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

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Abstract

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

Keywords

Court-supervised substance abuse treatment; Offenders; Promising practices; Focus groups; Proposition 36

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1. Introduction

Since its inception in July 2001, California's voter-initiated Substance Abuse and Crime Prevention Act, commonly known as Proposition 36, has matured into a well-known criminal justice diversion option that offers community-based substance abuse treatment to nonviolent offenders in lieu of incarceration. Implemented statewide on a large scale within a very short time period (Hser, Teruya, Brown, Huang, & Anglin, 2007), Proposition 36 has prompted over 300,000 admissions to drug treatment thus far (Urada et al., 2009) and the program has resulted in significant system-wide impacts (Hardy, Teruya, Longshore, & Hser, 2005; Hser, Teruya, Brown, Huang, & Anglin, 2007; Niv, Hamilton, & Hser, 2009). The primary goal of the Proposition 36 program is to divert substance using offenders from likely incarceration into the community where they can access and benefit from substance abuse treatment. From a policy perspective, Proposition 36 has been credited with incorporating a public health approach into drug law (Klein, Miller, Noble, & Speiglmann, 2004) and has been celebrated as one of the few correctional reforms to have been fully implemented this decade (Ehlers & Ziedenberg, 2006). Since the inception of Proposition 36, more than 20 states have considered, and some have implemented, similar legislation (The Avisa Group, 2005).

Much of the research on Proposition 36 has focused on who participates and the outcomes of those served. For example, studies have documented offender characteristics and treatment needs (Anglin et al., 2007; Brecht, Stein, Evans, Murphy, & Longshore, 2009; Hser et al., 2003; Longshore et al., 2005; Prendergast, Greenwell, Farabee, & Hser, 2009; Urada et al., 2009; Wiley et al., 2004), treatment services utilization and outcomes (Cosden et al., 2006; Evans, Hser, & Huang 2009; Evans, Li, & Hser, 2008; Farabee, Hser, Anglin, & Huang, 2004; Fosados, Evans, & Hser, 2007; Hser, Evans, Teruya, Huang, & Anglin 2007), and cost effectiveness (Hawken, 2008; Longshore, Hawken, Urada, & Anglin, 2006).

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

1.1. Therapeutic courts

Proposition 36 is part of the national trend toward the integration of criminal justice and health service systems to divert substance-dependent offenders away from criminal justice settings and to treat and supervise them in the community. Known by an assortment of terms such as "collaborative justice," "therapeutic jurisprudence," "problem-solving courts," and "specialty courts," these efforts have been characterized as partnerships that promote offender accountability by combining judicial supervision with rehabilitation services that are rigorously monitored and focused on recovery (California Courts, 2009). There is growing support for therapeutic courts, as evidenced by their proliferation and use with different types of populations such as mentally ill offenders (Broner, Lattimore, Cowell & Schlenger, 2004; Erickson, Campbell, & Lamberti, 2006; Grudzinskis, Clayfield, Roy-Bujnowski, Fisher, & Richardson, 2005; Gondolf, 2009; Redlich, Steadman, Monahan,

Robbins, & Petrila, 2006) and adolescents (Belenko & Logan, 2003; Boles, Young, Moore, & Di-Pirro Beard, 2007; Bryan, Hiller, & Leukefeld, 2006; Gilmore, Rodriguez, & Webb, 2005; Henggeler et al., 2006; Rodriguez & Webb, 2004; Sloan, Smykla, & Rush, 2004).

1.2. Drug courts and Proposition 36

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

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

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

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

There are significant operational differences between California's Proposition 36 and drug court programs (Carey, Pukstas, Waller, Mackin, & Finigan, 2008; Evans, Li, Urada, & Anglin, 2010; Little Hoover Commission, 2008; Riley, Ebener, Chiesa, Turner, & Ringel, 2000). For example, offense-based eligibility criteria and standards of offender suitability are used to select individuals for drug court participation whereas under Proposition 36, treatment must be made available to all offenders who meet the conviction-based eligibility criteria despite motivation level or other indicators of program suitability. Another programmatic difference, drug court includes intensive judicial supervision and court

monitoring (e.g., frequent status hearings with the judge), frequent and random drug testing, and brief incarcerations for program noncompliance. In contrast, Proposition 36 specifies that probation supervision and court monitoring occur, but the type and level of supervision and monitoring are unspecified. Moreover, incarceration of Proposition 36 offenders for program noncompliance is prohibited, although there are indications that judges have found creative ways to exercise judicial sanctioning (including short incarceration stays) (Burns & Peyrot, 2008). A final programmatic difference, upon treatment failure, Proposition 36 must provide up to three opportunities for offenders to try treatment again, whereas under drug court continued treatment following program failures is by judicial discretion.

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

Many independent and inter-related components are involved in the operation of drug courts (Logan, Williams, Leukefeld, & Minton, 2000) and drug court processes are influenced by contextual factors as well (Longshore et al., 2001), such as level of collaboration between key stakeholder personnel (Wenzel, Turner, & Ridgeley, 2004; Wolfe, Guydish, Woods, & Tajima, 2004), their characteristics and experiences (Nored & Carlan, 2008), and levels of discretionary decision-making (Colyer, 2007). Similar issues were identified as being salient to early Proposition 36 implementation efforts (Hardy et al., 2005).

A network approach toward understanding public policymaking focuses on the role played by key actors, their linkages (i.e., exchanges of communication, trust, and resources), and boundaries (Kenis & Schneider, 1991; Schneider, 1992). This literature suggests that policymaking is often not centrally planned or controlled but is rather the product of complex, dynamic, and interdependent processes. For example, factors may influence whether organizations form alliances or work alone (Hojnacki, 1997) and relationships between actors may be influenced by institutional settings (Konig & Brauning, 1998) or evolve over time (McGregor, 2004). Other literature suggests that successful implementation of new or modified social policies is influenced by the attitudes, training, and practices of workers who are closest to its creation and the inclusion of their perspectives and experiences in policy processes enhances implementation (Maynard-Moody, Musheno, & Palumbo, 1990).

1.4. The need to identify core Proposition 36 program elements

Since 2001, the UCLA Integrated Substance Abuse Programs (ISAP) has conducted an annual evaluation of Proposition 36 (Urada et al., 2009) and at regular intervals data were collected from the primary stakeholders responsible for the implementation and oversight of county Proposition 36 programs (e.g., Hardy et al., 2005). In 2009, California's fiscal crisis worsened (California Department of Finance, 2009) and there has been increasing necessity to cut costs by streamlining Proposition 36 processes while preserving effective core program elements (Little Hoover Commission, 2008). Within this context, we address significant gaps in the literature by describing policies and practices that account for the successful delivery of court-supervised community-based drug treatment under Proposition 36, focusing on the perspectives and experiences of key program implementers.

2. Methods

2.1. Data sources

Perspectives of stakeholders responsible for operating the Proposition 36 program were gathered via focus group discussions held in counties empirically identified as exhibiting noteworthy program performance and outcomes. Indicators were chosen that were congruent with the intent of the Proposition 36 law to reduce drug use, drug-related crime, and incarceration of drug offenders via delivery of proven and effective treatment strategies.

State-level administrative data collected from two sources was utilized: (1) the California Outcomes Measurement System (CalOMS), maintained by the California Department of Alcohol and Drug Programs (ADP), which contains information on all individuals admitted to and discharged from publicly funded drug treatment and (2) the Automated Criminal History System (ACHS), maintained by the California Department of Justice (DOJ), which contains arrest and conviction histories on all adult offenders.

Using these data, seven indicators of program performance and outcomes were examined:

- (1) percent dropped-out of treatment within 30 days of admission, among all Proposition 36 offenders discharged during Fiscal Year 2006–07
- (2) percent retained in treatment ≥ 90 days, among all Proposition 36 offenders discharged during Fiscal Year 2006–07
- (3) percent completed treatment, among all Proposition 36 offenders discharged during Fiscal Year 2006–07
- (4–5) percent re-arrested, among all treated Proposition 36 offenders over 30 months from program eligibility determination (occurring during Fiscal Year 2003–04) for any arrest type (4) and for drug only arrests (5), and
- (6–7) percent sentenced to re-incarceration, among all treated Proposition 36 offenders over 30 months from program eligibility determination (occurring during Fiscal Year 2003–04) to jail (6) or to prison (7).

Indicators were analyzed separately and then aggregated into one composite score by county. To calculate a composite score, a value (range 0 to 10) that corresponded to each indicator was assigned and summed such that a higher composite score (possible range was 0 to 70) indicated better performance and outcomes.

Next, California's 58 counties were sorted into population size categories (13 large counties, 12 medium, 14 small, 19 very small) developed by the County Alcohol and Drug Program Administrators' Association of California (CADPAAC, <http://www.cadpaac.org/>) and ordered by their composite score. Fulfilling an intent to focus on better performing counties while collecting perspectives from stakeholders in enough locales to permit a recurrence of themes to emerge, eight high-performing counties were selected as the target sample for qualitative data collection.

2.2. Participants

Eight high-performing counties invited to participate in focus groups included 4 that were large-sized, 3 medium-sized, and 1 small-sized. Very small-sized counties were omitted as preliminary analysis revealed that even when combined, relatively few Proposition 36 offenders (about 2%) were treated within these counties. Of the eight counties invited to participate, two reported scheduling conflicts that precluded participation and six counties agreed.

The six participating counties were located in four different geographical areas of the state (i.e., Central Valley, Central Coast, Bay Area, and Southern California), half were large-sized counties and half were medium-sized; they collectively served 11.1% of Proposition 36 offenders treated in Fiscal Year 2006–07. All members of the Proposition 36 oversight or workgroup committee in each county were invited to participate in focus groups, resulting in 59 individuals who participated. Representatives from drug and alcohol program administration, probation, the courts, prosecutors, public defenders, treatment providers, and other stakeholders (e.g., parole, program evaluator) were included. The composition of each focus group varied by county and overall participant characteristics are provided in Table 1.

2.3. Data collection and analyses

Focus groups were conducted from February through April 2009. Discussion topics were developed by the Proposition 36 evaluation team at UCLA ISAP and topics covered key components of program success, recommendations for best addressing specific sub-groups of Proposition 36 offenders, the impact of the current state budget crisis, and existing program needs. Participants were shown outcome data for their county in comparison to counties of the same size, reflecting the characteristics of offenders admitted to treatment under Proposition 36 during Fiscal Year 2006–07 (Table 2) and focusing on the seven indicators of program performance and outcomes that comprised the composite score (Table 3).

When the characteristics of counties that did and did not participate in focus groups were compared (at $p < 0.05$), data showed that non-participating counties had more offenders who were early treatment dropouts or sentenced to jail or prison, and a lower mean composite score (32 vs. 37). There were no significant differences in offender characteristics between non-participating and participating counties.

Each focus group lasted between 1.5 and 2.0 hours and was held at a central location within each county. Participants were encouraged to use aliases during the sessions to maintain confidentiality and were assured that no individual or county would be identified in findings. Written informed consent was obtained from all participants and all procedures were reviewed and approved by the Institutional Review Boards at UCLA and the California Health and Human Services Agency. A research assistant took written notes and produced a summary of primary points shortly thereafter. Digital recordings of the discussions were transcribed verbatim and reviewed for accuracy.

Using grounded theory methods (Corbin & Strauss, 1990; Glaser & Strauss, 1967), the focus group facilitator and the research assistant coded each transcript independently, and then met to compare codes and resolve discrepancies through discussion. Patterns within and across the focus-group transcripts were analyzed and major themes were identified inductively, allowing the data to dictate analytical categories. Common responses were grouped, as were quotations that best illustrated the most frequently expressed ideas. The resulting summary of themes was reviewed by the research team. A preliminary draft of findings was shared with focus group participants for comment and correction.

Specific descriptive terms used by stakeholders to refer to individuals who participated in the Proposition 36 program reflect stages within the program “pipeline” and thus the same individual is referred to differently as he/she moves from arrest (offender), to the legal setting (defendant), acceptance of the Proposition 36 program (participant), and into drug treatment (client, patient). In the following presentation of results, “participant” refers to individuals who were treated by the Proposition 36 program whereas “stakeholder” refers to individuals who operated the Proposition 36 program.

3. Results

County stakeholders attributed Proposition 36 program success to strategies that comprised four broad categories, those that: (1) fostered program engagement, monitored participant progress, and sustained cooperation among participants; (2) cultivated buy-in among key stakeholders; (3) capitalized on the role of the court and the judge; and (4) created a setting which promoted a high-quality treatment system, utilization of existing resources, and broad financial and political support for the program. Each strategy is discussed as to overall goals and the practices stakeholders used to achieve implementation.

3.1. Strategy 1 – Foster program engagement, monitor participant progress, and sustain cooperation among participants

One goal of this strategy was to **quickly engage participants** in the program so that receipt of services occurred within one to six days after the triggering conviction. Stakeholders in all counties felt that rapid participant engagement minimized opportunities to not show for treatment and also built immediate trust and buy-in among participants by underscoring that the Proposition 36 team was willing to “go the extra mile” on behalf of participant interests. To promote rapid engagement, stakeholders reported the use of several practices.

All six counties reported efforts to *make treatment entry easy* by simplifying pre-treatment processes. For example, offenders were handled in a dedicated Proposition 36 court (discussed further in Section 3.3), a clinically trained court-based unit conducted rapid assessments, agency staff (from court, probation, and assessment offices) were co-located so that participants could easily walk to each office, and escorts accompanied participants through procedures to ensure each step was completed successfully.

As another practice for increasing program engagement, five of the six counties reported the provision of an *orientation session* that explicitly described program processes, expectations, legal obligations, current criminal justice status (i.e., on probation, parole, or both), benefits such as linkages with local supportive services (e.g., CalWORKS, Medi-Cal, Veterans Affairs, etc.), and next steps in the process. Orientation was conceptualized as a “pre-treatment” intervention, a drug education class, or a special session with probation staff. Regardless of the mechanism for providing information, participants became aware of program rules and expectations “upfront” and “before they even hit the treatment door.”

A second goal of this strategy was to **monitor participant progress** so that participants did not “get lost in the system,” “veer off the path,” “go off the court calendar,” or “slip through the cracks.” In all counties, oversight systems were established to “keep real close tabs” on participants in order to detect and respond to behavior appropriately and immediately (problem behavior was to be “nipped in the bud”), thereby facilitating “continual engagement” and preventing relapse to drug use and criminal recidivism. Stakeholders reported the use of several practices to monitor participants.

In half of the counties, participants were required to *appear before the judge* weekly and/or at program milestones (e.g., after orientation, after assessment, at specific intervals during treatment, at treatment completion, at regular intervals while on probation post-treatment, at Proposition 36 program graduation). Face-to-face supervision by the court as opposed to other officials was thought to be of greatest benefit. Stakeholders explained that regular judicial review provided an opportunity to assess status and need for additional services and were also “a huge motivator [for participants] to stay on the path” to recovery.

Five counties reported the use of a *specialist who acts as a “bridge”* between participants and stakeholders to facilitate communication regarding participant progress and outstanding needs. This role was fulfilled by probation in two counties and by “engagement and retention” or “case management” staff in three counties. This specialist eliminated bureaucratic delays by being empowered to call for reassessment when appropriate, knowing “who to contact” and “how to get things done,” being available for other stakeholders to contact directly and receive a response from at a moment's notice, and by linking participants to community resources that support recovery. The specialist also “contains the participants” by staying in touch with them from intake through program graduation, increasing interactions as needed and especially when relapse risks increased (e.g., change in level of care, treatment exit, after assignment to a “banked” probation caseload where they could “fall off of probation's radar.”).

In all counties, stakeholders highlighted the need for *drug tests* at random and for cause, frequently, in all settings (e.g., court, drug treatment, probation), and to continue to do so until Proposition 36 program graduation. Drug testing was reported to keep participants “honest” and “accountable” and was “absolutely essential” to program success. Ideally, testing occurred on-site with immediate results tied to a quick response (by treatment, probation, and/or the courts) that was therapeutic (e.g., intensify treatment) rather than punitive.

Finally, stakeholders in all counties emphasized that program success was attributable to efforts designed to cultivate and **sustain cooperation among participants**. Participants were shown that when inappropriate behavior occurred, oversight staff would not seek to “punish” or make them “pay the consequences” but that there would be a “swift and sure response” targeted toward doing what was needed for them to succeed. To further this strategy, stakeholders treated participants “as human beings instead of as defendants,” included them as being “a part of the Proposition 36 system” so that they and stakeholders had a “shared goal,” and showed them that the “adversary” was drug addiction and not the participant per se. Stakeholders reported several practices for creating a “non-adversarial” environment for sustaining participant cooperation.

Stakeholders reported the intent to create a *culture of respect for participants*. Described by one county as creating a “family feeling” between participants and stakeholders, these practices included asking about the important people and events at each interaction, involvement of family members in courtroom proceedings, and physical contact and encouragement (a handshake or a hug). The physical space of the courtroom was also used to cultivate participant cooperation: for example in one county the judge sat at a table that was “on the same level” as participants and in two counties photographs were posted of successful participants standing with the judge and other key stakeholders (e.g., Sheriffs' deputy, probation officer).

As another practice for sustaining cooperation, stakeholders in five counties reported working together as a “united front” to send a consistent message. Also referred to as stakeholder “solidarity,” participants were shown that stakeholders from different agencies (e.g., courts, probation, treatment) “really care,” worked together to “support treatment” and further the goals of recovery, communicated regularly with each other, and were “on the same page” regarding participant status such as treatment assignment and noncompliance. Treatment staff were comfortable contacting probation or the courts to provide a “hammer” or “leverage” for dealing with noncompliant behavior and, likewise, the courts and probation respected decisions regarding treatment planning made by treatment staff. Stakeholders in two counties curbed the tendency among some participants to “program shop,” and thus postpone treatment entry while “burning up” limited treatment resources. For example, it was made clear that treatment assignment was based on assessed significance of need for services and not “dictated” by participant preference, and participants were reassured that a similar type and quality of care was offered by programs within the same treatment level.

Stakeholders in five counties also reported the importance of implementing activities that *build motivation and hope* among participants. Such activities made participants “so proud” of their behavioral improvements and were in turn perceived by stakeholders to enhance the likelihood of continued program buy-in and retention. In three counties, activities included simple and inexpensive, but “symbolic,” practices such as small rewards for good behavior (candy, fruit, opportunities to participate in raffles) and verbal praise and celebration of successes in open court. Other practices to increase participant motivation included: using motivational interviewing techniques for all communications (not just treatment

interactions), “packaging” fees and fines (i.e., pay multiple fines for the price of one) to motivate graduation with a “clean slate,” requiring those unemployed to seek employment and to complete community service hours, linking them to child protective services so that they understood the steps for regaining custody of children after program completion, reducing the number of unnecessary treatment interactions, structuring program graduation ceremonies to include local “dignitaries” (e.g., county sheriff, police chief, county supervisor, mayor), and providing Proposition 36 alumni meetings.

A final practice endorsed by all counties for facilitating continued program engagement was to *maximize opportunities for treatment success*. Stakeholders reported avoiding a “strict interpretation,” or overly rigorous application, of the Proposition 36 law. For example, one county mentioned giving participants a “grace period” to get oriented to treatment processes before being held accountable to program requirements. In four counties, relapsed participants were placed in a non-medical detoxification setting and considered for further treatment instead of being terminated from Proposition 36. In two counties, minor but multiple related treatment infractions (e.g., positive urine test, missed treatment appointment) were “bundled” or “wrapped” to be considered as a single violation. If a participant was facing a third and final program violation (an event that could trigger program termination) but seemed amenable to further treatment, stakeholders in four counties reported an extension of the probation period or other sanction options were considered so that the participant was given an “extra chance” at fulfilling treatment requirements.

Although not allowed as a response to Proposition 36-type infractions, four counties allowed continually noncompliant participants to be considered for receipt of short remands to jail on a concurrent non-Proposition 36 offense (“flash incarceration”) or “catch and release” practices (i.e., brought to court and, after remaining in court all day, released). Such interventions were felt to be a “healthy sanction” for teaching participants that responses follow inappropriate actions, i.e., “if you do this, this is what happens,” for motivating them to take treatment seriously, and for “interrupting” unhealthy lifestyles that may have resurfaced during recovery.

In summary, stakeholders credited Proposition 36 program success to multiple integrated practices that facilitated engagement, monitored behavior, and sustained cooperation. To promote program completion, stakeholders minimized barriers to treatment utilization, helped participants to navigate the relevant criminal justice and healthcare systems, and provided them with support and encouragement (in lieu of punishment). More broadly, these practices may be best characterized as designed to motivate participants to experience Proposition 36 as a “turning point” in their lives, that is, it was presented as a unique chance to access substance abuse treatment and other needed services and thus allow them to be better equipped to make and sustain significant behavioral changes. In effect, the policies and practices that were developed were not designed to “make” participants change but instead were aimed at cultivating the desire to want to change. In addition, the supportive role played by key stakeholders was perceived as being a crucial element of program success.

3.2. Strategy 2 - Cultivate buy-in among key stakeholders

The goal of this strategy was to **build productive relationships among stakeholders**. Stakeholders explained that the Proposition 36 “statute is impossible to work with” procedurally unless “everybody [on the team] buys in to the higher purpose” and all work together to “tweak the legal system to make it work with drug treatment.” Variation in program operations by region within each county underscored that program consistency depended on stakeholder buy-in and cooperation. Despite this variation, stakeholders in all

counties aimed to achieve a “critical mass” of colleagues who “believe in the program,” trust and value one another as equals, establish open and easy lines of communication, and were eager to collaborate to fine-tune the program as challenges arose. Stakeholders identified several practices for achieving strong collaborative relationships.

In all counties, there were *educational opportunities* for stakeholders to optimize understanding about program processes as well as one another's expertise. Word of mouth from a trusted colleague regarding program strengths and weaknesses was often more powerful at influencing stakeholder buy-in than attendance at formal educational events. Inter-related activities were essential to this practice. For example, opportunities were provided for stakeholders to witness the program in operation first-hand via attendance at court sessions and graduations. The program established a “brain trust” of knowledgeable local experts who provided training on the principles of effective substance abuse treatment. Program data was used to monitor outcomes in the county, address misinformation about program requirements, and identify systemic failures and responsive fixes. Stakeholders interacted outside of usual work roles, for example via informal get-togethers (potlucks, retreats), team attendance at statewide conferences, and site-visits to observe program processes in nearby counties.

Another reported practice promoting stakeholder buy-in was to *acknowledge philosophical differences* between stakeholders. Some stakeholders may feel it is not their job to act as a “social worker” or “do not believe in treatment,” and others could be placed in a position where their typical role requirements conflicted with their Proposition 36 role. For example, there may be some probation officers opposed to the provision of drug treatment to repeat offenders, some judges reluctant to allow opiate-dependent offenders to receive narcotic replacement therapy, some public defenders uncomfortable advising clients to accept conviction without a trial, and some treatment professionals uneasy reporting program noncompliance to probation, parole, and/or the courts. Stakeholders in three counties indicated that as the program “evolved” over time, stakeholders acting in good faith eventually worked out such differences and achieved mutually acceptable compromises.

Stakeholders in all counties emphasized the value of maintaining a *core group* of staff to operate the program. Staff who had invested time and effort in the Proposition 36 “baby” would make extra efforts to “fine-tune the program” and make it “roll along.” Four counties reported that experienced staff lent “consistency” and “stability” to program operations, allowing stakeholders to move beyond the mechanics of program implementation and instead to focus on program improvement. Mid- to senior-level staff were identified by two counties as being better equipped to make the most of their longstanding relationships and knowledge of county resources and processes, and “veteran” staff were perceived to be more inclined to “give treatment a chance.”

In summary, Proposition 36 success was attributed to strong and enduring relationships between the key staff responsible for operating the program, resulting in higher levels of collaboration and coordination. Proposition 36 was seen as a work in progress that required active management as well as periodic assessment and adjustment. Furthermore, stakeholders operated the program in a manner that was congruent with the intent of Proposition 36, despite historical differences in institutional roles and attendant philosophies. In effect, program success was attributed to the creation of genuine “collaborative justice,” meaning stakeholders worked together to analyze operational problems and create responsive solutions that would have been impossible to achieve without the proactive coordination of the involved stakeholders (Collaborative Justice, 2009). Moreover, program success was often attributed to the courts and to one key stakeholder in particular: bench officers or “the judge.”

3.3. Strategy 3 – Capitalize on the role of the court and the judge

Stakeholders in all counties credited success to the establishment of a **Proposition 36 court** and to the role played by an involved **Proposition 36 judge**. They explained that success depended on a court staffed with a core group of individuals who oversaw a calendar dedicated to handling all Proposition 36 cases on specified days each week. All key stakeholders appeared in this “dedicated court” to “hammer out” the best course of action for each case and, as an added benefit, this process was perceived to “make participants more eager to participate...because they see all the caring...from the whole team.” An effective courtroom was viewed by participants as being “accessible” and “the place to go” if they were struggling and needed help. A dedicated court precipitated engagement as early in the program as was possible, standardized the handling of cases, and helped expedite case processing. The courtroom was also used as an arena for celebrating success as well as for showing “the Proposition 36 community” (i.e., other offenders) what occurred when a participant did not appear in court or was noncompliant with specific program requirements.

Furthermore, stakeholders in all counties described “judicial leadership” as an important component of program success. The judge was described as “the hub of everything...who holds everything together...and is central to successes.” Stakeholders identified the personal characteristics for choosing an effective judge: service on a public health oriented collaborative justice court; familiarity with drug court components; and knowledge about drug addiction, co-occurring disorders, behavior modification, and the principles of effective treatment. The judge was identified as the central player in several main activities, for example, as personally connecting with participants, facilitating communication between key stakeholders, and garnering broader political and financial support for the program from the local community.

Judges who could *connect with participants* were often described as charismatic, plain speaking, and “parental” when appropriate, and setting clear boundaries for participants while showing the judge cared about the individual and his or her success. At times referred to as the “black robe effect,” stakeholders in all counties emphasized that an effective judge motivated treatment involvement, showed that he/she would not “give up” on participants, and structured oversight procedures to make it harder for participants to opt out of treatment than to stay in it. For example, to participants who wanted to drop out early because jail seemed less onerous, the judge in one county would offer a jail sentence that was higher than expected and the judge in two counties would explain that he/she would be on the bench when the participant was released from jail on probation, ready to “harass [them] to sobriety” if needed to prompt more active program compliance. Stakeholders in two counties explained that traits like these created participant attachments to the judge, causing some to view the judge as a personal advocate (e.g., “my judge”) who they did not wish to disappoint, often resulting in an increased desire among participants to “earn the respect” of the judge and other stakeholders by completing program requirements.

Judges who *facilitated communication between key stakeholders* were cited as being an important component of program success. An effective judge created a “community of equals” or a “culture of collaboration,” using his/her position to encourage all stakeholders to come to the table, communicate with each other, and reach consensus. Stakeholders in three counties explained that the judge showed respect for their expertise and made a point to value contributions made by probation and avoid “undermining” the recommendations of treatment professionals. Furthermore, the judge monitored the operation of program elements, visiting other stakeholders at their workplaces to better understand program aspects that existed outside of the courtroom.

Finally, the judge was identified as being critical to *garnering political and financial support* for the program. In three counties the judge provided testimony on program operation and outcomes to the County Board of Supervisors and was an invited speaker at local, state, and national venues. The judge was described as an advocate or the “squeaky wheel” that educated others less familiar with the program while lobbying for its support.

In summary, program success was ascribed to having created a court that not only expedited Proposition 36 case processing but also was viewed by participants as a place to access help and to celebrate accomplishments. Moreover, it was led by a judge who created rapport and buy-in, not just among participants but also among other stakeholders and the larger community as well. Respected by stakeholders and participants alike, the authority of the court and the judge, and use of that authority to advance rather than thwart the goals of the Proposition 36 program, was identified as a major component contributing to program success. The contextual setting in which the program was operated was identified as a final reason for program success.

3.4. Strategy 4 - Create a setting which promotes a high-quality treatment system, utilization of existing resources, and broad financial and political support for the program

Stakeholders in all counties emphasized the importance of a **high-quality treatment system** that could promptly provide services when and where needed, for as long as needed, and in response to different types of participant needs. Many practices were cited. For example: using standardized, multi-dimensional treatment assessments and placement criteria to determine participant needs; ensuring treatment stay was of sufficient length to impact behavior (many participants needed at least 12 to 18 months of treatment); matching treatment setting and services to participant needs; ensuring different treatment levels were available (especially residential and narcotic replacement in addition to outpatient treatment) and adjusting treatment level in response to individual progress; encouraging treatment programs to collaborate as a system of care to refer participants within and among themselves; locating treatment programs in the neighborhoods where participants live; minimizing or eliminating the use of treatment waiting lists; making treatment affordable by waiving enrollment fees and using a sliding scale to determine drug testing fees; structuring program availability to accommodate participant work schedules; enhancing cultural competency of program staff; training staff to use evidence-based best practices; providing transportation to ancillary services; providing housing when needed; and employing certified drug treatment counselors.

Utilization of existing resources was cited as a means to complement and thereby enhance the operation of the Proposition 36 program. Participants may be eligible for, and can benefit from, social services offered by other health and human services agencies. In particular, linkages with other types of court-supervised treatment were cited as contributing to success. Several stakeholders viewed these linkages as comprising an “integrated continuum” such that participants could be routed to services offered by different providers as needed. For example, in three counties participants who were continually noncompliant with Proposition 36 requirements were “transitioned” into drug court. Four counties reported having “revolutionized” the way participants with co-occurring disorders were handled. The change was described as moving away from a “judicial system [that] put round pegs in square holes and hammered them until they splintered up into a million pieces” toward a system that routed dually diagnosed offenders to the “right cubbyhole,” i.e., to a mental health court or another type of specialty court that offered needed supportive services (e.g., psychiatric medication, evaluation by a psychiatrist, housing, mental health treatment). Once stabilized, participants were returned to Proposition 36 substance abuse treatment.

Stakeholders in three counties attributed program success to having made special efforts to effectively treat parolees as well as probationers. Parole agents can make parolees “tow the line” however, state parole tends to operate outside of the county-level Proposition 36 infrastructure and some parole agents lacked knowledge of Proposition 36 requirements. To address this disconnect, stakeholders implemented practices to engage parole in local program operations. For example: parole agents were invited to attend stakeholder meetings, treatment provider staff developed close working relationships with local agents, educational sessions were provided to agents, and agents were located on site at treatment programs. One county described working with treatment providers to ensure a welcoming environment for parolee participants, i.e., one that gave parolees “time to adjust,” “decompress,” and “adapt to treatment.” Also, treatment staff were trained on parolee needs and, in particular, how to address persistent parolee resistance to treatment. Two counties contracted with treatment programs that specialized in treating parolees.

Stakeholders in five counties reported working together to generate broad financial as well as political support in their communities, strengthening the network of resources available for operating program elements. Broad political, community, and auxiliary support helped to maintain key components of the Proposition 36 program despite unexpected funding reductions and political uncertainties. Stakeholders used several practices to generate community support and access to resources.

Collaboration and coordination activities require adequate resources and a *plan for allocating administrative costs* was an important component of program success. Although dedicated staff are needed to navigate funding maintenance and growth, to ensure that program elements are “laid out clearly,” and to “allocate resources properly,” four counties reported that they refrained from using Proposition 36 funding to support administrative program costs. Instead, they “made funding for treatment a priority” and had stakeholder agencies contribute staff and/or funds so that they could “put every penny into providing drug treatment.” In some cases, however, this focus was reported to weaken monitoring efforts, particularly probation activities, and thus strained oversight efforts.

Stakeholders reported creative ways to *mix and match funding streams*, thus diversifying treatment service options for participants. For example, if a participant was on parole and probation simultaneously (dual supervision), counties tapped into available parole sources of funding for treatment and/or monitoring to supplement Proposition 36 resources. If the participant was also involved with the child welfare system, stakeholders worked with that system to minimize treatment barriers and expand service options. Two counties sought alternative sources of funding and submitted proposals to state, federal, and private sources to enrich and increase available resources.

As a final practice, stakeholders built relationships and trust between the Proposition 36 program and the County Board of Supervisors. Two counties regularly provided their county Board with data on Proposition 36 program accomplishments and outcomes and invited Board members to participate in the Proposition 36 oversight committee. It was important that a Board “trusts the judgment” of stakeholders in how the program was being operated and know that the program was “a good investment...even in bad [economic] times,” making the “process [of operating the program] a lot easier.” Educating the Board was also used as an opportunity to seek additional funding to supplement Proposition 36 resources and to obtain assistance with influencing and/or navigating county processes (e.g., treatment contracting requirements).

In summary, stakeholders identified the environment in which the program operated as impacting its success. In particular, success was attributed to a high-quality treatment

system, use of existing resources to complement and enhance program components (e.g., especially for participants who were persistently noncompliant, mentally ill, or parolees), and securing broad financial and political support for the program. Creative and resourceful program administration enabled stakeholders to amass diverse resources and cut through bureaucratic red-tape, enhancing program resilience and resulting in a program that was better equipped to weather political and financial uncertainties.

4. Conclusion

In operation for nearly a decade, the Proposition 36 program continues to evolve and stakeholders within six high-performing counties provided valuable insights into policies and practices perceived to be necessary for success. Success was primarily attributed to four strategies: (1) fostering program engagement, monitoring participant progress, and sustaining cooperation among participants; (2) cultivating buy-in among key stakeholders; (3) capitalizing on the role of the court and the judge; and (4) creating a setting which promotes a high-quality treatment system, utilization of existing resources, and broad financial and political support. Collectively, these multiple strategies were perceived to motivate and support behavioral changes among participants, create genuine collaborative justice relationships among stakeholders, employ judicial authority to further program goals, and provide resources to withstand political and financial uncertainties.

An example of policy implementation by collective action (Carlsson, 2000), Proposition 36 demonstrates that considerable collaboration and resourcefulness are required to blend criminal justice principles of accountability with a substance abuse rehabilitative culture. Many of the identified practices appear to represent a modification or adoption of key drug court components, but within the Proposition 36 setting. Identification of promising practices by individuals closest to program operation may inform efforts by researchers, policymakers, program implementers to standardize, evaluate, or improve the program or design other similar types of collaborative justice efforts.

5. Evaluation lessons learned

Selection of high-performing counties utilized empirically-based indicators of program performance and outcomes, however results might have varied with the inclusion of additional indicators and resource constraints limited the number of counties that could be studied. In particular, perspectives were not collected from low- or moderate-performing counties which would have provided a valuable point of comparison for determining “best” or “optimal” practices. Similarly, the reported strategies were not empirically evaluated or tested and thus it is not possible to comment on their relative effectiveness. For these reasons it is important to note that findings represent “promising practices,” which may serve as a first step toward standardizing practices for further research and implementation, but they should not be misconstrued as best or optimal practices. A valuable lesson learned is that future research would benefit from collecting information from a broader and more diverse array of counties.

Furthermore, a few high-performing counties had relatively low treatment completion rates (e.g., 24%, 28%) and this apparent paradox is worthy of further discussion. There is no universally accepted definition of treatment completion under Proposition 36. However, it was included as a component for identifying noteworthy programs because treatment completion is a significant milestone with legal implications (that is, treatment completion is needed to expunge the criminal arrest and conviction that made the offender eligible for the program whereas non-completion is a program violation, making the offender either eligible for additional treatment or subject to immediate criminal justice sanctions) and, although the

definition of treatment completion can vary by county, common criteria are generally applied, focusing on completion of the treatment plan (often consisting of remaining in treatment for the recommended length of time and meeting other goals of treatment). Nevertheless, one important implication of county-level variation in the definition of treatment completion is that the amount of time an individual is required to remain in treatment before designated as having completed also varies. Thus it may be that a completer in one county receives much more, or less, treatment than a very similar type of offender in another county. This issue underscores one problematic aspect of using “completion,” a concept that is at odds with chronic care models for treating substance dependence (McLellan, 2002), to measure program success. For these reasons, treatment completion was not used as the sole criteria for identifying high-performing counties but was instead one element, along with the several other commonly accepted indicators (shown in Table 3), that comprised the composite measure of program performance.

In addition, the reported results are a reflection of the time-period in which data were collected. Although findings are congruent with extant literature, additional research is needed to understand elements of success as the Proposition 36 program continues to evolve, especially as financial resources are increasingly restrained. Another lesson learned, most stakeholders who participated in the focus groups knew one another and some may not have felt free to speak candidly on all topics. To minimize the potential impact of this limitation, preliminary findings were shared with each focus group participant who could then individually communicate feedback and comments to research staff confidentially. Future research may be enhanced by the use of additional data collection methods (e.g., one-on-one interviews, surveys) which could reveal new or expanded information that would be useful to triangulate the present findings. Finally, multiple knowledgeable stakeholders in six high-performing counties identified these strategies as contributing to program success, but in some cases, variation in practices emerged across the six counties, suggesting that multiple methods exist to operate the program successfully. Reasons for practice variation (e.g., preexisting county capacities, differences in stakeholder knowledge, experiences, or willingness to adopt practices, or other factors) were not solicited, constituting an area for future research efforts.

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Table 1Characteristics of focus group participants ($n=59$)

Age, mean (SD)	49.4 (10.3)
Female, %	50.9
Race/ethnicity, %	
White	62.5
African American	12.5
Hispanic	12.5
Asian/Pacific Islander	7.1
Multiracial	5.3
Highest degree, %	
High School diploma/equivalent	3.5
Associates	12.3
Bachelors	24.6
Masters	28.1
Juris doctorate (J.D., or equivalent)	22.8
Doctoral (Ph.D., or equivalent)	8.8
Years worked at current agency, Mean (SD)	13.3 (8.3)
Years worked in the county, Mean (SD)	16.2 (9.2)
Months worked on Proposition 36, Mean (SD)	49.4 (38.0)
Stakeholder groups, %	
County Alcohol and Drug Administration	27.5
Treatment Provider	25.5
Probation Department	15.7
Court Officer/Administration	9.8
District Attorney's Office	9.8
Public Defender's Office	5.9
Other	5.9

Table 2

Proposition 36 participant characteristics at treatment entry during fiscal year 2006–07

County size	Large			Medium		
	1	2	3	4	5	6
County	Range (n=13 ^a)			Range (n=12 ^a)		
No. Proposition 36 participants	1,083	710	863	403–9,675	1,366	125
Age, Mean	36	35	37	34–40	36	39
Female, %	29	23	25	19–30	27	20
Race/ethnicity, %						
White	39	47	40	22–53	41	71
Hispanic	23	19	28	18–47	32	10
African American	27	27	17	3–46	19	18
Asian/Pacific Islander	6	3	9	<1–9	5	0
Native American	2	1	1	<1–2	1	0
Other	4	3	6	2–9	2	<1
Referral type, %						
Probation	92	82	90	68–96	90	96
Parole	8	18	10	4–32	10	4
Employed, %	36	25	38	24–45	20	34
Primary drug type, %						
Methamphetamine	50	50	48	21–76	54	34
Cocaine	18	15	18	6–35	11	25
Marijuana	13	18	15	5–18	14	9
Heroin	12	6	5	3–16	15	12
Alcohol	7	11	13	5–13	5	20
Other	1	1	1	<1–3	1	0
Prior drug treatment, %	43	47	68	37–69	42	56

^aIndicates total number of counties within this size category.

Table 3

Indicators of Proposition 36 program performance and outcomes

County size	Large			Medium		
	1	2	3	4	5	6
County	Range (n=13 ^a)			Range (n=12 ^a)		
Dropped-out of treatment <30 days, % ^b	25	19	32	19–49	27	36
Treatment retention ≤ 90 days, %	53	63	49	42–63	44	45
Completed treatment, %	24	50	45	24–62	28	66
Re-arrested for drug offense, % ^b	49	50	43	30–59	44	53
Re-arrested for any offense, % ^b	69	73	70	51–79	73	69
Sentenced to jail, % ^b	54	57	49	36–96	24	52
Sentenced to prison, % ^b	6	4	5	1–17	10	4
Composite score ^c	35	38	35	28–38	35	36

^aIndicates total number of counties within this size category.^bIndicates item was reverse-scored for calculation of the composite score.^cSum of seven indicators; possible range 0 to 70.