered in Proposition 36 evaluations during various periods since 2001, pointing out additional topics--cost-offsets and "lessons learned" from experience with Proposition 36 so far--would be covered in reports to be issued in coming months.

About 150,000 offenders were referred to Proposition 36 during the first three years of the program and about 100,000 of these--or 70 percent--were actually placed in treatment programs. "We don't know a lot about people who don't show up for treatment, but we do know that about one-third of them were in jail or in prison when we were able to go look for them as early as a month after their referral. So it's likely they were unavailable for treatment entry. But the other two-thirds, those who were not in jail or prison, were out on the street, and in the purest sense they were no-shows."

As for the clients who did show up for treatment, methamphetamine was their primary drug. About half had been methamphetamine users, and while 10 percent had been using heroin, the use of other drugs was "dwarfed" by the use of methamphetamine. As for the age range, those aged 36 to 45 made up the largest age group, and well over half were at least 26 years old. "In other words, we're not looking at young, first-timers." As for drug-use experience, those who

had been using their primary drug for at least 20 years made up the largest category. In spite of the large numbers with long experience using drugs, about half of the subjects had never been in treatment before their entry into treatment under Proposition 36.

Turning to treatment placement, Dr. David Longshore said the overwhelming number (84.8 percent) were assigned to outpatient treatment. Just under 11 percent went to long-term (i.e., over 30 days) residential treatment. Only a "smattering" (one or two percent or less) went to other modes of treatment-detox, short-term residential, methadone detox and methadone maintenance. He contrasted the low rate for methadone detox or maintenance with the fact that heroin was the primary drug for only about 10 percent of those assigned to treatment. As for completion of treatment, the study covering the first two years (2001-2003) showed a treatment completion rate of 34 percent, compared to about 36 or 37 percent for non-SACPA criminal justice referrals completing treatment. He added that methamphetamine users are as likely as cocaine and marijuana users to complete treatment, while heroin users are the least likely to complete treatment.

Dr. David Longshore offered two comparisons of outcomes in the population referred to treatment in the first year under Proposition 36-those referred to treatment, those who actually entered treatment but did not complete it, and those who completed the treatment program. About one-third of treatment completers had a new drug arrest within a year of their original offense, a rate considerably lower than that for offenders who were referred to treatment but never entered treatment or entered but did not complete it. New arrests for property crimes or violent crimes were quite low-lowest for treatment completers but also quite low overall. The same pattern is seen when comparing felony arrests and misdemeanor arrests. The second set of outcome comparisons was based on interviews with offenders in the same three categories-referred to treatment, entered treatment but did not complete it, and completed treatment. The interviews showed that 41 to 42 percent of those in the first two categories improved their employment status, while nearly 54 percent of the treatment-completers not only were employed but were working more hours than those in the other categories who had been employed.

The evaluation interviews looked at the question of drug use in two ways-whether the Proposition 36 clients had returned to any drug use, and if so, whether their drug use was more under control than before. Nearly 18 percent of treatment-completers said they had not used drugs in the last 30 days, compared to 27.4 percent among those who had entered treatment but did not complete it, and 34.6 percent among those who were assessed for treatment but never entered it. Measuring the frequency of drug use in the past 30 days, those in all three categories showed a decline, and drug-users who had completed treatment showed no significant difference in frequency of use than those in the other two categories.

Finally, the evaluation looked at the effect of SACPA as policy. "Proposition 36 is a voluntary program-some say yes to it and some say no," Dr. David Longshore said. "If you want to make a comparison of what would have

happened if there had been no Proposition 36 you need to go to a population that did not have that choice to make or did not choose Proposition 36 when it was offered." The comparison groups included offenders in 1997 and 1998 that would have been eligible for Proposition 36 if it had existed at that time, and a group eligible for Proposition 36 during its first year. "The idea of this was to back away from looking at the effects of Proposition 36 in relation to how much of it you did... and just look at what we get for the policy under which some people do Proposition 36 to varying degrees and some do not do it at all." The comparison showed a slightly higher rate of re-offending by Proposition 36 clients than among pre-Proposition 36 offenders-a pattern evident in both felony and misdemeanor arrests.

Summing up the outcome data, Dr. David Longshore pointed out that initial re-offending is lowest for treatment completers, employment is highest for completers, and while abstinence is highest for completers, overall drug use outcomes are uneven and must, be considered "iffy." As for the effect of SACPA as policy, he pointed out that offenders in the SACPA era do have more drug arrests, but this is a study involving only the first 12 months after an offense. "During that 12 month period some of the Proposition 36 eligible did not do Proposition 36. Some of them were in jail or prison. But many more of the pre-Proposition 36 people were in jail or prison for at least some of that first 12 months. At this point it is difficult to know how much of the difference you saw is because of the behavior of offenders on the street and how much of it is due to the fact that some of the people, under pre-Proposition 36 policies were not on the street and not able to re-offend. Some of that difference is undoubtedly due to the fact that under these two policies you have different ways of using jail or prison beds. As we begin to look at outcomes under a longer follow-up period we're doing that now-those outcomes may start to look different." In other words, under a policy where fewer offenders are put in jail or prison, there is more re-offending. Finally, Dr. David Longshore pointed out that it is primarily drug offenses-not property or violent crimes-that account for the rates of re-offending in all the groups.

Dr. David Longshore summarized the principal evaluation findings so far as follows:

- Seventy percent of referrals have entered treatment
- Methamphetamine is the most common drug
- Half are in treatment for the first time
- Thirty-four percent of clients have completed treatment
- Initial re-offending is lowest for completers
- Employment is highest for completers
- Abstinence is highest for completers, but overall drug use outcomes are uneven
- Initial drug-offending under SACPA policy is higher than pre-SACPA, and predatory re-offending is low.

In a brief question period, a participant asked whether the 34 percent rate for completion of treatment was 34 percent of those who showed up for treatment

or 34 percent of those who actually entered treatment. Dr. David Longshore said it was 34 percent of those who showed up for treatment. A further question involved the anticipated release time for information on the re-offending rate in periods beyond the 12 months reported so far. Dr. David Longshore said the additional tracking would cover 30 months, and the report should be released by April 2006. Finally, Dr. David Longshore said the numbers on returning to drug use included only a return to use of illegal drugs, and did not include use of alcohol.

Questions Answered, Issues Raised

and Relevance to World Outcomes Douglas B. Marlowe, JD, PhD Director of Law & Ethics Research, Treatment Research Institute (TRI) Adjunct Associate Professor of Psychiatry, University of Pennsylvania School of Medicine

Dr. Douglas Marlowe pointed out that his research is not directed at Proposition 36 but is focused more on drug courts, especially the role of judicial monitoring or supervision and the imposition of sanctions and rewards for offender behavior. This is an issue that California faces as it considers the reauthorization of Proposition 36. He suggested there should be research in this area as California continues with "one of the most important experiments in the treatment of drug offenders is taking place in this country." He added that the discussions here were in a political context. Any discussion of drug policy in this country comes down to a debate over whether addiction is fundamentally a disease like others requiring treatment or is more like reckless misconduct requiring a criminal justice response. Enlightened people, he said, recognize that "it's a little bit of both," even though there tends to be an over-emphasis on one side or the other.

He went on to describe the "dismal outcomes" from conventional punishment of drug offenders. "If you put a drug offender in prison, within three years of his or her release two-out-of-three will be re-arrested for a new offense, roughly half will be convicted beyond a reasonable doubt of a new offense, roughly half will be incarcerated either for a new offense or from some technical violation of release conditions, and virtually all will return to their base-line levels of drug use." Some studies indicate they return to an even higher level of drug use. Nationally, he added, when drug offenders are sentenced to community probation in lieu of incarceration there is generally a 50 to 70 percent rate of non-compliance with the conditions of probation (although Proposition 36 seems to be doing better than that). As for compliance with community treatment, there is a 70 percent attrition rate within two months. As a rule of thumb, a dose-response effect appears only after about three months of treatment, so 70 percent of offenders are out of treatment before they reach that threshold.

Proposition 36 is attempting to deal with this problem through what is called "probation without verdicts," Dr. Marlowe continued. An individual pleads guilty to the offense, is sentenced to community probation with some treatment

conditions, and the guilty plea is held in abeyance. If the individual completes the conditions of probation, the conviction is dropped and after a waiting period without a re-arrest the charges are expunged. The typical drug court follows a similar model, but with intense use of a judge who oversees all aspects of the case. "So the question is do you need the judge?" A better question, he added, is whether an offender is better suited for a drug court model or for a probation without verdict-model.

Dr. Marlowe went on to describe a study in Wilmington, Delaware, in which clients in a drug court program were randomly assigned either to appear before the judge for a status hearing every two weeks or to be monitored by their treatment case-managers and their pre-trial services officers and attend status hearings unless they were on the verge of a violation. "In a sense, we were treating the judge just like an ingredient, like a medication, and we were asking what happens if you pull that ingredient out on a random basis." He emphasized that it is somewhat but not exactly like a comparison between judicial management and Proposition 36. Apart from the role of the judge, all the offenders received the same drug treatment services, case management services, weekly drug screens, and were eligible for the same sanctions and rewards. The study assessed the subjects by various means over a two-year period.

The study found there was no appreciable difference between the two groups in terms of the number of counseling sessions they attended, their drug free urine sampling, and their rate of program completion. The decline in alcohol and drug problems and legal problems during the first 12-months also was similar for both groups. "One could say from this study that if you take the judge out of the equation on a random basis there is no difference in offender outcomes, and therefore the judge is not a critically important element of drug court," Dr. Marlowe said. However, he pointed to a flaw in this reasoning. "In the criminal justice field there is plenty of research telling us that there are at least two kinds of offender populations. One type is the high-risk offender, somebody with an early age of onset of drug use and criminal activity, with a chronic record of irresponsible truancy and delinquency, perhaps with a diagnosis of anti-social personality. In contrast, there is low-risk offender who has exhibited none of these qualities but happens to run afoul of the law. If this person is told that his charges will be dropped and his record expunged if he shows up for treatment, delivers urine specimens and otherwise follows instructions, he is likely to comply. "Many of our clients are not low-risk offenders and it is too difficult and not important enough to them to meet those responsibilities." The question then is what if the influence of the judge interacts with the risk profile of the offender population?

Dr. Marlowe said offenders with a diagnosis of antisocial personality disorder (ASPD) and people who had a previous unsuccessful experience in drug treatment fare better in contact with a judge, while those not in that category do better with less contact with a judge, the results cancel each other out when combined. He described various studies aimed at determining the effect of matching client characteristics with requirements to see a judge, assigning clients

on the basis of their risk level. High-risk clients who saw the judge every two weeks had substantially more clean urine specimens than high-risk clients who saw the judge only once a month. Comparing urine samples for low-risk clients, it made little difference whether they saw the judge or not. "Basically," Dr. Marlowe said, "low-risk offenders are going to get better no matter what. The opportunity for treatment, the opportunity to get out of trouble, is usually sufficient to divert a low-risk offender from a criminal, path, but for high-risk offenders who have been on that path already you have to do a little bit more. In answer to the question, could a judge help in terms of improving outcomes for drug-abusing offenders, I think the answer is clearly yes-at least certainly for high-risk offender populations."

He then turned to the question of why a judge's participation in the process is useful. One possibility, he said, might be "all the trappings of the courtroom"-the judge on the bench, the American flag, maybe the president's picture on the wall. This shows that a person of authority in our society is paying some attention to a person who is not used to getting any attention from that level. In addition, judges can do things to people that most people in our society can't do-they have the authority and power to give potent rewards, such as dropping charges and expunging a record, or they can put you in jail for a substantial period of time. Probation officers or treatment providers can take an individual to a judge, but they do not have the authority of the judge. "The most potent sanctions and rewards reside in the hands of the judge," Dr. Marlowe said, pointing out that there has been very little research in the area of how this sanctioning and rewarding authority actually works. One study by the Urban Institute compared a conventional treatment regimen to a program where offenders would provide a urine specimen to a judge on a regular basis, and the judge would apply jail sanctions' in response to positive urine tests. In the study, 40 percent of the offenders offered a treatment option decided to take it. Of those who went into treatment, there was a 19 percent completion rate with a reduction in drug use. Meanwhile 66 percent of those offered the sanctions track agreed to take it. Among those who entered the sanctions track, 30 percent completed the intervention with a reduction in both drug use and criminal recidivism. An unexpected finding was the fact that so many of the offenders volunteered for the track that carried potential sanctions, Dr. Marlowe said. "The clients essentially said something like this: in the sanctions track, I only get punished if I'm doing badly. In the treatment track I get punished no matter what I do." In other words, they saw treatment as a sanction, Dr. Marlowe said, pointing out that in other studies offenders have ranked treatment as a "mid-tier" sanction. Once they get into treatment, however, that attitude often changes over time.

Dr. Marlowe discussed the issue of whether it is appropriate to allow judges to use "flash incarceration" as a sanction, putting an offender in jail for 24 or 48 hours as an immediate sanction. An aspect of this question involving sanctions in a non-criminal case is currently before the California Supreme Court. "What do we know about jail sanctions? The short answer is, almost nothing," Dr. Marlowe said. The only clue to the value of flash incarceration lies in literature dating back 25 years involving what was called "shock probation." The judge

would sentence an offender to a county jail term but would be prepared to offer probation as an alternative. "The person gets the shock of a jail sentence, but is released quickly before facing a lot of the negative things that happen to people in jail." As to the effectiveness of shock probation, if the jail sentence was for less than 30 days there appeared to be positive outcomes. Jail sentences of more than a month were associated with negative outcomes. "In other words, less is more when it comes to jail." Second, the effects were best for low-risk offenders who had not been in jail before. Finally, the jail sentence had to be a sanction typical for the offense. If probation was customary in these circumstances, and the judge gave a jail sentence instead, there would more likely be negative effects. In the opposite circumstances-granting probation when the typical sentence was jail-there would be a positive effect.

Dr. Marlowe then offered some research findings on sanctions that he said might be useful in considering modifications of Proposition 36. Reviewing the principles of behavior modification, he described the contrast between punishment as a sanction and "positive reinforcement" as a reward, and taking away a sanction as "negative reinforcement" with a response cost as a reward. An example of negative reinforcement would be telling offenders that charges would be dropped if they go into treatment and complete it-taking away a sanction in order to get them to do what you want them to do. A response cost is when a privilege or something of value is taken away as a sanction for failing to do something.

The most important thing, in behavior modification strategies is certainty, Dr. Marlowe continued. He described a fixed-ratio (FR-1) schedule of sanctions and rewards in which a sanction or reward occurs every time a particular act occurs, but the ratio can rise to higher numbers, i.e., FR-5 or even FR-20. "The closer you get to an FR-1 schedule the better the effects on behavior," he said. He pointed out, however, that behavior calling for a sanction may not be detected as often as it occurs, so an FR-1 schedule is hard to maintain. Thus it is important to establish procedures that make it unlikely that unwanted behaviors go undetected. Progress reports are important because a probation officer or other authority needs to know on a regular basis how clients are doing. What about second chances? Dr. Marlowe pointed out that giving a second chance can be appropriate at times-for example, when a client voluntarily reports an incident calling for a sanction, this could justify withholding the sanction as a matter of negative reinforcement. Caution is necessary in such instances because they erode the important quality of certainty in enforcing sanctions.

The second most important issue is celerity. Dr. Marlowe said the effectiveness of sanctions grows weaker when time passes between the act requiring the sanction and imposing the sanction. "The reduction in potency is exponential, not linear. Ten days is not twice as weak as five days. Ten days is about 25 times as weak as five days. It's five-squared." If a client uses drugs on Monday, for example, but conforms to all requirements on succeeding days, then imposing the sanction on Friday for Monday's drug use has lost celerity. "Behavior modification works by proximity in time. The closer the sanction to the

behavior the more effective it is." This calls for frequent status hearings, especially for high-risk offenders.

The third condition is magnitude. It's a mistake, Dr. Marlowe said, to think that the more severe a sanction the greater the effect. Actually, the greater effect is with sanctions in the middle range. On the low end, there is a "habituation effect," like putting a frog in water and gradually bringing it to a boil. When the water is heated gradually, the frog's tolerance increases and it accepts higher and higher levels of heat. Research has indicated that many high-risk offenders who have been involved with the criminal justice system for years are "boiled frogs" habituated to low-level sanctions that have raised their tolerance, and they will be affected little by continued low-level sanctions. "If you can't raise the magnitude of your response appreciably, you've shot yourself in the foot," Dr. Marlowe said. At the high end, severe sanctions can produce "ceiling effects." An example is jailing an offender after the first time he uses drugs. This leads to the question of what you do after the second time. "You're done. You've hit a ceiling. You've used all your armaments the first time ... You've lost the ability to modify that person's behavior." Unfortunately, he continued, the criminal justice system historically has tended to concentrate at the two ends-with sanctions either too minimal or too severe. The goal of drug courts and other diversionary programs is to fill in the "mid-tier sanctions and rewards."

The question to ask, Dr. Marlowe continued, is whether a program provides sanctions between "wagging your finger" and putting someone in jail. The system should allow for an escalation of sanctions as behavior may require. Low-risk offenders may get the message early-on and require few if any sanctions. But addicted persons with an entrenched habit of drug use and criminal activity are not likely to meet all requirements of probation and treatment without facing a full range of responses--fines, community service, increased treatment requirements, anklet monitoring, and flash incarceration. "If you can't ratchet your responses up and down you can't deal with high-risk offenders who need rehearsal to change their behavior." A problem with jail or prison as a sanction is that there are uncertainties and delays in carrying out sentences after they've been ordered, thus violating the requirements of certainty and celerity in using sanctions for behavior modification. And if the person goes to jail for a long period of time, the "ceiling effect" has been reached.

In closing, Dr. Marlowe suggested that in modifying Proposition 36, California should address a series of questions: Does it permit close monitoring of offender behavior? Does it permit certain and immediate consequences for behavior calling for a sanction? Are there regular urine screens, random and on a weekly basis at a minimum? Are there status hearings with regular reviews of client behavior, allowing sanctions or rewards to be imposed at the hearing? Are progress reports being communicated to all of the concerned parties-treatment, probation, pre-trial, case management? Are there provisions for escalating sanctions or rewards, avoiding habituation and ceiling effects? In a question period, Dr. Marlowe was asked which was the most important, celerity or certainty, in imposing sanctions. "The most important thing is certainty," he said. "The closer you get to an FR-1 schedule, the better the effects on behavior. You

can't violate the certainty rule and be successful. The second most important thing is celerity." He added that the third most important consideration was something he had not discussed-procedural justice. "Your clients have to perceive that your responses to them are the same as those for other people." The fourth most important is magnitude and the ability to escalate sanctions up and down. "The research suggests that if you have certainty and celerity you'll do just fine, but if you don't have certainty and celerity you're not going to make up for it with other things." He pointed out the importance of basing sanctions on "proximal behaviors." For example, clients should not be allowed to miss counseling sessions. "Hit them early, hit them quickly, and hit them relatively hard for missing counseling sessions." The same goes for failing to deliver a urine specimen at the required time. In other words first things first. In response to another question, Dr. Marlowe said his research did not explore how differences in the experience and temperament of judges can affect how they respond when offenders come before them subject to sanctions.

Efforts to Improve Accountability and Improve Outcomes

Honorable Stephen Manley
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Judge Stephen Manley explained that although there is a "sunset" at the end of the current fiscal year to the funding established to support Proposition 36 there is no sunset to the sentencing policy established in the proposition. This circumstance led those who support the proposition and its programs to form a Committee for Greater Accountability and Better Outcomes and a Committee to Refund and Restructure Proposition 36. Because of some findings in the UCLA evaluations and the need for a two-thirds vote in the Legislature to extend

Proposition 36, Judge Manley said, it is necessary to persuade the Legislature that "not only are we doing well but we can do better." This presentation will outline the proposals that the committee was able to agree on, he said.

Law enforcement, Judge Manley pointed out, fully supports the recommendations of the Proposition 36 reform committee. He reviewed the composition of the committee, noting that it includes not only county treatment directors and some judges but all the major treatment provider organizations, probation chiefs, police chiefs, sheriffs, county governments, district attorneys association, the public defenders association, and the California judges association. The state's Judicial Council, however, takes no position on issues such as this. Judge Manley pointed out that he is a member of the Judicial Council but is speaking only for himself and others on the Proposition 36 committee in supporting the proposed reforms. He added that the Drug Policy Alliance, which led the campaign to enact Proposition 36, participated in the committee's work but withdrew because of the committee's adoption of some positions it could not support.

Reviewing those who support the committee recommendations and those who do not, Judge Manley emphasized that "this is a very political process" and the committee spent more than 10 months working on its report. "Our underlying strategy is that we have to make the best case," he declared. "We can lose so much if we do not convince two-thirds of the Legislature and our governor that Proposition 36 should be re-funded. We felt it should be changed in certain respects. However, we did not believe those changes should dishonor the fundamental principles of Proposition 36." Some aspects of the proposition that might have been changed were not addressed so the committee could limit its recommendations to issues on which it could reach a consensus and could expect the Legislature to accept. Many participants yielded on their original positions in order to achieve that consensus. "Time and again we reminded ourselves that we needed a two-thirds vote in the Legislature to approve our recommendations." He added that ADP and Parole were at the table at all times, not as participants, because of their government role, but to provide insights about the governmental systems involved. He emphasized the importance of all stakeholders standing together in support of the principles embodied in the reform measure, Senator Bill 803.

Toni Moore opened the description of proposed changes with a review of how the definition of treatment would be modified to reflect the continuum of care offered by most programs in California.

The proposed definition of treatment includes six possible phases:

- Drug education
- Outpatient services
- Narcotic replacement therapy
- Residential treatment
- Detoxification services
- Aftercare services

She pointed out that the original Proposition 36 language called for 12 months of treatment and six months of aftercare. "What we did here was to define aftercare as a treatment activity," she said, pointing out that the original 12 month treatment period could be extended by another six or 12 months for aftercare services that might be necessary in some cases. Members of the committee agreed that drug testing needed to be a significant part of a treatment plan as well as the probation or parole service plan. She said there was a lengthy discussion of whether drug testing should be optional or mandatory, with eventual agreement that it should be mandatory. The language of the original Proposition 36 says the money it appropriates cannot be used for drug testing, and this would not be changed. She pointed out that counties have access to federal block grant dollars that can be used for testing.

The proposal provides that persons with co-occurring psychiatric or developmental disorders cannot be denied the opportunity to participate, Toni Moore continued. In Sacramento County, when persons first come into Proposition 36 and are given an assessment for treatment, about half are identified initially as needing mental health services, and about one-fourth actually meet the criteria as their treatment progresses. "Some people with very severe mental health conditions might not have the capacity to participate in treatment, and that would need to be sorted out, but they could not be denied the opportunity initially to participate," Toni Moore said, adding that it is important for programs to address mental health concerns or it is unlikely that some clients could succeed in treatment.

As for allowing for two six-month extensions of treatment, Toni Moore said, it would be necessary for the court to authorize such extension on the basis of the client's record. "It isn't something that would happen automatically." She explained that if clients have completed 12 months of treatment and relapse while in aftercare, it would be possible to move them back into treatment in order to build on the gains they have already made.

SB803 also contains new definitions of what constitutes successful completion of treatment. The language describing completion of the "prescribed course of treatment as recommended by the treatment provider and ordered by the court" eliminates some language from the original Proposition 36. "What was deleted was that interesting language that we were somehow supposed to predict the future behavior of individuals and draw a conclusion that they would not abuse drugs in the future. That was very unrealistic because we really can't predict future behavior. The person's behavior has to speak for itself. The concept is that someone should complete treatment and enter aftercare services and then continue to refrain from the use of drugs, which would be indicated by the results of drug testing as monitored by probation or parole." Another change is a statement that successful completion of treatment does not require cessation of narcotic replacement therapy or methadone treatment. "We believe the length of stay in methadone treatment or other forms of narcotic replacement therapy is really a decision that rests with the physician and the patient, period." "We've seen over and over in the research that people who need that form of treatment often need it for a long period of time-longer than just 12 months." Toni Moore pointed

out, however, that this change does not mean that Proposition 36 funds could be used to pay for narcotic replacement therapy indefinitely. It will still be necessary to look for financial solutions to pay for this form of treatment if it goes beyond the time prescribed for treatment. The additional treatment, for example, might be paid for if the patient qualifies for SSI or drug Medic-Cal, or could be covered by a private payment arrangement.

Turning to overall funding for the program, Toni Moore said there was a consensus "across the board" that more money than the original \$120 million per year was needed in the future. After a survey of the costs various counties were incurring to deliver SACPA services, it was estimated that the program statewide was costing an aggregate of \$135 million to \$140 million a year. With many counties saying they are unable to provide necessary services at present funding levels, justification was seen for an appropriation of \$150 million for a renewal of SACPA. However, Toni Moore explained technical considerations in the handling of budget and appropriation bills that made it appropriate to hold the requested amount currently at \$120 million, even though there is ample justification to seek \$150 million.

SB803 calls for standardized treatment reports, with minimum statewide data elements including drug test results. "If you're going to have meaningful statewide evaluation, you could draw on data elements to tell how people are doing in treatment and in the court process, and this would contribute to demonstrating the value of the program," Toni Moore said. Now, she said, 58 counties are collecting data in 58 different ways. The committee discussed the issue of how frequently reports should be made to the court, and while some advocated reports every 30 days, the committee compromised on proposing that reports be submitted every 90 days, or more frequently if the court so orders. As for audits, the present language in Proposition 36 calls for annual audits in each county but ADP does not have enough audit staff to meet that requirement. A backup occurs when ADP does not have the discretionary power to determine how often audits are performed and what counties are audited. "If a county had an audit exception in Year 1 and continued to make the same basic mistake delivering services in Years 2, 3, 4 and 5, then the county will get dinged for the same error year after year because there was no timely feedback to make a correction," Toni Moore said. Counties with "clean" audits probably would be audited less often, while those getting a lot of audit exceptions for using funds inappropriately would see more frequent audits. Also, she added, the present policy requires that audit exceptions typically be paid out of county general fund dollars, and in many counties those funds are not available. SB803 would permit those exceptions to be paid out of trust fund dollars, perhaps the following year. We also thought ADP should have the option of implementing a corrected action plan for a county.

Finally, the committee looked at evaluation requirements. Now, Proposition 36 requires annual evaluations, on the theory that such evaluations would make the case for re-funding. "In the original act that made a lot of sense, but we think that in the future it would be adequate to call for two additional three year studies with submission of annual reports. The reports, submitted by ADP,

would reflect numbers and characteristics of individuals participating in the program as well as the experience with costs. "The evaluation would continue to focus on program effectiveness and financial impact, and while the studies would be conducted by a university, as they are now, ADP could consider contracting for the evaluation with a research institute that has qualifications similar to those of a university." The proposed new language would be more specific about what the evaluation should include. In the area of criminal justice, the data would include re-arrests, jail and prison days averted, as evidence of cost avoidance, and crime trends. Treatment measures would include completion rates and quality of life indicators.

Judge Stephen Manley returned to discuss elements of the proposed bill that deal with the penal code. Discussion of these aspects by the committee reflected a strong sense of collaboration, he said. He pointed out how the traditional process for dealing with a parole violation can be stretched out over a period of weeks. This time lag could be overcome with a collaborative court model calling for a dedicated calendar and active monitoring of the case by a judge working with the public defender, the district attorney, probation and treatment. Drug testing would be "commensurate with treatment needs," reflecting what Dr. Marlowe said about the use of testing as a treatment tool earlier in this conference. Review hearings would chart the progress of individuals on a regular basis. Judge Manley pointed out that some smaller counties might not be able to follow this model, so it would be called for "to the greatest extent possible."

Dealing with qualifications and eligibility, the proposal rules out eligibility for a defendant arrested while armed with a deadly weapon and with evidence of the intent to use it. Exclusion refers to defendants who have been convicted of any felony and sent to prison three times, serving three separate terms, and the judge finds, after a hearing that the defendant is a present danger to the safety of others and would not benefit from drug treatment.

Judge Manley then turned to one of the most widely discussed issues-violations of probation and sanctions. SB803 would add sanctions as a tool in all violations of probation, he said, emphasizing that the purpose of sanctions is not to punish; it is to increase initial engagement in treatment, and to increase completion rates.

Judge Manley pointed to the findings reported by Dr. Longshore. "We're missing 30 percent of the people, those who never get to treatment. We think some may be in jail or prison, which means they've committed a new offense," he said. He added that the Legislature will want evidence that the program can do better.

Jail sanctions are the last resort, Judge Manley continued, describing a system of rewards and sanctions as Dr. David Longshore had outlined. "But you should at some point have the discretion to impose a jail sanction-but that is after you've gone through everything else." He pointed out that there needs to be "brakes" applied to the powers of a judge to send people to jail. The record should show the defendant's previous treatment compliance, the seriousness of

the violation, the defendant's employment or education circumstances, his or her medical condition, and whether he or she has responsibility for child support.

The group developed a new definition of "drug-related" violations of probation. Those included are failure to appear for treatment or in court, non-compliance with treatment, and failure to report for drug testing. The sanction for a first violation would be jail time not exceeding 48 hours. The second violation would lead to a maximum of 120 hours in jail. A third violation would leave sanctions to the discretion of the judge. Judge Manley pointed out that a third violation under the present practice removes an offender from Proposition 36, and eliminating that provision is "a dramatic change in the law." For a non-drug violation, the current law calls for expulsion from the program. The proposed change is to provide for jail not to exceed 30 days, and it can be imposed only after receiving input from treatment, probation, the defense, and prosecution. This is another step aimed at giving offenders a better chance of completing treatment.

The proposed bill makes a major change relating to detoxification. Judge Manley pointed out that when a Proposition 36 defendant is found to have returned to drug use the current practice is to re-arrest him for a violation of probation and open a new case. Under the change, the judge could order the defendant into a licensed detoxification or residential facility. This is the mandatory first choice. "If there is no bed open, the judge may order placement in a detox bed in a jail, but only for a maximum of 10 days, and only if the jail in fact offers detoxification services, including narcotic replacement therapy." Most jails, however, do not offer those services, Judge Manley said, and this has been placed in the proposed new law as leverage to pressure jails to change.

Judge Manley said the proposal provides that defendants can continue in Proposition 36 even after a third drug-related violation of probation. If the treatment team concludes that the client would benefit from continued treatment there is no "three strikes and you're out" rule. Defendants also could be allowed to continue in Proposition 36 if there is a non-drug violation of probation, and defendants actively using drugs on probation are offered detox rather than a violation or termination or re-arrest. This again is based on input received from the stakeholder groups.

Turning to dismissals, Judge Manley said the committee felt it was not fair to put the entire burden on the defendant when seeking a dismissal. It is proposed to put the obligation on the court, with the following standards to be met: completion of treatment, refraining from drug use after completion of treatment, and complying with probation terms. If a defendant meets these standards, the court should dismiss the case on its own motion. However, defendants would retain the right to request a dismissal at any time after the completion of treatment.

One change is proposed for parolees in Proposition 36. They would be given the same opportunity as probationers to extend treatment to 24 months. And finally, the new law would provide that if any provision of Proposition 36 is declared unconstitutional or invalid, all provisions would immediately be placed before the voters as a new initiative.

The agenda called for comments at this time by **John Lovell**. Because a personal emergency kept John Lovell from attending, Judge Manley reviewed the comments John Lovell had prepared to make, pointing out that he had participated regularly in the deliberations that led up to the adoption of the proposals outlined here. Judge Manley said John Lovell supports treatment and supports the re-funding of Proposition 36. "He has never wavered in his support of SB803." He believes greatly in the importance of accountability in treatment.

Albert Senella then took the podium to relate some of the background of the deliberations that led to the proposals reviewed at this time. He said the results were the work of "two camps"-treatment and law enforcement-getting together in the interest of making Proposition 36 work better. "If you had told me five years ago that we would all be sitting up here together in support of one common goal, I would have asked that you all get drug-tested," he said. He said he believes the adoption of Proposition 36 was a good step and it deserves to be continued with changes to make it more effective. "We do not see eye to eye with everything that has been talked about, but we believe this is about collaboration," he said. "We think the treatment community stands in the middle of the road and helps bring others to it."

He reviewed those aspects of the proposals that were important to the treatment community, starting with drug-testing. "Most of us feel strongly that testing is a tool that has to be part of any treatment program. We were also quite vocal on the point that no Proposition 36 dollars be spent on that testing. We pushed for the retention of narcotic replacement therapy. Clearly there were indications that some folks were being ordered off of that by some judges..." His group also pushed for adding conditions that should be considered before sanctions could be ordered-"what we considered to be some humane considerations, such as whether the person is employed or whether there is a family at home."

One question raised repeatedly is why the treatment community comes out in support of jail sanctions, Al Senella continued. He recalled that in his 33 years of experience he has known of many cases where an addict has been motivated to complete treatment because of his fear of sanctions that could be ordered by a judge and the risk of going to jail. The evidence of experience is that sanctions do have a positive outcome for many individuals, he said. Nevertheless, he pointed out, there are some who will do what they're going to do regardless of the threat of jail.

He then turned to issues that his group advocated but which were not included in the final proposals. "We fought for more residential treatment," he said, pointing out that it remains a "scarce resource" for carrying out the intent of Proposition 36. "We couldn't get consensus on this issue because of the dollars and cents," he said, explaining that his group wanted to see funds appropriated specifically for expansion of residential treatment opportunities. His group also pushed for better utilization of methadone, he continued.

Finally, Al Senella pointed out that there are populations in various counties who are not being served appropriately under Proposition 36. "We

should do a better job with that than we're doing. Perhaps it doesn't belong in legislation, but nonetheless counties in particular should take a closer look at that problem."

Noting that the name of this conference is "Making It Work," he said in his opinion what makes it work is collaboration and compromise. "When we stay in our separate silos, our separate camps, it's a lot bigger fight and a lot bigger struggle and we make a lot less progress." He noted that most of those attending the conference wanted to see Proposition 36 continue, and urged them to familiarize themselves with SB803 and its intentions and to let their legislators know of their support. "We're in for a dogfight in the coming session," he said.

Closing the session, **Director Jett** pointed out that ADP's role is one of implementing the law, not making it, and her office was taking no position for or against any bill to modify Proposition 36. She pointed out that the proposals which emerged in SB803 represent compromises by all concerned. "This is a coming-together of all the people who have been involved with Proposition 36," she said. She pointed out that the state administration "is not interested in the question of whether we fund or do not fund Proposition 36 ... There's very little interest in talking about funding without talking about improvements, and improvements particularly relating to accountability." She emphasized that a major goal is to see that more of the 30 percent currently not getting into treatment do get into treatment. "We heard from Dr. Marlowe that people from high-offender populations need a lot of oversight, and the more oversight we give them the greater chance for accountability." She added that those drafting the proposals agree that it is the client who benefits from supervision and consequences, and if those factors are not there, their motivation to stop drugs will wane over time. She pointed out that a mantra in treatment for over 30 years is that the addict has a choice: continue to use drugs and die, or go to treatment and live. She again reminded the conference participants that the State's financial situation requires that some funding problems under Proposition 36 will have to be solved locally.

Later in the day, **Judge Stephen Manley** returned to the platform to answer questions submitted by conference participants. One question involved the fact that many users of methamphetamine are single women with children. Under SB803, would responsibilities toward her children in keeping the family intact justify leaving the woman out of custody in case of a probation violation during her treatment? Judge Manley said family circumstances are considered in probation sanctions, and nothing in SB803 would prevent a judge from using "common sense" in such a case.

Another question dealt with the proposed 30-day cap on sanctions for a new non-drug offense. Would this replace the punishment for the new offense? Judge Manley said this would not be the case. The 30-day cap would not abrogate the law in case there is a new offense. If the person commits a new battery, for instance, and goes before another judge, that judge could prescribe the maximum sentence for that offense.

The next questioner wanted to know "in plain, direct and simple English"

whether the governor supports SB803. "We have made every effort to gain the governor's support," Judge Manley said. "We are very hopeful but I have no idea as to whether the governor will support the bill."

In response to another question he pointed out that opposition to SB803 is not confined to the original advocates of Proposition 36 but also includes the California Society of Addiction Medicine, the California Medical Association, the California Attorneys for Criminal Justice, and some religious groups and others. "We readily concede that there is opposition to this legislation, and this does not deter us from our efforts on behalf of what we believe in," he said.

Final questions raised the issue of whether counties would have to pay for all the expenses of Proposition 36 if adequate funding is not voted by the Legislature in 2006. Judge Manley said all he could say was that this "remains to be seen." It would be a legal question and would probably be decided in the courts. **Dr. Deitch** pointed out that many counties already are providing support for Proposition 36 expenses not covered by the current funding.

Promising Practices for Uncertain Times

At this session the conference heard descriptions of Proposition 36 practices in three counties-Butte, Kern and Orange.

Helen Harberts, Special Assistant District Attorney for Butte County said a goal of the Proposition 36 program in her county is engagement, bringing in people who were "none too thrilled to be with us." She called attention to documents in the conference handbook that pertained to the policy of engagement, including a one-page form summarizing all the pertinent information about a client "Everything we think is relevant to assess dimensions of progress and recovery."

She listed members of the Proposition 36 team as treatment, probation, the bench, the district attorney, the public defender and the client. "The last one on the team is the one who often gets left out," she said, emphasizing that the team always operates as a single entity, especially in responses to behavior. "We all speak as one, and we are constantly communicating."

Motivational interviewing is used to explore the background of clients. These interviews have revealed unexpected factors for example, 40 percent of men entering the program have been sexually assaulted. Cross-training assures that team members understand the problems of those in other disciplines. Court based services are based on addiction issues, including the impact of addiction on decision-making and short-term memory, the latter helping explain why some clients fail to keep appointments. When they do show up, they're praised, which keeps them coming back. "We use engagement strategies and motivational enhancement strategies that are research-based," she said. Positive outcomes can be increased by 15 percent simply by convincing clients that their entry into the program is the best thing that ever happened to them, and incentives are used liberally to sustain their interest. From the outset the public defender repeats a message over and over: "Show up." Typically, clients are not

accustomed to seeing the district attorney and other law enforcement and court figures as sources of help for their drug problem. "It's a training modality for everyone."

Helen Harberts said Butte's approach is working with the "hardest, most grizzled populations." As for sanctions, Proposition 36 places limits on what can be done and there are limits on what incentives can accomplish, because of a "saturation process." She emphasized that communication among team members is essential, providing early warning when clients may be faltering. "We have instant behavioral modification, because it has celerity. Catching people and addressing them swiftly is the answer. We move people as quickly as we can if there's a problem." Among the sanctions are writing an essay, having to sit in the jury box, being the last person called on court day, which means seeing an unhappy judge. Another is called "dump duty"-sitting at the county landfill and directing trucks. She emphasized that treatment responses were not to be confused with sanctions by the court. Treatment responses may alter the level of treatment, push sponsorship, call for written step work, do cognitive restructuring, increase the frequency of treatment, and refer to medical care for co-occurring disorders that emerge during treatment. Since incentives work better than sanctions for behavior modification, the program provides for fast-track scheduling for court appearances, smiles and applause for accomplishments, being allowed to do more things on their own, and being given a candy bar. "For a perfect score in our county the district attorney hands you a candy bar and shakes your hand and says 'Good work!'" Certificates of completion are presented at completion ceremonies. Helen Harberts referred to the model as "drug court lite," and it includes case management, drug testing, and assessment by probation and treatment providers. Treatment is provided by the county's Behavioral Health department, and primarily consists of intensive outpatient services.

Helen Harberts listed some of the challenges encountered in the Proposition 36 program. They include insufficient funding; clients tend to be high end and require more services for a longer period of time than is available; more mental health services are needed; there is a need for administering medications such as Naltrexone and anti-depressants; a lack of field supervision due to an inadequate number of probation officers, and drug testing is insufficient. "Testing is not about 'Gotcha!' Testing is about taking the temperature of a disease process and seeing if it is still accurate. If there's still a temperature, the disease is still going." Other problems include staff burnout, and treatment time being too short.

In conclusion Helen Harberts said the demographics in Butte County are virtually the same as for the state at large. The county's Proposition 36 retention rate is 55 percent, and the completion rate is 41 percent. Completion is defined as six months free of probation violations as well as treatment completion. The county gets about 100 new referrals each quarter. As for the Addiction Severity Index (ASI) results, she added: In every dimension of the ASI, our clients are reporting they are much healthier."

Lily Alvarez, System Administrator for Kern County pointed out that her county did not give a majority of votes for Proposition 36 when it was on the ballot (only 48 percent voted in support). Kern County is the third largest in the state in terms of its geographic extent (8,400 square miles), with a population of 750,000. She pointed out that some communities ethnic make-up are mostly Hispanic while others are mostly white. The poverty level of 21 percent and unemployment rate of 12 percent are higher than rates for the state as a whole. The county is divided into 11 service areas for substance abuse care, offering six levels of care. However, in most of the service areas only outpatient services are available for economic reasons, with more intensive levels of care--intensive outpatient, residential, detox and sober living environment--available only in larger metropolitan areas. All clients go through a "gate" for screening and referral, with referrals based on the severity of their disease. The majority of SACPA referrals, 97 percent in the most recent year, have been referred to outpatient programs, a factor to be considered in looking at treatment outcomes. Lily Alvarez called attention to some of the characteristics of the population entering Proposition 36 programs in Kern County--69 percent male and 31 percent female, compared with 65 percent male and 35 percent female for the state as a whole. She pointed to a significant number of young people entering the program in the first four years--with 25 percent of SACPA cases in the 18-to-25 age bracket compared to only 18 percent for the state as a whole. Methamphetamine is the drug of choice for 68 percent of the cases. Kern County's "pipeline" has gone from a show-rate of 69 percent in the first year to 112 percent in the fourth year. Almost 8,000 people have been referred to treatment, half of them for the first time. The completion rate of 41 percent is higher than the statewide rate. The average length of stay in treatment is 195 days, with an average of 44 days for those in residential treatment. Only five percent of those in Kern County are referred to residential treatment, and they are expected to move into intensive outpatient treatment after 45 days. Since they usually spend about six and a half months in outpatient treatment, they are averaging almost eight months of treatment. She pointed out that research shows the outcomes are better the longer clients remain in treatment. Also, the completion rate in the 18-25 age groups which is a larger proportion in Kern County than in the state as a whole is running at about 37 percent--the lowest completion rate in any age group. She said this phenomenon suggests that the 12-step paradigm so useful in other age groups might not be appropriate for these younger clients.

Other outcome data shows that no one in Kern County who completed treatment was arrested for a violent crime during the 12 months after their referral. Also, only 13 percent of those who completed treatment saw a new drug arrest in the first year and only three percent had a new arrest for property crimes--numbers significantly lower than the arrest records for those who were referred to treatment, but did not enter it and those who entered treatment, but did not complete it. Treatment completers also had fewer incidents of drug use in the past 30 days--12 percent, compared to 17 percent of those assessed, but untreated and 30 percent of those who entered treatment, but did not complete it.

Similar benefits of treatment completion are seen in the numbers who found employment.

"I am not a scientist and my unscientific explanation for why we are getting these outcomes is the quality of our collaboration," Lily Alvarez said. "At the very beginning we had a mission. We saw Proposition 36 as a window of opportunity to demonstrate that treatment might be a viable alternative to a prison sentence... We also think our outcomes reflect the fact that we do treatment-matching. People are going into the levels of care that are appropriate for them." She added that the fact that drug testing is conducted by the district attorney's crime lab helps assure that results are available only to probation and treatment providers and only as an aid to treatment. She explained how clients were relieved of the responsibility of paying for drug tests, removing potential obstacles to regular random testing. Crime lab personnel go to sites throughout the county to collect urine specimens on a random basis, with computerized results available immediately.

"I don't think we would be seeing these kinds of outcomes if it weren't for the Probation Department and the level of supervision and the kind of work they are doing in our communities. They expect relapse, they expect there are treatment modifications that need to be made ... As in Butte County there is no triangulation. Everyone is on the same page."

Gina Wilkie, a Deputy Probation Officer, opened the report on Orange County, pointing out that the Co-Occurring Disorders Court where she is assigned is one of the few collaborative courts in the county. Besides the usual participants-the court, district attorney, public defender, probation, health care agency and local police and sheriff-the mental health problems of clients have broadened the participation to include other agencies. In addition to Proposition 36 funds, there is funding from the court and the U.S. Department of Justice, although the latter funding is now expiring. The Co-Occurring Disorders Court started in 2002 when it became apparent that many people were falling out of Proposition 36 programs, because of mental health issues. A collaborative team was established, using a traditional drug court model. This model, she pointed out, includes positive reinforcement, accountability, rewards for adhering to program requirements, gradual sanctions, frequent court appearances, regular and random drug testing, 12-step and other self-help meetings, individual and group counseling and the productive use of time. The program goals include sobriety, an improved life-style, no new crimes, productive use of time such as volunteer work and school, and involvement in long-term support for recovery after leaving the court program,' with a minimum of 8 months in the program.

The program involves four phases spanning 18 months, she continued. The first "engagement and stabilization" phase includes gaining sobriety to isolate the client's mental health problems followed by an "early recovery" phase leading to a stabilizing of the client in the treatment program. A six-month third phase called "active recovery" entails working with a sponsor and making a life plan with productive use of time, The final six-month phase called "sustaining recovery" focuses on long-term recovery and transition planning.

Gina Wilkie listed the following outcome measures for the program: improved health and well-being; alcohol and drug abstinence; active involvement in recovery through 12 step or similar program; addressing life issues such as safety needs, stable income, housing, job placement, education, transportation, and support systems; productive use of time, law abiding and crime-free; access to community and health care resources; symptom checklists and quality of life outcome instruments given over the duration of the program, and follow-up after graduation and ongoing alumni contact. She went on to discuss program termination. "Hopefully, they graduate and complete the program," she said, saying there have been 18 graduates so far. However, clients may leave the program voluntarily and serve time, or their mental health or medical condition may change in a way that makes it difficult for them to complete the program. Other causes of termination include committing new crimes, being chronically non-compliant and designated as "unamenable" to treatment.

Ian Kemmer, Mental Health Care Coordinator for the Orange County Health Care Agency took the podium to describe procedures in the Co-Occurring Disorders Court. He first called attention to some of the reasons that persons with co-occurring disorders are likely to relapse or be subject to another arrest. Those reasons include not taking medications, not staying in treatment, experiencing additional mental health symptoms, using an illegal or inappropriate substance, or not focusing on their program. "Life is tough for some of these co-occurring clients," he said. "They're struggling with two disorders at the same time, mental illness and drug abuse." He pointed out that after being told what they need to do as part of the drug recovery program they remain subject to depression or hearing voices. "We need good treatment at both ends of the spectrum." Displaying a list of clinical characteristics of those with co-occurring disorders, Ian Kemmer called attention to one in particular: "Poor interpersonal skills, limited social supports, and inadequate community linkage." To work with their recovery team it is important that they go back to a supportive environment, which has led to the creation of family groups to provide this support. The families need to have a better understanding of co-occurring disorders so they can work with and support the family member in his or her recovery. Among treatment-related characteristics, he pointed to poor compliance with medication instructions as a significant problem in some cases. Gina Wilkie, he said, actually goes to the home of clients to count their medication doses to establish how much they are taking.

Ian Kemmer went on to describe the screening process for the court, pointing out that a formal assessment is delayed until the client has attained sobriety or is stable on medication. A basic requirement for admission is that the client has a primary mental health disorder along with a substance abuse problem. It's important to determine that the client does not have substance induced psychosis. The diagnoses that are accepted are schizophrenia, major depressive disorder, and bi-polar disorder. The assessment must also determine that the person has severe functional impairment in life domains, and finally, that he or she has a motivation to enter an 18-month treatment program and a

readiness for change. He went on to review assessment instruments in use by the court, and various aspects of psychiatric assessment. Finally, he outlined the content of the treatment program, including medication management, intensive case management, individual and group therapy, active participation in self-help programs, and coordination with community-based ancillary services. He said the case management was especially important. "A lot of courts have a therapist who works directly with clients. In our court, my job has to do more with case management-making sure clients attend all their treatment sessions." He also may find it important to help clients understand and communicate problems they are experiencing in the course of their treatment. He pointed out that "integrative treatment" requires collaboration among mental health and substance abuse treatment providers and the criminal justice system. Levels of care in the program are determined by whether the client has a high or low severity of mental illness and/or substance abuse.

In conclusion Ian Kemmer said his group was always looking for ways to improve their program, and he referred to a list of issues for future consideration: improved screening, assessment, service planning, and intensive case management; an expanded role for alumni and peer-related services; promoting opportunity for more productive use of time; promoting empowerment, self-respect, self-determination, and self-management; program enhancement through continuous process improvement, and continuous improving of team coordination, collaboration and communication. Because clients often get discouraged by the nature of co-occurring disorders, the team continuously reminds them that there is help and hope.

Matt McCormick, Deputy Public Defender in Orange County discussed the admission criteria for the Co-Occurring Disorders Court. Clients must be in Proposition 36, he said, and must be faced with jail or prison time for violations of their probation or parole. Other legal requirements include having a felony conviction and a non-violent criminal history. The clinical criteria include having a pre-existing mental condition-schizophrenia, bi-polar or major depression. A person with a drug-induced psychosis would not qualify (once the person stops using drugs, the psychosis goes away).

"Another limitation is that the person must understand what we're doing in co-occurring disorder court, and we can assess to see if they're serious about doing the program," Matt McCormick continued. "A person could be doing well in Proposition 36 and then stop taking their medications." Those managing their Proposition 36 case may not know about their mental illness and how it affects their behavior. "We have the jail-psych team evaluate the person and get the person on medications. Once the person is stabilized on medication, then we can talk to the person and determine whether the person has a pre-existing psychiatric condition."

The Orange County program is limited to 50 people due to a limitation of resources and the fact that the clients are "very high-maintenance, requiring a lot of work," he continued. Persons who are schizophrenic or bi-polar are often "pushed out to the fringe" of society and like coming to the co-occurring disorders

court because attorneys, the judge and others are willing to listen to them. "We listen to things that there isn't time to listen to in regular Proposition 36 court. Although Proposition 36 court is a very good court, it can have 120 cases on the calendar." Matt McCormick gave the example of a Proposition 36 client who had begun drinking alcohol, and offered an explanation that would have been laughable in the Proposition 36 court. But it made sense to a mental health professional that could see that the client had a mental disorder and was "off his meds."

Gina Wilkie returned to the podium to discuss how cases involving co-occurring disorders require adjustment of what is considered to be "normal" probation supervision. The court must have smaller caseloads because of the special needs to be addressed Medication and related issues; additional training for team members; more frequent contact with probationers and more frequent drug testing, monitoring of psychiatric treatment and medications, and close interaction with the court, health care agency, public defender and other agencies.

While the Orange County court has 50 current cases, 30 cases would be more realistic due to the special service needs, Gina Wilkie said. She sees clients frequently enough that she usually can tell if they are not taking their prescribed medication. Providing medication is not enough: home visits are necessary to assure that clients are taking their meds. Frequent testing also is important, and the team uses not only urine testing but saliva testing, sweat patches and a breathalyzer. The probation officer becomes "the eyes and ears" of the court, and early warnings make it possible to handle crisis situations in a timely manner.

Day Two

David Deitch briefly reviewed the information covered on the first day of the conference and then introduced **Kathryn Jett** to answer questions she had been asked by some conference participants. One issue raised repeatedly, she said, was the presence of people with co-occurring disorders in Proposition 36 and the impact this is having on outcomes, especially when services for these clients are not available. She said ADP is working closely with the Department of Mental Health to try to strengthen the response to co-occurring disorders. A Co-Occurring Disorders Joint Commission has been working with mental health and substance abuse constituency groups to find ways of strengthening the local response to co-occurring disorders. Another factor is Proposition 63, which provides mental health funding, and it has already provided means to support two staff positions at ADP to work on issues around co-occurring disorders. She suggested that local teams look at Proposition 63 as a funding resource for addressing co-occurring disorders. She added that the state can be asked for technical assistance if it is needed at the local level.

As for the impact of co-occurring disorders on the evaluations of Proposition 36 now being released, Kathryn Jett said this factor was not included in the design of the evaluation at the outset and it is difficult to incorporate it into an evaluation at a later time. "We can at least speak to the fact that this may be one of the challenging contributors to some of the outcomes," she said. The 34 percent of successful outcomes cited for Proposition 36 is generally considered "acceptable but at the lower threshold of acceptability." Such rates go up to 50 percent or higher in some drug courts. She cautioned against being over-critical of the 34 percent. She suggested reading the recent best-seller "A Million Little Pieces" about a young man's experience in a drug treatment program. The book may give people in the community some impressions about drug treatment that will need to be addressed, such as a reference in the book to a success rate of 15 percent at one treatment center. "There's a lot of discussion about success and how to define success," she said. "What we're trying to get across is that we think Proposition 36 can be improved to get closer to drug court outcomes if we build some of the elements of drug court accountability into 36."

The Value of Transitional Living

Ken Bachrach, PhD Clinical
Director
Tarzana Treatment Centers

Ken Bachrach opened his presentation with the observation that when drug offenders began being referred to treatment under Proposition 36 it was found that the number of people with more severe addictive disorders was larger than had been anticipated. "Originally we thought that most of the people would just go to outpatient and a few might need higher levels of care," he said. "As we started doing the assessments we started to realize that a larger percentage needed higher levels of care, particularly residential care, and there were only a

limited number of beds for those individuals." The response he would describe today combines outpatient treatment with a sober living or transitional living environment, which permits a slightly higher level of care and is easier to develop in many ways than licensing or certifying new residential beds. He said he would use data from fiscal 2004-05 to show how this model compares to traditional intensive outpatient treatment and residential treatment. The model might be an alternative to residential treatment, not to replace it but to increase capacity of the system, he said.

In Los Angeles County, Dr. Ken Bachrach continued, assessment is divided into three levels. At each level, the probation risk level is assessed, along with an assessment of substance abuse based on the ASI. Level 1 embraces people with no prior felony or misdemeanor convictions, and whose drug use creates no problem or only a slight problem requiring little or no treatment. "These are the easiest people to deal with," he said. Where we start running into difficulty is when we hit Level 2." Patients at Level 2 have higher probation risk based on their history, and have a "moderate or considerable" drug problem requiring treatment. He pointed out that among the six factors considered in the ASI, relapse potential and recovery environment are the most crucial in terms of treatment placement. Co-occurring disorders also play a major role in this determination. People at Level 2 usually are referred to intensive outpatient treatment, and at the outset it was assumed that Proposition 36 clients would fit the Level 2 Criteria.

"Unfortunately, we found that we had a much larger percentage of people who reached Level 3-with a probation risk level of 30 or more, and with extreme substance abuse problems making treatment absolutely necessary," he continued. People in Level 3 either were referred to residential treatment or to the new model he would now describe-intensive outpatient treatment combined with a sober living environment; The intensive treatment program spans 12 months, with six months of treatment and six months of aftercare. The program included three-hour blocks of treatment, three to five times a week. "Part of the premise was that we wanted people to connect with the program," he explained. "When people come in for an hour and then slip out we often find we didn't engage them enough." At the beginning there may be three to five sessions per week, with the three-hour format including an educational group and a process group. One or two of the time slots each week probably would be used for individual counseling. People who might have been assigned to residential treatment if it were available would be attending five three-hour treatment sessions per week. As people move through the program, the intensity decreases. In Phase 2 the three-hour treatment blocks may be required only two or three times a week, along with individual counseling and drug testing. In Phase 3, only one three-hour treatment block is required per week, plus counseling and testing on a less frequent schedule.

Dr. Ken Bachrach then elaborated on the types of groups to which clients might be assigned. The educational groups could include addiction education, relapse prevention and self-help orientation to introduce the 12-step approach to recovery. The process groups provide an opportunity for patients to talk with

each other and learn from each other, with a provision for men's and women's groups treating such issues as relationships and abuse. Multi-family groups provide for participation by family members. There are also groups on such subjects as health education and vocational rehab.

The sober living component generally uses three-bedroom homes, providing living quarters for about six months. Generally there would be a house manager and five other individuals (of the same gender) from an intensive outpatient treatment program. The occupants would live two to a bedroom, and often would work or attend school during the day and attend meetings, or treatment sessions in the evening. The residential treatment program would range from one to six months, and called for moving into an intensive outpatient program upon completing residential treatment. Dr. Ken Bachrach described the residential treatment component as "a modified therapeutic community," placing great emphasis on the environment and opportunities for mutual help. Patients assume increased responsibilities and privileges as they move through five phases of the program. The staff includes counselors and technicians, and also a nurse and other clinical and medical staff.

Dr. Ken Bachrach presented data on program participants. In the 2004-05 fiscal year there were 440 people treated in the intensive outpatient program, 75 in intensive outpatient plus sober living, and 9616 in residential treatment. The average age in all three groups was around the mid-30s. The number of men going through intensive outpatient (IOP) care was higher than in the other two categories. Over half of the men and women were not married, and those going into IOP had reached slightly higher education levels than others. While a little over 20 percent of those entering residential treatment or intensive outpatient with sober living were homeless at the time they entered the program, this was true of barely five percent of those entering intensive outpatient treatment alone. Of significance in the discussions of co-occurring disorders, the data show that nearly 30 percent of those entering residential treatment had a serious mental illness while this was true of barely half as many in the other treatment categories. Residential treatment patients also had higher rates of unemployment. Also, those in the IOP plus sober living category had more prior treatment experience than those entering residential treatment.

Turning to the choice of drugs used by clients, Dr. Ken Bachrach said about 60 percent of clients entering all three modes of treatment had been using stimulants methamphetamine and cocaine. "Those who have worked in this field for a long time and are used to treating alcoholics or heroin addicts say that treating methamphetamine addicts is very different," he said. "Recognizing that is one of the challenges we face." Heroin use was found about equally among outpatient cases and those in residential treatment. As for frequency of use, residential patients reported slightly more intense use of their drug compared to outpatients.

Of primary interest, Dr. Ken Bachrach continued, is how clients do in the three modes of treatment. People in intensive treatment plus sober living showed the highest treatment completion rate-46 per cent, compared with 41.7 percent in residential treatment and 38.6 percent in intensive outpatient without sober living.

As for length of stay by treatment-completers, intensive outpatients averaged 242 days, intensive outpatient with sober living averaged 171 days, and residential averaged 153 days. These findings may be skewed, he pointed out, by the fact that when residential treatment clients complete residential treatment, they go into intensive outpatient treatment, and this is not separated out in the treatment completion data.

What these findings show, Dr. Ken Bachrach concluded, is that combining intensive outpatient treatment with residence in a sober living environment is a viable alternative to residential treatment. "It is an option for programs or counties that do not have enough residential beds and need to expand capacity. It has shown a slightly higher treatment-completion rate than our other levels of care, but it must be recognized that the populations are slightly different. Residential patients had slightly more severe addictive disorders." He added that residential care might not be the most appropriate for everyone because some do not want the structure of having to live in a 24-hour facility. Sober living provides structure but a certain amount of freedom, too. Sober living also appears to provide more opportunity for employment and, other structure in daily life than does a residential treatment setting. Finally, the IOP+SL alternative is about 30 percent less costly than residential treatment.

"This IOP plus sober living model may prove a viable option for patients, particularly where residential beds are limited. I think that's an issue throughout the state. We don't have enough residential beds. It also seems to be a little less costly. What this means is that we may have to prioritize who really needs to go into residential treatment, who can go into this kind of enhanced outpatient treatment, and who can go into straight outpatient. The enhanced outpatient shouldn't be viewed as a replacement for residential but rather as something to augment the limited residential capacity currently available and to care for those people who often have more severe substance abuse problems, criminality backgrounds, employment issues and housing problems than can usually succeed in outpatient treatment."

Working with Latinos

Honorable Rogelio R. Flares
Santa Barbara County Superior
Court Santa Maria, California

Judge Flores used humor and personal history and many pictorial images in his presentation on the importance of "cultural competence" in working with Latinos in Proposition 36 programs. When he was growing up, he said, his Spanish-speaking parents insisted that English be spoken in the home. As a result Judge Flores had to relearn his native language as he became an adult. "I mention this just because so many of you make a commitment that you want to learn Spanish. It's not easy, but it can be done. And it's important in the work that we do. In our courtrooms and in our treatment facilities we need to be able to communicate with Latinos."

He said his goal here was to try to make Proposition 36 work better by

overcoming barriers and misconceptions about Latinos in California. He summed up the goals as follows: Enhance one's understanding of the issues facing Latinos in substance abuse treatment. Develop skills to improve results in working with the Latino community. "Being culturally competent requires us to appreciate the cultural differences and similarities within the Latino community. When working with Latinos, however, one's country of origin may not be as important as the level, of acculturation." If there is a person with a Latin surname in a treatment program, it is a mistake to assume that he or she is an immigrant," he continued. Not all Latinos are of Mexican descent, not all speak Spanish and not all are immigrants. "If you're not sure, it's okay to ask. You'll be more effective if you know your client's background." He pointed out that some Mexicanos do not speak either Spanish or English, and speak an indigenous Mexican language. This creates a demand for more than the traditional bi-lingual interpreters.

There are more than 11 million Latinos in California, or 33 percent of the population, and this will increase by 33 percent by 2015 plus another 30 percent by 2025. "Within our lifetimes the majority of the population in California will be Latino," Judge Flores pointed out. "Are we going to be able to provide services to this population?"

He emphasized the importance of understanding the customs surrounding Latino names and how to address Latino clients, and gave examples of how confusion can arise from the custom of using two surnames. A person named Rogelio Flores Ortiz should have his file under "F" for Flores, his paternal surname, rather than "O" for Ortiz, his maternal surname. He told the story of a man whose name went into police files as Jose Sanchez Conzeta after an arresting officer asked for his name. He responded Jose Sanchez, and then added "Conzeta" to explain that Sanchez was spelled "con zeta"-with a "Z." Describing family Latino family relationships, he said a defendant may appear in court with his mother or father and brothers and sisters. "That's not being co-dependent. That's the interdependent structure of Latino families, and it is something we can utilize in treatment." Due to the interdependent family structure a client may speak English but his support group needs the services of an interpreter. "The interpreter in my court will translate for the family when I'm talking to a monolingual English speaker," Judge Flores said. "When a person is having problems, I want the family engaged as part of the treatment plan."

Because of educational handicaps it may be necessary to provide printed materials in Spanish, he said. Going to school to learn some English skills could be considered part of the treatment process because of the help it will provide in the lives of Spanish speaking persons. In California, 47, percent of kindergarten pupils are Latino, an indicator of the future. In Santa Maria County the kindergarten population is 80 percent Latino. Treatment programs working with Latinos must be prepared to deal with the issues that are presented when working with a young population, including defendants with young children. Day care facilities should be provided for with future Proposition 36 funds, Judge

Flores said. At the other end of the scale, grandparents of defendants are "treasures" who can be utilized in the treatment process.

Most Latinos are employed, Judge Flores continued, so programs need to be designed to accommodate those who need to go to their jobs and who are tired at the end of a work day. Further, job placement and training services should be provided as part of a treatment plan to assist the unemployed and underemployed improve their quality of life. Poverty is another problem. "I firmly believe that lifting people out of poverty should be part of what we do," he said. "One of the by-products of effective treatment should be that people are not going to be poor anymore." He cited an article in the magazine *Entrepreneur* that divided the Latino market into three categories: largely unacculturated (28 percent); partially acculturated (59 percent) and largely acculturated (13 percent.). This indicates to a need to develop treatment programs based on the acculturation level of the clients. "Differences in national origin may not be as significant to marketers as differences in acculturation," he said, and just as manufacturers consider the acculturation of their potential customers treatment providers should consider it when "selling" recovery to their clients. "We need to be effective marketers in our communities."

"Asking the right questions in the intake process and throughout treatment will help a program be more effective in working with Latinos," Judge Flores declared. He added that after his talks on this subject around the country people often walk up to him and say they cannot find qualified Latinos to work in their programs. He suggested going to community colleges and high schools to find the brilliant young people who can be recruited to work as interns. "Be proactive."

Intercultural Communications Issues

Janet Bennett, PhD

Executive Director

Intercultural Communication Institute Sponsor

Summer Institute for Intercultural Communication

Director, Master of Arts Degree in Intercultural Relations

Janet Bennett described her interest in intercultural issues beginning when she went to the Pacific islands of Truk as a young volunteer for the Peace Corps. After six months she had become fluent in the obscure language spoken on her island. She discovered that by knowing the language but not the culture she was "insulting more and more people" by what she was saying. Thus she learned "cultural humility." She also learned something relevant to substance abuse. The people of the island made intoxicating drinks from their native plants, and eventually began importing American whiskey and the yeast to make beer. She learned that the intoxicated state was considered as being "possessed" by a ghost and no one is held responsible for what he does when in that state. "This allowed you to express your aggression and anger with other people and it would be over, just like that." A point to her story is that culture affects how we look at

patterns of substance abuse. She said she would go on to describe some cultural aspects of relationships in substance abuse treatment.

In her own case, Dr. Janet Bennett said, she was well-intentioned but unprepared when she went into the Peace Corps. "All of us like to think we are all well-intentioned when we go into other cultures, but being prepared really is the last step in the process." This leads to consideration of 1) what it means to be culturally competent, 2) what elements of culture this involves, and 3) what we can do about it. Many different cultures use different substances to alter their minds for one reason or another. To comprehend a people's reaction to substance use it is necessary to understand their culture and the social interactions around substance abuse in their society. The Truk people did not think an intoxicated person was abusing anything but that he was possessed by a ghost or had been drinking, which was OK. To deal with cultural differences in treating substance abuse it is necessary to go beyond good intentions and to recognize what it means to do well.

"There's lots of rhetoric about celebrating diversity, increasing tolerance, or blaming it on 'the white man', but it isn't about festivals and celebrations or about blame," she said. "It's about communicating effectively and appropriately in a wide variety of cultures. It's about addressing our clients and our colleagues and our community in culturally responsive ways. It's about preparing ourselves so we are both well-intentioned and prepared to communicate across cultures. It's about taking full advantage of those teachable moments that occur when something happens and we reach the edge of our understanding ... It's what we do next, after we reach that edge, that teachable moment which tells us something about our intercultural competence. Finally, it's about building inclusive welcoming communities where all styles are viewed as a resource, not as an impediment to our work."

She then turned to the results of research identifying what is needed to have intercultural competence. First, a *mindset* requires that one have both culture-general knowledge and culture-specific knowledge, such as Latino or Mexican culture. Culture general knowledge involves different communication styles, non-verbal patterns, different ways of solving problems, and different ways of complimenting or insulting someone. "You never know what culture is going to walk in your door," she said, pointing out that there is no "wallet card" giving a quick answer to the questions that arise when confronted by a person of an unfamiliar culture. Next, there is a "skill set" of relationship-building skills, behavioral skills and information-gathering skills, and finally, what can be described as "heart set" or attitudes: curiosity, cognitive flexibility, motivation and open-mindedness.

Dr. Janet Bennett provided a definition of some terms:

Culture: The learned and shared values, beliefs and behaviors of a community of interacting people encountering someone with a cultural orientation different from our own may present barriers to communication. This does not refer just to national or ethnic culture, but can refer to regional culture ("Sacramento is different from Los Angeles"). Gender, age and physical ability also are cultures. She pointed out that generalizations about a cultural group can be drawn from

research which suggests what patterns might exist in people from that culture, knowing that class, gender and other factors can make a huge difference within the culture. *Cultural stereotyping* is a "hardening of the categories," possibly based on once having encountered a person of the culture in question and assuming that all persons of that culture are the same as that example.

Turning to communication, Dr. Janet Bennett said that as much as 95 percent of our communication is non-verbal--the ways we modify the meanings of our spoken words through body, language, eye contact, or the use of space. She explained one aspect of this use called "pitch drop," and demonstrated how the entire meaning of a remark can be changed by changing the pitch or tone of the voice. Cultural differences can affect the pitch drop or lack of it--in verbal communication. She gave an example of how a remark intended to be a compliment was completely misunderstood and taken as an order of dismissal by a person failing to detect the pitch drop. Referring to body language, she described how a hand gesture fully understood by Americans as a token of confidence an upturned thumb--has a variety of other meanings in different parts of the world. The "anthropology of gestures" shows that most Americans are in the middle range for using gestures in their communication while people in other cultures use more gestures or fewer. A low-gesture person may be frightened or intimidated by a high-gesture person. A high-gesture person may think that a low-gesture person is depressed, has low self-esteem, or has no leadership potential. Another element of communication is eye contact, and Dr. Janet Bennett demonstrated with film-clips how children develop their use of eye contact as they go through childhood. There are circumstances when failing to make eye-contact can imply that a person is not listening. Finally, it has been estimated that there are 250,000 different facial expressions that can be identified as non-verbal communication.

Dr. Janet Bennett next discussed communication styles with a focus on the difference between being linear and circular in communicating. The *linear* style (used by about 4 percent of the world's people) is to move from point to point, leading directly to a final point that is stated explicitly. A *circular* or high context style (used by the other 96 percent of people) moves around the central point, supplying details but possibly not even stating the main point. She cited as an example how the crown prince of Saudi Arabia used a highly circular style to answer a direct, linear question asked by TV interviewer Ted Koppel. Further, a *direct* style uses explicit statements made directly to the people involved, while an *indirect* style conveys meaning by suggestion, implication, nonverbal behavior or other cues. "The direct style says if you and I have a problem, I come straight to your face, we talk about the problem, you tell me what you think, I tell you what I think, and because we're such terrific communicators this all goes well," Dr. Janet Bennett said. Indirect communication may involve a careful process by third parties to obtain information from a person who is reluctant to make a direct expression of it. "The vast majority of cultures in the world use this as a way to resolve conflicts," she said, pointing out the difficulty this creates for Americans wedded to a direct style of communication. Others may see the direct style as a risk of loss of face. "The more collective a culture, the more group-oriented a

culture, the more they care about roles, and the more they care about roles the more they care about saving face." A film clip showing how a Latino employee approaches his boss to ask for a promotion illustrated this point, and Dr. Janet Bennett discussed how this encounter is interpreted by persons from different cultures.

Next, Dr. Janet Bennett talked about conflicting values such as individualism and collectivism. She offered a quote from playwright Tom Stoppard to illustrate how attributes in which Americans take pride are viewed as character flaws by a Briton. Individualism and concerns about individual rights in the American culture may be contrary to the strong family values in other cultures, which are then interpreted as "codependence" by the American.

Intercultural competence makes a major difference in the effectiveness of caregivers or treatment providers, she continued, providing an example of how an interpreter must explain not a question being asked but why it is being asked. "Interpretation becomes an important and subtle part of the work we do." Intercultural competence consists of imperfection and forgiveness, Dr. Janet Bennett continued, and she cited three things to bear in mind: curiosity, humility and the golden rule.

Research is finding that curiosity is the keystone of intercultural competence, she said, pointing to the importance of the "teachable moment." Cultural humility is "our capacity to recognize that we don't have a clue as to what's going on, that the other culture's way of doing things may be perfectly viable for them, and our cultural solution to the problem may not be the best." As for the traditional golden rule, it is based on the assumption that other people are like you. "This is not very useful interculturally," Dr. Janet Bennett said. More useful is the "platinum rule," which is to treat people the way they want to be treated and to try to understand another person by imagining his or her perspective.

Concurrent Workshops

At mid-morning on Day Two, conference participants dispersed to attend one of five concurrent workshops that explored current issues and problems in SACPA implementation. The workshops and their leaders were:

Dual Diagnosis: Pragmatic Primer to Engage the Underserved Alicia Avila Outcalt, LCSW Program Manager
University of California San Diego
Co-Occurring Disorders Program

Methamphetamine Treatment: A Clinical Concept or a Management Issue? Igor Koutsenok, MS, MD
University of California San Diego
Center for Criminality & Addiction Research, Training & Application

Enhancing Cultural Competency: Pragmatic Tools

Janet Bennett, PhD
Executive Director
Intercultural Communication Institute Sponsor
Summer Institute for Intercultural Communication
Director, Master of Arts Degree on Intercultural
Relations

Issues in African American Treatment and Relevant Strategy

Daryl P. Turpin, MPA, CAD C
Founder and CEO
Turpin Consulting Group
Chairperson, Cultural Proficiency Committee on
The Board of Directors for the National Association of
Drug Court Professionals
Vice-Chairperson, Thurgood Marshall Action Coalition

**Appellate Court Findings Related to
Proposition 36 Informing the Practice**

Honorable Stephen Manley
Judicial Council of California Drug Courts
Santa Clara County Superior Court

Ana Duarte, JD
Supervising Deputy Attorney General
Office of the Attorney General
State of California

After the Concurrent Workshops, plenary sessions resumed

**Utilizing Multiple Agencies to improve
Retention of Proposition 36 Participants**

Nancy Chand
Attorney
Los Angeles Public Defender's Office

Nena P. Messina, PhD Criminologist
University of California Los Angeles

Maggie Willis
Associate Executive Director
People Assisting the Homeless (PATH)

Caroline Phillips
Counsel
Los Angeles pro bono legal group

A panel of speakers described how Los Angeles County has developed a collaborative program aimed at improving delivery of treatment services under Proposition 36 and retains clients in the program. **Nancy Chand**, an attorney in the Los Angeles County Public Defender's Office, opened the presentation with a description of the Proposition 36 procedure in the Los Angeles courts. Offenders enter a not-guilty plea, and go as quickly as possible to an early disposition court. "This is where a lot of plea bargaining happens," she said. Many offenders, however, want to plead guilty immediately so they can be referred to Proposition 36 and be assigned to treatment because they know of a "guy" who has failed in the program repeatedly with nothing bad ever happening to him. "With that mind-set they come to us for sentencing and to be put on Prop 36 probation."

Clients are given their conditions of probation under Proposition 36 and are told to call the assessment center. Ideally, they are released from jail, call the assessment center, make an appointment possibly a week after their arraignment and then go to their evaluation and are referred to drug treatment. The intake appointment for treatment may be another week later. "In Los Angeles it could be two to four weeks from the time someone is released from custody to the time they actually start treatment." This might not be a problem for someone with a place to live and a car, but in downtown Los Angeles the court is dealing with many down and out people, often homeless with serious personal and medical problems. A review of cases shows that about 15 percent have a suicide ideation or have made suicide attempts, and 45 percent have been diagnosed with anxiety and depression. "I have clients who are developmentally disabled, illiterate, on chemotherapy or dialysis, with full-blown AIDS..." Typically these people do not have transportation, and may be using wheelchairs or walkers. The no-show rate for people who call and make appointment for treatment assessment is about 50 percent.

Nancy Chand said she and her colleagues identified barriers to Proposition 36 treatment faced by these people from downtown Los Angeles. First was the manner in which clients were released. An offender ordered released is put in a "release jumpsuit" and released. "They don't have their clothing, they don't have any money, they don't have any ID-they don't have anything." They don't have any way to get anywhere. The jumpsuit identifies them as recently-released addicts and they become prey to predators ready to take advantage of them. The second barrier is the necessity of going back to the jail from the courthouse to turn in their jumpsuit and get their own clothing and possessions back. This requires traveling about a mile. Third, there are "trigger areas" all around the courthouse-people using and selling drugs. The distance from the courthouse to the treatment assessment center constitutes another barrier, with the result that

turning in the jumpsuit and showing up for assessment requires about seven miles of walking. Finally, changes in the brain of drug addicts constitute a fifth barrier.

Nena Messina, PhD took the podium to discuss how drugs affect the structure and chemistry of the brain. She said drug use, especially prolonged drug use, changes the brain in fundamental and long-lasting ways and changes the release of neurotransmitters such as dopamine and serotonin; the chemicals that make people feel joy or happiness. People coming out of jail after a couple of weeks are not fully detoxed, are not in any kind of treatment and are still in a compulsory, substance-seeking state of mind." Dr. Messina compared this state to being very, very hungry and being obsessed with the thought of food. She displayed images of brains illustrating how doses of drugs produce a "high" and how a brain changes after prolonged use of the drug. An image of a brain in recovery, however, reflected the "good news" that the brain can recover. However, it takes a very long time for a brain to recover and it never is fully restored to the pre-addiction state of functioning.

Nancy Chand returned to explain that addicts leaving the county jail may have "the best intentions in the world" but their brains are still "wired" for drug use during the time gap between their release and getting into treatment. Not surprising, many addicts choose to use their drug again before they can keep their appointment for treatment. To remedy this situation, she said, a first step was to move the assessment procedure to the courthouse, so the client at least would have a treatment appointment before leaving the premises. With the support of various individuals with a concern for better drug treatment funds were provided for a downtown assessment center. Another step was to get representatives of social service agencies into court to provide the kind of assistance that would help assure that Proposition 36 clients show up for treatment later on. Nancy Chand, who as a public defender provides legal assistance to indigent clients in criminal cases, found that some of her clients also were being helped by Caroline Phillips, an attorney for a pro-bono legal group - providing services to the indigent in civil matters. A new relationship was developed between these two aspects of legal assistance.

Caroline Phillips said she and Nancy Chand discovered that some of their clients were leaving the courthouse on Temple Street and walking two blocks to the Los Angeles skid row, when families may be sleeping in parking lots and children use port-a-potties as their, only bathrooms. If a scuba diver sees a shark, she said, it is usually easy to climb back into the boat for safety. Addicts on skid row are like swimmers who are unable to get out of the water when confronted by sharks. And this is what it is like to be homeless or facing homelessness in a city like Los Angeles. She and Nancy decided to try to provide legal services to Proposition 36 clients who were threatened by this dangerous environment. "They could be in shelters and not on the street. They could get the correct public benefits to which they're entitled-not an easy thing to do. If they

had food and shelter, would it be more likely they would succeed?"

Caroline Phillips told the story of "Katie" who was completing Proposition 36 treatment but needed transitional housing. She was living on a public benefit of \$271 a month, \$20 of which was going to her treatment program. She had a food benefit worth \$149 a month. She faced the legal problem of getting the benefits sent to her instead of to the treatment program she was leaving. In Los Angeles, treatment providers often continue receiving checks for benefits after a client leaves the program. She needed hospital records from an attempted suicide in 1999 to document her, SSI eligibility. She had problems communicating with her probation officer. But her biggest problem was finding housing. She is now living in quarters provided by PATH.

Due to a lack of affordable permanent housing, many women with children are resorting to a "revolving shelter program," moving from one shelter to another over a period of years. Phillips said she hoped through public advocacy to make permanent housing available for Katie. "She'll be leaving Proposition 36 court successfully in nine months, hopefully with a job and housing."

Nena Messina returned to the podium to describe a multi-million dollar UCLA program assessing the effectiveness of women-focused treatment, based on the experience of women coming into Proposition 36 and drug court programs. Most of the subjects for the study are being recruited from downtown Los Angeles, requiring collaboration with the public defender's office to obtain access to the clients and a place to interview them. Nancy Chand served as liaison between UCLA and the public defender's office.

Dr. Messina said both UCLA and the public defender's office have benefited from this collaboration as well as the research subjects. Grant funds were made available to provide social services for the study participants.

Nancy Chand then turned to barriers in getting clients into treatment. "Even if their living circumstances are shaky, if we can get them in the door of treatment and they have any desire at all to get clean, then maybe they'll meet a counselor who gives them an encouraging word or another client who was once in the same situation. I think making this whole process seamless is critical to keeping Proposition 36 going. "She said a first task was to get the sheriff to agree to coordinated releases-so that people would be released at the same time and could be put aboard a van. They would also have their street clothes, their identification, their other belongings and money, and could be taken directly to treatment. Judge Tynan of the homeless court was instrumental in persuading the sheriff to go along with the plan.

Maggie Willis described the work of People Assisting the Homeless (PATH). Although PATH is not a Proposition 36 provider, she said, the organization was urged by Judge Tynan to help deal with the problem of Proposition 36 clients failing to make it through the program. This led to the

formation of "Prop 36 CARES," for Court-Activated Referral and Engagement System. The idea was for PATH to reach out into the community to develop a coordinated transportation system, to help people get from the courthouse to their treatment center in the most efficient and cost-effective way. She pointed out that PATH, a non-profit organization, has two dozen partners, public and private agencies, maintaining a multi-service center that looks for "holistic" solutions to meeting needs of the homeless. When confronted by the problem of providing transportation to Proposition 36 clients, PATH and its partners mobilized transportation resources of various agencies. The Volunteers of America agreed to provide transportation to a "safe haven" for Proposition 36 clients who could not link up with their treatment program on the same day they were released from custody. Transportation is also provided for those who can enter treatment on the same day as their assessment. Proposition 36 providers are eager to cooperate in this program because no-shows are costly to their bottom line. "It's a win-win for everybody," Maggie Willis said, noting that success rates are impressive for evidence based treatment programs if clients overcome the problem of getting there.

Nena Messina pointed out that a research collaborative agency can benefit programs and are funded by government agencies in response to the problem of drug addiction. Since a provider may be required to follow "evidence based" treatment protocols, it is important to have research to justify the treatment approach that a provider is using. She urged providers to look to local academic institutions for evaluators of their services. "They'll get their own money to do it," she said, pointing out that the research money can help pay for additional services not otherwise funded. "In the long run, having evidence-based programming means ongoing funding from the powers that be."

"The bottom line is that collaboration is the key" said **Nancy Chand**, concluding the presentation. Administrators need to solicit ideas from people who are working in the field who see what is going on from the ground up, she continued. "People who make policy decisions will make better decisions if they know what is really going on out there," she said. A federal appellate judge, Harry Pregerson, advised her to keep "bugging people" for support in carrying out new ideas to help the homeless. "We all need to do better," she declared. "The participants in Proposition 36 don't have the means to do it themselves. They need us to do it."

Day Three

Some remarks by **Kathryn Jett** opened the third day of the conference. She called attention to the television show "Intervention" on the A&E network that traces the experience of drug users through a family intervention and into treatment. She said this show illustrates how attitudes toward addiction are changing with a widening understanding of how the behavior of addicts can be confronted and changed.

Like-Sized Counties

On the second day of the conference, participants attended breakout sessions based on groups of like-sized counties. David Deitch asked the groups to consider these questions:

- What information have they heard which has relevance for their sized counties?
- What do our sized counties need that could be different from the rest?
- What special challenges do our size counties face?
- Is there any particular thing ADP can do to assist in SACPA administration?

The conference concluded on the third day after another meeting of like sized counties and reports to a plenary session from a spokesperson for each group:

Ronnie Wagner, a deputy district attorney from Marin County, reported on behalf of the group including Alameda, Contra Costa, Fresno, Marin, Sacramento, San Francisco, San Joaquin, San Mateo and Santa Clara Counties. She pointed out that these counties are not necessarily similar in size but they constitute a contiguous geographical area. She said the counties were striving to increase effectiveness, efficiency and accountability in their programs. "The over-arching theme has emerged in our talks was collaboration, shared resources and innovation," she said. One tool discussed was a dedicated calendar and court teams, which promote successful implementation of Proposition 36. This enhances the ability to provide consistent practices from the bench, in staffing meetings and in treatment. As a sub-category of court teams, the group agreed on the importance of selecting the right judicial officer. Manley suggested the possibility of providing training for judges who might be interested in assignment to a dedicated calendar. On-going training for team members also was emphasized, possibly with the use of interns from local educational institutions. "We also mentioned interaction between probation officers and treatment providers, and the maximization of accountability by the use of court teams." Another challenge is bridging the gap between sentencing and reporting to probation for the initial assessment and then to treatment itself and returning to court.

Another tool discussed was risk assessment, Wagner continued. Some criteria are needed in order to tailor procedures to the needs of different kinds of probationers. The procedures would be applicable both in court and in treatment. It was also felt that a 12 month treatment span would improve success rates, along with relapse prevention of some kind incorporated into aftercare or as an additional facet of treatment.

The group saw a need for services geared to diverse populations--for example, the urban poor, non-English speakers and emerging populations, and probationers with medical disabilities. Another need is community education and outreach as a counter to the notion that it is impossible to succeed with Proposition 36. The "Intervention" television program mentioned by Kathryn Jett is the type of outreach needed to acquaint the public with the difficulties of dealing with addicted people.

A significant topic that arose was out-of-county treatment she continued. This includes the difficulty of probationers appearing in one county and living in another, raising the question of where treatment will be provided. There is a danger of these people "falling through the cracks." Manley suggested that the Judicial Council could issue rules and regulations for transfer of jurisdiction, providing some statewide consistency. The group also identified a need for cross-training of police and correctional officers in such areas as cultural sensitivity and the disease model of addiction.

As for special challenges, the allocation of limited resources dominated discussion because funding was a persistent theme in every question coming up. She related how clients needing residential treatment were being placed in intensive outpatient instead, with the high cost of real estate frustrating efforts to develop more residential programs and transitional housing. The funding question also arises in considering the need for an integrated model for treating clients with co-occurring disorders, with a statewide need for more flexibility for combined programs.

As for what ADP might provide in the way of assistance, the most important issue discussed was the need for more inter-agency education and dialogue regarding implementation of Proposition 36 at the local level. "We want the state to cultivate local consciousness-raising with town meetings, and meetings with county leaders and the like." The counties also would hope to see a simplification of the county plan approval process at the front end, and ADP might be able to arrange for the cross-training mentioned earlier. Finally, every county reported problems with the auditing process. "It wasn't timely, it was inefficient, and there were demands for the return of funds already allocated. When you're in the trenches implementing a statute nobody's wasting money on purpose, no one's throwing it around."

Jeff Thompson of Solano County's Behavioral Health division delivered a report for the group including Kern, Monterey, Placer, San Luis Obispo, Santa Barbara, Santa Cruz, Solano, Sonoma, Stanislaus, Tulare and Ventura Counties. He said the group felt that inter-agency collaboration was the most relevant topic addressed at the conference and is the most effective way to address issues

under Proposition 36. He noted that in Solano County there has been no buy-in to the Proposition 36 effort from judges, prosecutors and the public defender, which were not represented at this conference. He said the conference sessions on cultural competence and diversity made it clear there is a need to "get outside the box" and develop more empathy with people being treated. The presentation from Orange County clarified the issues arising when treating a population with dual diagnosis of substance abuse and mental disorders. In some cases, he said, a client may have more than two diagnoses. He said it is evident that a "punitive response" is not always in order when clients do not do what is expected of them.

The group concluded that counties need an integrated data system in order for everyone to be on the same page, he continued. Mid-sized counties do not have a large number of treatment providers and thus cannot offer the level of treatment needed by some clients. "For a lot of our clients, mental health services and medications are hard to come by. In Solano, for example, only the severely mentally ill people are being served, and those with lesser degrees of mental illness go unserved a lot of times and therefore are not able to function their malleability in Proposition 36 is in question."

Jeff Thompson said there was also discussion of funneling unused funds from larger counties to the smaller counties that need them. On another subject, it was pointed out that communication and collaboration may be easier to develop in smaller counties than in larger counties because of their size.

As for special challenges, Jeff Thompson said the reallocation formula of Proposition 36 funds did not benefit some mid-sized counties that received less money as a result. Another challenge is the need to offer a higher level of treatment to persons who enter a lower level and fail. It was asked whether a client could be placed on a waiting list for treatment when there is no money to pay for the treatment. If less money is going to be available there is a need to reduce the number of people entering Proposition 36 programs. Also, a legal opinion is needed to clarify who has the obligation to treat Proposition 36 cases if there are no funds appropriated for that purpose. Are judges legally bound to sentence people to Proposition 36 treatment even though there are no funds provided to pay for it? Are counties expected to transfer money from their general funds to pay for Proposition 36?

As for help from ADP, counties would like ADP to develop training programs for Latino counselors, and to conduct audits consistent with the amount of audit resources and with timely feedback to the counties so they can make necessary changes. ADP also should work with CDC to get some consistency in how parolees receive Proposition 36 services. ADP should consult with foreign countries such as England and Italy that have been maintaining programs similar to Proposition 36. Has ADP conducted a cost-benefit analysis to determine what practices are working best and where limited funds can best be spent? And guidelines are needed for methods of collecting money from clients obliged to share in the cost of their treatment.

Frank Wilson of the Los Angeles County Probation Department reported for the group including Los Angeles, Orange, Riverside, San Bernardino and San Diego Counties. He said the geographic size of such counties as Riverside and San Bernardino creates needs not the same as counties similar in population but with much smaller areas.

The need for transitional housing has been evident for a long time, he said. Los Angeles County does not have a major problem with availability of residential treatment beds, but it does have a problem with housing for those assigned to outpatient treatment—a need for sober living or 12-step houses and the fact that such houses are not regulated. "When you refer someone to a transitional living place that is not run by one of the major licensed and certified treatment programs, you're putting them into a situation you're not sure of."

The issue of cultural sensitivity also was discussed. He pointed out there are 60 languages spoken in Los Angeles County, and the county would have to publish literature in 27 of those languages if it complied fully with regulations. Cultural diversity creates a need for training and tolerance on the part of everyone involved in Proposition 36. The problem of "dropouts" before clients enter treatment was discussed in the group, along with ways that methamphetamine addicts seem to be different from people addicted to other drugs. More education about methamphetamine is needed.

The counties agreed with Kathryn Jett that they need to be pro-active in seeking a continuation of state funding for Proposition 36. There was discussion of the possible impact on the counties if the funding is allowed to expire and there are drastic cutbacks in staffing and facilities for Proposition 36. Counties should work on contingency plans for this possibility, he said, and so should ADP.

Amy Stout, a deputy probation officer for Napa County, reported on behalf of Butte, Colusa, El Dorado, Glenn, Imperial, Kings, Lake, Madera, Merced, Mendocino, Napa, Nevada, San Benito, Sutter, Yolo and Yuba Counties.

Her group found that the most relevant information received at the conference was the description of the use of sober living housing in combination with intensive outpatient treatment as a path to follow when faced with a limitation on residential treatment resources. Of interest also were the proposed changes incorporated in SB803. The group found the presentation regarding Butte County's "drug court lite" model of special interest as an innovative and inspiring example, especially the idea of including the client as a critical part of the treatment team.

Grouping challenges and needs together, these counties as expected came up with the need for more money. Some counties, Amy Stout said, are struggling with the need for collaboration as a factor critical for success, with a need for an "operational definition of the word 'collaboration'." The counties also need someone to do an analysis and evaluation of their programs. "We don't live close to a UC. We don't live close to colleges with programs that can do this."

Some counties have a lack of judicial involvement and/or support from the district attorney and the public defenders. Many have a lack of mental health support services for dual diagnosis clients. "Smaller counties with limited therapeutic resources may develop a competitive environment rather than allowing everyone their own space to provide a continuum of services. Everyone is struggling to stay alive," she said. Also, differences in treatment philosophies lead to differences in treatment outcomes.

What can ADP do to assist? The counties would like to see guidelines for a uniform approach statewide. Some counties would like to see a mandated "drug court lite" model. Some are having trouble getting collaborations going. The ADP letter regarding resource-building was "positive and helpful." Counties want to be "kept in the loop" for information regarding funding prospects. What are our viable options if we're not refunded? What would we do with people who are in treatment?"

The group would like to see ADP create a web site with forums for like-size counties to encourage the exchange of information that took place at this session. Also, ADP should provide that funds from counties with surpluses being reallocated to counties that need more money. Amy Stout concluded with asking ADP not to forget about the counties when drafting and pushing legislative changes and developing funding streams.

John Gehrung of the Tehama County Health Services Agency reported for the group including Alpine, Amador, Calaveras, Del Norte, Humboldt, Inyo, Lassen, Mariposa, Modoc, Mono, Plumas, Sierra, Tuolumne, Shasta, Siskiyou, Yolo and Yuba Counties. He said he gets the impression that all counties regardless of size are facing similar problems with Proposition 36.

The issue most relevant to the counties in this group, he said, is the need by their clients for an immediate response and support from the legal system. Another is the need to provide a diversity of services for the multi-cultural populations in various counties. The state of California is a diverse place made up of people from all over the world.

What counties of their size need is the same as what all counties need - more money, John Gehrung said. Also, counties are finding that "micro-management" is a hindrance in providing Proposition 36 services, putting "an incredible number of restraints" on how money is spent for the diverse types of services that clients need. They hope ADP will encourage and support the establishment of more sober living environments.

As for special challenges, one is to maintain the correct staff ratios for the number and type of clients that are received into the system, with recruiting of multi-cultural staff. As counties with small populations in larger geographic areas, there is a limit on the number of jobs available for clients needing employment. Perhaps it would help to eliminate the question "are you a felon?" on the job applications. There is also a need to have bi-lingual staff available at all times.

How can ADP help? The auditing process could be improved with "timely corrective action plans" rather than punitive measures and withdrawing money when slight mistakes are made. "Why not just tell us what we did wrong and

have us fix it quick? How about not having two weeks of audits for a small program with only nine clients?"

Millicent Gomes returned to the podium as the conference drew to a close. She outlined ways that ADP intends through a county-accessible link on its web site to help counties recruit staff, especially multi-cultural staff. Steps also will be taken to provide communication links among like-size counties for exchange of ideas on the issues surfacing at their meetings at this conference. ADP also is committed to getting more timely audits out to the counties, she said, and being able to reconcile the county plan issues and policy issues with audits. A work group is being formed to deal with this. She added that ADP would be looking at the format of the county plan itself and what information is required in it. The hope is to provide more timely feedback to the counties.