



Expanding Rehabilitation for Non-Violent Offenders



By John McCarthy, MD

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Proposition 5 on the November ballot, the Non-Violent Offender Rehabilitation Act (NORA), would build on the success of Proposition 36.

REMEMBER THE CONTROVERSIAL ballot initiative, Proposition 36, which was passed in 2000? It was the most significant change in public policy toward drug offenses since the "war on drugs" began ages ago. It was passed by 62 percent of voters who expressed their discontent with drug policies that warehoused thousands of non-violent offenders, yet did nothing to foster recovery from addiction.

Prop 36 mandated that offenders who pled guilty to drug offenses be sentenced to probation and mandatory drug treatment in the community as an alternative to incarceration. Parolees who were to be sent back to prison for positive drug tests were also eligible for diversion into treatment. Successful treatment resulted in dismissal of charges. Treatment failure resulted in imposition of the suspended sentence. The treatment was funded by \$120 million a year from the state general fund.

The Track Record of Prop 36

In Sacramento, by the third and fourth years of the initiative, a comprehensive treatment system had been built that included outpatient recovery programs, methadone maintenance, detoxification, residential treatment, clean and sober living environments, and even some mental health care. Participants were assigned to the level and type of care they needed. A cooperative working relationship had been built that included the courts, District Attorney, Public Defender, probation, parole, and the County Alcohol and Drug Division, and treatment providers.

Nothing of the sort existed prior to Prop 36, when the norm was revolving door incarcerations of individuals with little access to a fragmented, inadequate system of care.

But when all the necessary components were in place, the Legislature started cutting the funding and major reductions in treatment resources have occurred. Now, in the 8th year of Prop 36, we are wait-listing participants for treatment, creating a real public policy crisis since newly arrested offenders cannot be incarcerated under the law.

UCLA was chosen to do a comprehensive evaluation of the first five years of Prop 36. By year 4, about 50,000 offenders per year were being referred to treatment, of which 75 percent actually entered treatment. About half of these had never received any treatment in spite of an average of 10 years of addiction!

One-third of participants successfully completed treatment and another 8 percent were making satisfactory progress, for an overall success of 40 percent. This is a good recovery rate considering the abysmal recidivism rate associated with incarcerations.

Re-arrest rates were lower for successful completers than for those who failed to complete treatment. Treatment outcomes were the worst for heroin addicts because methadone maintenance, the gold standard treatment, was severely underused due to widespread criminal justice biases against this treatment.

Sacramento County was a major exception. All opiate users who needed methadone had access to it, and their success rates were comparable to those of other drug users in our county, in spite of an average 20 years of addiction - double the statewide average!

UCLA researchers found that Prop 36 saved the California taxpayer \$2.50 for every \$1 spent. The number of prisons and jail days avoided by the initiative exceeded a full census of a mid-size prison and a mid-size jail. In one year, \$83 million in savings accrued to the state and another \$61 million accrued to counties.

The researchers concluded that Prop 36 was effective for many participants, that savings were significant, and that the initiative was under funded and could be improved on.

A Broader Impact for NORA

Now we come to a new ballot initiative: the Non-Violent Offender Rehabilitation Act (NORA). It would establish a hierarchy of treatment for offenders from the juvenile justice system through different levels of adult treatment. NORA would set aside \$65 million per year to bring drug and mental health care to juveniles. Drug use is embedded in a host of adolescent problems, especially family dysfunction and mental illness; treatment options for juveniles are critical to keep youth from becoming long-term wards of the prison system.

On the adult side, NORA will set aside \$385 million to create a continuum of care from drug diversion programs for low level offenders, to Prop 36 for mid-level severity, through to drug court for those in need of the most intensive interventions and probation monitoring.

NORA allows funds to be used for treating mental illness, an important provision given the woeful lack of resources in our community mental health systems. It also changes the penalty for marijuana possession from a misdemeanor to an infraction, saving 40,000 people a year from the life-long consequences of a criminal record.

NORA would reform prison and parole policies, making rehabilitation a real priority for the Department of Corrections, and it will significantly reduce prison overcrowding by limiting the use of prison beds to punish minor parole violations. Finally, NORA sets aside \$10 million a year for efficacy studies to continue using feedback from research to fine tune the system.

The Legislative Analyst's Office projects overall costs of the initiative at \$1 billion, which would be offset by savings in excess of \$1 billion in jail, prison, and parole costs. The Analyst estimates an additional savings of \$2.5 billion in prison construction costs over the next few years.

Beyond the money saved, there is the reduction in human misery and community chaos by addressing substance abuse and mental illness with effective solutions rather than the ineffective bludgeon of incarcerations.

In the eight years I have worked with Prop 36 referrals to our methadone program, I've been appalled by stories of years of untreated addiction and mental illness. It has been very rewarding to bring health care to this troubled population.

And the historical collaboration that Prop 36 made possible between treatment providers and the local criminal justice system has been one of the highlights of my years working in addiction medicine. Even if Prop 36 didn't save a cent, this working collaborative on a chronic community problem would be worth the expense.

Drug abuse is never going away. It is older than history and endemic to the human condition. It is exacerbated under conditions of human suffering and misery, of which there is plenty. With the success of Prop 36 as a model, NORA promises an enhanced spectrum of services. It would reverse the legacy of mismanagement of the past decades that gave us only exponential growth of prisons, fractured families, and uncontrolled costs.

Vote for Proposition 5 on the November ballot. Our community and state will reap the benefits.

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