

WHAT ROLE WILL CHEMICAL RECOVERY TREATMENT PROGRAMS PLAY
IN CALIFORNIA'S WAR ON DRUGS BY 2007?

A project presented to
California Commission on
Peace Officer Standards and Training

by

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Sacramento, California

June 2002

This Command College Project is a FUTURES study of an emerging issue in law enforcement. Its purpose is NOT to predict the future, but rather to project a number of possible scenarios for strategic planning considerations.

Defining the future differs from analyzing the past because the future has not yet happened. In this project, useful alternatives have been formulated systematically so the planner can respond to a range of possible future environments.

Managing the future means influencing the future, creating it, and adapting to it. A future study points the way.

The views and conclusions expressed in this Command College project are those of the author and not necessarily those of the Commission on Peace Officer Standards and Training (POST).

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CHAPTER ONE

ISSUE IDENTIFICATION AND LITERATURE SCAN

It is clear that we cannot arrest our way out of the problem of chronic drug abuse and drug-driven crime. We cannot continue to apply policies and programs that do not deal with the root causes of substance abuse and attendant crime. Nor should we expect to continue to have widespread societal support for our counter-drug programs if the American people begin to believe these programs are unfair.

Barry R. McCaffrey, U.S. Drug Czar

Introduction

This project focuses on the impact that chemical recovery programs can have on illegal drug use and was completed for the State of California Commission on Peace Officer Standards and Training (POST) Command College. Recent legislation and public attention have been focused on the high costs associated with America's efforts to reduce drug and alcohol abuse. This project looks at today's attitudes, how California came to be where it is today, and what the future could hold for institutions that provide substance abuse treatment.

Both government and private treatment entities in California share a common goal to reduce the number of substance abusers in California. This project is intended to shed light on the diversity of the stakeholders and the competing interests that will influence the course of this issue. By studying the agenda of the service providers, and the trends and events that may impact how services are delivered, law enforcement can better position its organizations for change.

The first chapter describes the current climate regarding the punishment and treatment of substance abusers in America. It explores literature on the impact of drugs in America and past practices utilized in the United States and in California to combat the

problem. Additionally, this chapter explores changes in public opinion and recent legislation addressing drug treatment.

The second chapter describes the Nominal Group Technique process, utilized in this project to identify trends and events that might shape the means by which society deals with substance abusers. Breakthroughs in medicine and technology, shifts in public opinion, and changes in the economy can each alter the demands that will be placed on treatment providers and the criminal justice system. Visionary leaders must actively look beyond the horizon for indications of potential change and anticipate the outcome of trends and events as they unfold. By engaging in discussions with other stakeholders and identifying the critical trends, organizations can position themselves to take full advantage of, or minimize the negative effects of change. In some cases, visionary leaders and forward-looking organizations can shape the future to suit them rather than simply react to what is happening around them.

The third chapter identifies strategies for understanding the needs of society and what sheriff's departments and correctional institutions can do to help meet those needs. As the judicial system and the nation's substance abuse professionals develop new methods of treatment to deliver better results for society, law enforcement and correctional institutions must be prepared to do their share. This chapter will also discuss the strengths and weaknesses of organizations and systems and will look at the threats and opportunities stakeholders will face as this issue evolves.

The project concludes with an implementation plan for the stakeholders. It will provide an analysis of the implications surrounding significant potential changes in the field

of substance abuse treatment and make recommendations for a team approach to problem resolution.

Issue Statement

This project attempts to answer this question: What role will chemical recovery treatment programs play in California's war on drugs by 2007? Chemical recovery programs are defined as those programs designed to modify the behavior of substance abusers through counseling, medical and psychiatric intervention, and education.

Literature Review and the Current U.S. Climate

In 1980 in the United States, approximately 10,000 persons were sent to state prisons for felony drug offenses. In that year, 55,000 adults were imprisoned for violent crimes. By 1989, new prison commitments for drugs had reached 90,000, far exceeding the 70,000 incarcerations for crimes of violence (Poor Prescription). It was rapidly becoming clear to America that drug abuse had become the most consuming criminal issue of the day and may be spiraling out of control.

On January 20, 1989, George Herbert Walker Bush was sworn in as the forty-first President of the United States. In his inaugural address, the new president took a hard-line position on drug abuse in America. He declared, "This scourge will stop!" Eight months later, in his first prime time television address, President Bush announced to the nation that, "The gravest domestic threat facing our nation today is drugs" (McMillan, 1991).

On December 20, 1989, in the largest military action since Vietnam, U.S. forces invaded the Central American nation of Panama and toppled Manuel Noriega. Noriega had

been indicted in the United States on drug trafficking charges. This event marked the beginning of America's declaration of War on Drugs (McMillan, 1991).

In the 1990s as the war raged on, many in society began to view crime prevention programs as well intended, but useless pork (Currie, 1998). It was commonly held that America had tried reform in the 1960s and it had failed. Newt Gingrich said, "When someone dials 911 they want a policeman. They don't want a social worker."

Tougher punishments for drug use and significant increases in federal budgets to combat drug trafficking have been credited for slowing the growth of U.S. prison commitments for drug crimes. From 1990 to 1997, new incarcerations in state prisons for drug felonies seemed to level off around 100,000, but intensified efforts to combat the importation of drugs and punish abusers seemed to have limited success in reducing these numbers (Poor Prescription). The Office of National Drug Control Policy reported in 1999 that 14.8 million Americans age 12 and older used illicit drugs within one month of the survey (National Drug Control Strategy 2001). This represented 6.7 percent of the population. The estimated cost of drug abuse to the United States today is approximately \$246 billion a year (Torr, 1999). The high cost associated with fighting drug crime in America, coupled with less than impressive results, led many to conclude that the nation is losing the war on drugs.

California Today

The California Department of Justice's Crime and Delinquency Report 2000 states that 128,142 felony drug arrests were made by law enforcement in California in the year 2000. These drug felonies accounted for 28 percent of all California felony arrests. Of

925,729 reported misdemeanor arrests in California in the same year, almost half, over 420,000, were for drug or alcohol abuse. As many as 200,000 of the remaining misdemeanors were committed by persons under the influence of drugs or alcohol, or committed to support drug addiction (Crime and Delinquency in California).

While estimates are very rough, it is believed that as many as 17 percent of California's residents today use illicit drugs and approximately 10 percent have an alcohol problem that may require professional treatment (Profile of Substance Abuse). Further complicating the issue is the difficulty of controlling California's border with Mexico. More than half of the nation's illicit drugs enter the U.S. across the Mexican border, making California substance abusers some of the best supplied consumers in the country.

California law enforcement, the courts, and medical and mental health professionals have all begun to look at alternative strategies to deal with the issues of drug and alcohol abuse. Today's discussions focus on finding more effective treatment and aftercare as opposed to more severe punishment for offenders. Recommended alternatives to incarceration range from community-based treatment centers to simply legalizing drugs.

One opponent of punishing drug offenders argues that marijuana use should be treated no differently than alcohol or tobacco and that the revenue generated from regulated sales and federal money saved by not waging war on drugs could easily offset the costs associated with addiction (Treatment vs. Jail). Some believe all drugs should be decriminalized, clean needles should be provided, and public education should be the priority (Barbour, 2000).

Most law enforcement and court professionals continue to fear that legalizing drugs and/or reducing the criminal status of drug abuse will result in more young people trying

drugs and suffering the negative consequences of drug use. While the costs associated with enforcing drug laws would decrease, many are concerned that the costs associated with communicable diseases, injuries, and accidents, prenatal exposure, addiction and crimes committed to support drug habits will increase.

More conservative opponents to the traditional punishment model believe that, while drug use should remain a crime, it must be dealt with by treatment. They argue that drug-use recidivism and the crimes committed to support drug habits are significantly reduced by treatment programs (Profile on Substance Abuse). Methods of proposed treatment range from in-custody (lock down) treatment communities to out-of-custody private treatment centers (Wills & Carona, 2000). Many experts believe the treatment must be a condition of probation, while others support purging all criminal charges upon successful completion of the program.

Much of the controversy surrounding these court imposed treatment options revolves around the theory that a substance abuser must hit bottom before they are truly receptive to change, and that without some jail time or, at minimum, incarceration as a threat, the abuser will not feel an abiding need to change (Wills & Carona, 2000).

Legislating Change

In 1996, two thirds of the voters in Arizona approved Proposition 200 that medicalized Schedule I drugs including marijuana, heroin, and LSD, and prohibited the incarceration of non-violent drug offenders. In 1998, the voters re-approved the measure, and non-violent drug offenders began receiving mandatory probation and treatment rather than jail time. The new Drug Medicalization, Prevention, and Control Act created a Drug

Treatment and Drug Education Fund (DTEF) that applied liquor taxes to placing drug offenders into specially targeted programs. It also established a Parents Commission on Drug Education and Prevention that channels savings from the Act into drug education programs.

The Supreme Court Report generated after the first year the Act was in effect showed very favorable, and in some areas remarkable, results. The report indicated that in the first year under the Act, the State of Arizona diverted 2,622 non-violent drug offenders into treatment rather than jail and saved the State \$2,563,062. More than 78 percent of these probationers tested drug free after program completion and 77.1 percent of the probationers made at least one payment toward the cost of their treatment (Arizona Supreme Court, Legislative Report, 1997-98).

Many criminologists believe it is too early to declare Arizona's program a success. They agree that Arizona's high rate of program completion is impressive, but that the true measure of success will be lower recidivism and fewer new drug users.

Not to be outpaced by Arizona, California was quick to put a similar measure on their 2000 ballot. Like Arizona's Proposition 200, Proposition 36 mandates that non-violent first and second offenders receive drug treatment in lieu of incarceration. Successful completion of the program results in the dropping of criminal charges.

Supporters of the measure claimed that an average of \$4,000 a year spent for the treatment of a substance abuser would be a far better investment of precious state revenues than the current \$20,000 a year spent to incarcerate a drug offender. They estimate the programs will divert approximately 24,000 offenders and save the State \$200,000,000 a year.

They also believe it to be a more humane way to deal with persons suffering from drug dependence and would deliver more lasting results than mere punishment of these offenders.

The California Department of Corrections, law enforcement agencies and the courts in California had not made the public aware of the highly successful Drug Court programs and numerous drug and alcohol treatment programs already utilized in their jails. These agencies failed to perceive the public's growing desire to reduce California's costly drug problem and made little effort to harness the public's collective will to enhance existing programs. No campaign was launched to secure improvements in in-custody treatment programs, expand the use of Drug Court programs, or create public/private partnerships for lock-down treatment communities. By the time law enforcement realized the public would support Prop 36 it was too late to launch a meaningful counter offer.

California's Proposition 36 passed by almost two thirds of the votes in November 2000 with implementation to occur July 1, of 2001. Concerns quickly arose among both government and private agencies that insufficient treatment facilities would be available to handle the increased treatment load. In 2000, California's out of custody drug treatment programs served approximately 70,000 patients each year. Experts believed Prop 36 would add another 36,000 patients to that demand.

Residential care, outpatient services, halfway houses, and drug education programs can all be used to satisfy treatment services specified in Prop 36. The State's Department of Alcohol and Drug Programs, however, is only responsible for licensing residential treatment programs. It has no legal authority to certify other community drug treatment programs. As a result, the department had to adopt other methods in each county to certify and monitor non-residential programs.

Another widely held concern is that state funding for court mandated treatment programs have not been adequately addressed. Should this result in insufficient program space to place all qualifying drug abusers, those users who cannot be placed could be turned loose without treatment. Furthermore, Proposition 36 prohibits using treatment money for drug testing of program participants. Experts consider drug testing an essential element in measuring program compliance and success.

Numerous other concerns have arisen since passage of Prop 36. Traditional criminal justice and correctional treatment providers fear that monies once used for Drug Courts and for inmate programs will begin to dry up as the state concentrates its efforts on complying with Prop 36 mandates. Law enforcement fears that eliminating the threat of jail time or a criminal record will encourage more young people to experiment with drugs. The two get out of jail free cards provided by Prop 36 have also impacted the discretionary power of judges when sentencing drug offenders.

Other Treatment Programs

Beginning in 1980 California courts began using out-of-custody drug treatment programs to provide help to offenders they perceived were ready to benefit from such treatment. Selected judges and courtrooms known as Drug Courts were established in several California counties to determine whether individuals who plead guilty to drug use were more suitable for out-of-custody treatment programs or straight jail time. In the Drug Court program, the judge, probation officer, district attorney and arresting agency all work together to select a course of treatment and sentencing for an offender. The judge retains control over the period of treatment, seeing the offender every two weeks for a progress

review. The drug court program generally lasts from six to twelve months, followed by an additional period of formal probation. Failure at any point can result in a jail sentence.

Some have described the relationship that develops between a judge and the offender in drug court as that of a parent and a child (Wills & Carona, 2000). Judges listen to the participants, provide encouragement, and express disappointment. Small rewards are given to participants who are progressing well in their treatment programs, seeking and/or maintaining employment, and providing for their families. A formal graduation ceremony is held in open court for successful participants who complete their programs. Persons who have tested dirty since their last review session are sometimes cuffed in front of their peers and taken back to jail.

The Drug Court program has been very successful in reducing recidivism in those jurisdictions where it is being used and boasts that it blends the best of what the treatment community offers with the full weight of the criminal justice system. A study using 440 drug court clients in Multnomah County, Oregon found a two-year savings to the state of \$10.2 million (Physician Leadership on National Drug Policy). This includes the savings in the criminal justice system, victimization, theft reduction, public assistance, and medical claims.

In-custody treatment centers in the California counties of Sacramento, Los Angeles, and Orange, and the California Dept. of Corrections are also enjoying great success in treating substance abusers. In 2000, Orange County, California opened a 64-bed in-custody treatment community inside the Theo Lacy Jail, a maximum-security facility in Orange, California. In that cellblock, inmates live and participate in classes as a group. Substance abusers in this program receive an intensive full range of medical and psychiatric treatment services, coupled with extensive educational offerings in job and life skills development.

While facility security is provided by sheriff deputies, treatment services are delivered by a private contractor (CHE Correctional Services Report). Aftercare placement upon release from jail is an integral component of this program's success. The program's first report indicates that 90 percent of the participants released into aftercare are attending eight to nine recovery meetings, 70 percent are employed, and 95 percent are meeting their monthly probation conditions (CHE Correctional Services Report, 2000-01).

Participation in the 64 bed pilot program is voluntary. Housing, discipline, recreation, and all other jail conditions are identical to those offered to non-participants. Completion of the treatment program does not reduce the length of the inmate's sentence or alter their criminal record. Orange County plans to expand their lock-down treatment program to a 500-bed facility within the next five years.

Conclusions

In the preceding literature scan, medical and psychiatric experts in the field of substance abuse treatment are joined by criminal and correctional science professionals in their opinions that incarceration, fines, and border controls are not enough to win the costly war on drugs. Even the voting public, through recent legislation, has clearly demonstrated its dissatisfaction with the status quo.

A great deal of evidence exists today that substantial changes will take place in the next five years that alter the way law enforcement and the courts deal with chemically dependant offenders. The purpose of this project will be to forecast the role that chemical recovery treatment programs will play and what law enforcement and the courts can do to help shape that future.

CHAPTER TWO

FUTURES ISSUES AND FORECASTS

On November 28, 2001, a diverse group of professionals, interested in reducing the recurrence of substance abuse, met at the James A. Musick Jail Facility to discuss the future of this issue. The goal of the group was to identify trends and events that should be monitored in an effort to anticipate and prepare for changes in their organizations' delivery of services.

To provide mutually beneficial discussion and meaningful insight, individuals from both the private and public sector were brought together to share their thoughts on the future of substance abuse treatment. The participants are identified in Appendix A by position and organization. The nine participants included:

- Director, Correctional Mental Health Services for Orange County
- Supervising Counselor, Mental Health Services for Orange County
- Court Representative, Cornerstone of So. Cal. (private treatment center)
- Vice President, College Health Enterprises (private/public partnership)
- Senior Assistant Public Defender, Orange County Public Defender
- Director of Adult Services, Orange County Probation
- Manager, Correctional Programs Unit, Orange County Sheriff
- Lieutenant, Corrections Division, Orange County Sheriff
- Sergeant, Corrections Division, Orange County Sheriff

Prior to the meeting, each participant was provided a packet of materials that included:

- 1) A description of issue to be discussed,

- 2) An overview of the Command College program,
- 3) The NGT process that would be used to facilitate the discussion, and
- 4) Examples of trend statements and events.

Each participant was asked to spend time, in advance of the meeting, thinking about the possible future of substance abuse treatment in California. They were also asked to prepare a list of five trends that they believe would be indicative of the direction the issue is moving. Trends were defined for the group as quantifiable indicators that can be monitored to determine future changes in the delivery of substance abuse treatment. Examples of trends provided to the group included the number of substance abuse crimes in the community, and the number of emergency room admissions of substance abuse related injuries and deaths.

The panel members were also asked to be prepared for discussion of potential events that would have a significant impact on the future of substance abuse treatment. Events were defined for the group as major one-time occurrences that might alter the future of the issue being discussed. The group was told that an event could take the form of a newspaper headline such as, Marijuana and Cocaine Legalized or Medical Breakthrough Ends Addiction.

The participants utilized the Nominal Group Technique (NGT) to identify and discuss the trends and events that might impact the future of substance abuse treatment in California. The purpose of an NGT process is to bring diverse representative of various stakeholder groups together to discuss an important issue of common interest. NGT members are selected for their ability and willingness to offer a 360-degree perspective of the trends and events that might affect the topic issue. In the NGT process, a facilitator is used to keep the

group on track, to record the discussion and to compile the information and ideas that flow from the meeting.

After introductions of the participants and a second explanation of the NGT process, the panel members were each asked to contribute trends to a compiled group list. In round-robin fashion, each member added trend statements to the master list. In a second round, each participant shared their perspectives on why they felt particular trends would be good indicators of the direction that the issue was taking. After a lengthy discussion, all members indicated they fully understood each of the 25 trends on the list, and the methods proposed to measure each trend. They were then asked to select the seven trends they believed would be ideal to monitor as indicators of possible future changes in the field of substance abuse treatment.

Each of the group members agreed on the importance of measuring success of the various programs that offer treatment services for drug abusers. Most of the participants, however, disputed the importance of at least one of the selected trends, believing another to be a more significant indicator of successes and failures. These preferences appeared to be consistent with the differing missions of members' organizations. For example, sheriff and probation personnel were most concerned with calls for service, recidivism, youth demographics, and secondary crimes committed by substance abusers who are not locked up. Private treatment providers were more concerned with trends that indicate a philosophy shift toward treatment over punishment. They also have business concerns regarding issues like government regulations, judicial favoritism, and mal-practice liability. The public defender is concerned with the availability of alternatives to incarceration, and the court's changing sentencing patterns. Correctional mental health and inmate programs personnel are

concerned about a lack of judicial and public awareness of the in-custody services they provide and results delivered. They are also concerned about new competition for scarce public revenues and qualified staff members.

After two rounds of discussion and voting, the group had selected the following seven trends:

Trends

1. Number of substance abuse (S.A.) related calls for police service
2. Percent of substance abusers treated in jail and/or on probation who re-offend
3. Percent of substance abusers treated in-community (under Proposition 36 & PC 1210) who re-offend
4. Number of dual diagnosed persons arrested (have drug and mental health issues)
5. Number of substance abusers arrested treated in-community vs. treated in-custody
6. Number of persons age 13 to 17 in community
7. Number of treatment beds per substance abuser

The participants were asked to plot their opinion of where the trend was five years ago and make projections for where they think the trend will be five and ten years in the future. The number 100 was selected as a baseline for where each trend is today. On a table provided to them, the members were then asked to indicate numerically where they believed the trend was five years ago. A smaller number than 100 would indicate they believe the trend was less prevalent five years ago and a higher number than 100 would indicate they believe the trend was greater in the past than it is today. The participants were then asked to use the same scoring system to project the future status of each trend and finally, on a scale of one to ten, to indicate the level of their concern regarding each trend's impact on the issue.

The following Trend Summary Table reflects the average of the evaluations of the participants for each of the seven trends:

Trend Summary Table

Trend	-5 years	Today	+5 years	+10 years	Concern
1. SA related calls for service	90	100	130	80	9
2. Jail/prob grads who re-offend	110	100	80	80	9
3. Prop 36 grads who re-offend	100	100	110	130	7
4. Drug/MH dual-diagn arrested	80	100	130	150	8
5. Out-custody trmt vs. jail trmt	80	100	150	160	8
6. Age 13-17 in community	80	100	140	120	10
7. Treatment beds per sbst abuser	80	100	90	90	8

1. Substance abuse related calls for police services

Monitoring this trend would involve the review of statistical data collected by local, state, and federal government agencies to track calls for police services that involve drug and alcohol crimes, intoxication related disturbances and medical aids involving overdoses. The group agreed that tracking calls for service would address the most fundamental goal of all substance abuse treatment stakeholders; to reduce the number of substance abuse related crimes or incidents in California communities. Regardless of which strategies and treatment programs are implemented in the future, the group believed the best indication of success or failure for these changes will be reflected in the number of substance abuse related calls for police service. A similar measurement tool discussed by the group, but not selected for the final seven, would be the tracking of persons admitted to emergency rooms for drug overdoses and substance abuse related injuries.

As indicated in the Trend Summary Table above, the discussion group felt that the number of calls for service has increased since 1996 and will continue to increase

proportional to a projected demographic spike in 16 to 25 year olds. The group projected that, at the peak of this spike in high-risk offenders, treatment programs, the courts, and new legislation will find the best means to reduce these numbers to an all-time low.

2. Percent of substance abusers treated in jail and/or on probation that re-offend

This trend is also a tool designed to measure success or failure of strategies and programs. The group believes counties and the state must track the recidivism of the substance abusers that complete in-custody programs and/or programs that are a condition of their probation upon completion of a jail sentence. This is the traditional criminal or justice system model of delivering a one-two punch of punishment and treatment to correct what have been deemed behavioral problems. All participants in the discussion agreed that the traditional model is still valuable for many offenders and should not be eliminated from the package of sentencing options. The Trend Summary Table reflects the group's perception that in-custody/on-probation treatment results are improving as treatment providers apply additional resources and increase their understanding of the needs of substance abusers.

While all members felt more should be done to provide treatment for persons with drug and alcohol problems, none was ready to suggest the offenses should be decriminalized. Like Trend 1, the group rated this monitoring device a nine on their concern scale believing it to be an important tool in determining the future of substance abuse treatment.

All members shared a common concern that the current data on recidivism has limited value to researchers due to a broad failure by agencies to collect and catalog information. They are hopeful that database sharing and better communication between local, state and federal government agencies, coupled with a commitment to track successes

and failures of individuals and programs will result in statistics that are more meaningful in the future.

3. Percent of substance abusers treated in-community under Prop 36 who re-offend

As in the previous trend, monitoring the recidivism of graduates is critical to evaluating the success or failure of California's collective campaign to reduce substance abuse. Private treatment providers are as anxious to measure their success as custodial competitors are. While their goal is to demonstrate that in-community, non-custodial treatment of substance abusers is more effective than the traditional penal approach, they admit they would settle today for a draw.

The two private treatment center representatives in the NGT discussion group believe the jail system still plays an important role in addiction recovery. Without the hammer or threat of a criminal record and incarceration, they believe the outpatient approach will have minimal success. They believe Penal Code Section 1210 (created by the passage of Proposition 36) reduced the perceived value of private treatment programs in the eyes of substance abusers. They fear their patients may not take the issue as seriously as they did when a stay in jail loomed over their heads.

As illustrated in the Trend Summary Table the group ranked this trend the lowest of the seven on their concern scale and voiced their collective observation that it is very difficult to track the success of private program graduates due to privacy rights and the unwillingness of private organizations to share information.

4. Number of dual diagnosed persons arrested (have both drug and mental health issues)

The fourth means selected by the group to measure the success of their organizations' efforts is to look at the number of persons arrested who are 'dual-diagnosed' as drug abusing individuals with mental health issues. The group felt that their ability to correctly identify these individuals is integral to proper placement and successful treatment. The group believes that in the past many of these individuals have been misdiagnosed and treated like any other substance abuser. The result has been a high recidivism rate for these persons.

The numbers indicated in the Trend Summary Table suggest that the discussion group expects arrestees who are dual diagnosed to increase over the next ten years as correctional professionals become more skilled and careful in their triage assessments. Eventually, however, the group anticipates the number of re-arrests will diminish as these persons are placed in institutions and/or receive better treatment for their conditions.

5. Number of substance abusers arrested who are treated in-community vs. treated in-custody

To make sense of the results reviewed in the prior trends, the group felt it would be helpful to know where the treatment is being delivered. The group believed that the courts and the public need to know what is working and what is not in order to focus their efforts in the right direction. A comparison of in-custody treatment results to community-based treatment results requires data that show what percent of substance abusers are getting help in community-based programs.

Group members deliberately avoided any discussion of probable or hopeful outcomes when determining that a comparison should be done, but agreed none-the-less that the future

is leaning toward community-based treatment of drug abusers. Their level of concern for this trend was moderate. Members stated that if all treatment providers do their part to accurately record and share information, the results would speak for themselves and guide the future.

6. Number of persons age 13 to 17 in the community

While the first five trends discussed have been selected primarily to track program results, the next two can be classified as resource focused. They track data that provide strong indicators of need. In trend one for example, the discussion group recognized that a majority of California's crimes are committed by persons of age 18 through 25. While drug experimentation and substance dependence can occur at much earlier ages, the greatest impact to society can be attributed to the young adult abusers and the crimes they commit to support their habits. For this reason, the group has identified age demographics as an important tool to anticipate the resource requirements of law enforcement and substance abuse treatment programs. The group feels that the 13 to 17 year old demographic can provide a solid look at the condition of society in the coming decade.

The numbers shown in the group's Trend Summary Table are reflective of the high population of teenagers known by demographers today as the echo boomers. This will naturally result in a larger than average population of young adults in the coming years and led the discussion group to score the trend a ten on their concern scale.

7. Number of treatment beds per substance abuser

The group believes that while the availability of treatment programs and treatment beds is increasing, it continues to lag behind the needs of society and the criminal justice

system. Despite their good intentions, the group feels that until they can put every person who needs help into a program, they will have failed. The Trend Summary also indicates that the group's members believe the shortage will worsen before it gets better. This is primarily a result of the current Prop 36 demands, but includes other factors such as over-regulation of private centers, liability of providers for malpractice, expansion of legislative mandates and state revenue shortages.

Because community-based programs must function like businesses, the discussion group believes the number of beds will be market-driven, and always lag behind the need as a result of low profit margins for this type of enterprise. They also fear that the higher caliber and higher cost centers will be systematically replaced by less scrupulous or low budget centers that will quickly turn their programs into flophouses.

Events

As with the trends, this portion of the discussion began with a brief explanation of the ideal event statement. The participants were asked to write down five clear, concise event statements in the form of a newspaper headlines. They were asked to think of events that, should they occur, would have a significant impact on the issue they are discussing. The group was told that the occurrences should be possible, but do not have to be likely.

Collectively the group listed ten event statements. After a lengthy discussion of the impact each would have on the topic, the members selected five that they believed to be the most significant:

1. FDA approves medicine that eliminates chemical dependence
2. 3rd time drunk driver en-route to alcohol treatment session kills Governor's wife

3. New legislation adds sanctions hammer to Prop 36
4. Recession could be worst in 50 years
5. No limit set for treatment center malpractice suits

For the next phase of the discussion, participants were each asked to estimate the earliest possible year they felt each event could occur. They were then asked to provide the probability, expressed in a percentage, that each event could occur in the next five years or ten years. Finally, they each indicated what they believed each events impact would have on the subject of substance abuse treatment on a scale of -10 to +10. Their individual numbers were averaged together to generate the group summary seen below.

Event Summary Table

Event	Earliest possible occurrence (yrs)	Probability (percent) in next 5 years	Probability (percent) in next 10 years	Issue impact (-10 to +10)
1. Medical cure	5 yrs	40%	80%	+8
2. DUI death	1 yr	25%	35%	-1
3. P36 strngthnd	2 yrs	70%	75%	+7
4. Recession	2 yrs	45%	50%	-5
5. Liability	2 yrs	20%	30%	-2

1. FDA approves medicine that eliminates chemical dependence

The nominal group participants believed that the most significant event discussed was the development of a biological solution to substance abuse. During the discussion, members reported that several blocker drugs are under development to neutralize the effects of illicit drugs. These chemical blockers could be required by the courts as a condition of probation or taken voluntarily by persons who wish to eliminate their addiction. The members felt this

form of treatment is 80 percent likely in the next 10 years. All participants felt that this single event would play a huge role in turning the tide on substance abuse.

2. 3rd time drunk driver en-route to alcohol treatment session kills Governor's wife

An incident in which a high profile person is killed by a drunk driver who is not in custody while going through treatment would play very negatively in the public eye. The discussion group believed that such an event would push public and political sentiments back in the direction of incarceration during treatment. Five of the eight members of the group believed this to be a positive shift in philosophy, while the other three found such a shift to be a step backward.

3. New legislation adds sanctions hammer to Prop 36

The group projects a high probability that Prop 36 will soon be revised through new legislation. While this could include broadening the statute to include alcohol offenses, the group is hopeful that it will also include sanctions needed to give treatment providers and law enforcement a fighting chance at success. Without changes to the law that return serious consequences for continued substance abuse, the group's consensus is that Proposition 36 (as codified in Penal Code 1210) will be a huge failure.

4. Recession could be worst in 50 years

Historically treatment providers have observed that a bad economy and high unemployment can equate to low revenues available for treatment programs. While the need for substance abuse treatment services would remain high, staffing and financial support

would be diminishing. Each of the discussion group participant's organizations relies to some extent on state and federal monies that could easily be redirected toward other needs during a deep recession. The group was concerned that a worsening economy would stall the momentum currently enjoyed by all of their organizations, and divert the public's attention and support away from treatment and back toward warehousing.

5. No limit set for treatment center malpractice suits

The nominal group feared that, as new programs spring up to meet the rapidly growing needs of the courts, an increase in legal actions will follow. Both government agencies and private treatment providers may become mired in court proceedings dealing with malpractice suits, wrongful death suits, probation violation hearings, and regulatory violation hearings. The cost of doing business could rise to a level that private enterprise no longer wants to be part of the process. The courts and the state might also determine that the public/partnership is too costly.

Cross Impact Analysis

The primary purpose of this nominal group exercise was to identify events and trends that might help substance abuse treatment professionals project and prepare for the future of their organizations. Each of the stakeholders participating in the process agreed that visionary, forward-looking leaders should look to these trends and others as a means of keeping their finger on the pulse of this issue. The group also identified several events that would have a significant impact on this issue and learned that events and trends are interconnected and must be observed as a package when assessing the future. To illustrate this point, the nominal group was asked to estimate the impact magnitude of each event on

each trend. These impact estimates are indicated in the Cross Impact Table on a scale of -5 to +5. A negative number suggest that the event would adversely impact the trend, while a positive number indicates an event would positively impact a trend.

Cross Impact Table

	T1 S.A. related calls for L.E. Service	T2 Jail/Prob grads who re-offend	T3 Prop 36 grads who re-offend	T4 Dual-diagnosed (Drug/Mental) arrested	T5 Community- based trmnt vs in-custdy trmnt	T6 Age 13 to 17 in community	T7 Treatment beds per substance abuser
E1 Medical cure	+5	+5	+5	+4	-4	0	+4
E2 DUI death	0	+2	0	+2	-4	0	+2
E3 Prop 36 Strengthened	+3	+2	+4	+1	+4	0	0
E4 Recession	-2	-3	-4	-2	-4	0	-4
E5 Liability	-1	-1	-3	-1	-2	0	-3

A medical cure for drug and alcohol dependence would significantly impact most of the trends considered by the nominal group. It would positively impact recidivism regardless of the treatment location and would most certainly reduce the number of arrests for substance abuse as more persons eliminate their dependence. On the other hand, it could negatively impact the trend toward community-based treatment once prolonged counseling programs are no longer needed to eliminate the habits.

A high profile death due to a DUI may have very mixed impact. It would likely reduce the number of persons placed in community-based treatment centers, but may

heighten awareness and increase revenue streams toward all forms of treatment. While a shift in sentencing philosophy may initially increase the burden on correctional programs' staffs, it could also result in more revenue for in-custody treatment programs. Law enforcement agencies may be under increased pressure to make DUI arrests, but have fewer misdemeanants loose on the streets supporting drug habits.

Strengthening Prop 36 with tougher language and sanctions that add teeth to the program would benefit both the private treatment centers and law enforcement. Increases in treatment success would result in a fewer number of calls per service. Fewer re-offenders will eventually relieve the burden on jails and in-custody treatment programs. That in turn would allow the county to spend more dollars on fewer substance abusers and result in a better success ratio in their programs.

A major recession negatively impacted most of the trends. Fewer dollars available for all programs, and a shift of the public's attention toward joblessness and homelessness, could devastate the revenues currently going to substance abuse.

Litigation resulting in large damage awards against treatment providers and partners could also have far-reaching impacts. When treatment centers, courts ordering placement in programs and agencies providing oversight for program are jointly sued, they may each begin to rethink their partnerships. As the cost of doing business increases, fewer dollars can be spent on the people who need the help, and the success ratios may begin to drop.

Three Scenarios of the Future

By design, discussions generated through the Nominal Group Technique raise more questions than answers. Members of the group found themselves asking, what if, and what will they do when? The next segment of this report takes these questions, and the range of predictions offered by group members, and summarizes them in three short stories or scenarios.

A negative scenario will take the worst case outcomes of the trends and events discussed by the Nominal Group and help law enforcement agencies to imagine what might happen if they do all the wrong things when anticipating and reacting to the changes. An optimistic scenario will provide the best case and a normative scenario will attempt to paint a picture of the most likely impact the selected trends and events would have on the issue.

Pessimistic Scenario:

Article in the Orange County Register Newspaper – June 2007

After raising the hourly minimum wage to \$14 an hour, Governor Barbara Streiss signed the controversial Clean Slate Assembly Bill today, permitting citizens to sue law enforcement and the courts for releasing treatment information that refers to past drug or alcohol use. According to sociologists, this was the obvious next step in the governor's ongoing campaign to erase the injustices of the last administration's oppressive policies. Specifically, AB 231 states that no employer, court or government body may consider for the purpose of job selection, promotion, criminal sentencing, or selection for public office, an individual's prior use or possession of any drug now deemed legal to use and possess.

This comes just one year after the governor successfully legalized marijuana, cocaine and heroin and implemented the new state-funded and operated Recovery Zones. In these government owned treatment communities, drug dependents who desire help are provided with free housing, clean needles, medical, dental and a modest living allowance if they agree to attend at least one class per day for the reduction of chemical dependence.

The Recovery Zone Program has not been without its share of problems. Neighboring communities have a long history of complaints about the zoners, believing them to be filthy, noisy, spoiled, and poorly supervised. Residents of the Recovery Zones complain that the outsiders do not give them the respect they are entitled to as they work through their issues and engage in rehabilitative programs. Numerous fights along zone perimeters have been witnessed. Police rarely enter the Recovery Zones, as they are not permitted to stop or detain a zone resident unless the individual is suspected of committing a class II or class III crime. Civil rights attorneys successfully argued that a police presence in the zone slowed the recovery process and made the residents feel inferior.

Upon successful completion of the Recovery Zone Program, a former drug user is entitled to level 1 employment, an apartment with one year's reduced rent, and a clean conduct record. According to the governor, AB 231 is designed to ensure recovered chemical dependants are given an opportunity to reclaim and maintain the dignity that all citizens are entitled to.

When asked to comment on her newest victory Governor Streis said, "This is just the beginning. The taxes we're collecting from the sale of marijuana alone have provided enough money to further expand our dependence programs."

Optimistic Scenario:

Fox News Television Broadcast – June 2007

California has released its 2007 crime statistics and the numbers are nothing short of amazing! Drug use and substance abuse related crimes are at an all time low. To give you an idea of how low, take a look at this graph. In 2000, California reported just over 1,000,000 people were arrested for offenses involving drug or alcohol use, or for crimes attributed to the support of drug habits. Property losses, costs associated with investigating and prosecuting drug related crimes, medical costs, rehabilitation costs, and the costs of incarcerating these individuals were staggering. Add to this the money that left California's economy to foreign drug suppliers and you can see what a huge burden this problem placed on our economy, our families, and our society.

Now take a look at the figures released for 2007. Arrests related to drugs and alcohol are reported at around 310,000. That's almost 700,000 fewer people processed through our judicial system and a 70 percent reduction in costs associated with substance abuse and drug sales. Touted as the single greatest public/private victory of all time, the state is attributing their success to SB119, which established California's Substance Abuse Department. Also credited for the incredible turn-around is Nordrug Inc.'s new anti-influence line of drugs.

As you may recall, SB 119 was the legislation passed in 2004 that created a co-op of private medical and psychiatric professionals, community-based treatment centers, law enforcement agencies and the courts to deliver mandated drug programs to all persons charged with substance abuse offenses. Using Nordrug's anti-intoxicant drugs, the courts have been successful in placing 80 percent of the state's misdemeanor substance abusers

into community-based programs as a condition of their probation. Individuals who fail to submit to the strict program regimens are incarcerated and receive their treatment in custody.

Nordrug's drug implant that counters the intoxicating effect of drugs and eliminates cravings made it possible to treat drug dependent persons without incarcerating them. Prior to Nordrug's medical breakthrough, community-based treatment centers had come under heavy fire from law enforcement and organizations like Mothers Against Drunk Drivers. Several high profile crimes committed by drug addicts while out of custody for treatment threatened to end the practice of community-based treatment. The program is now beneficial for everyone. Patients are allowed to remain in society, new jobs have been created to run the treatment centers, law enforcement can focus its attention on other issues, the state maintains control over the quality of the programs and the court retains jurisdiction of the patients until they have been drug free for three years.

Perhaps just as impressive; the huge success of these programs has freed up enough state and local revenue to pay for both the court mandated and the voluntary drug rehab programs run by the co-op. The co-op is even discussing plans to open homeless shelters with the monies saved. I think it's finally safe to say, America has won the war on drugs!

Normative Scenario:

A letter from a thankful father – June 2007

Dear Judge,

I just wanted to take a few minutes to thank you for giving me my son back. While a freshman in high school, my son began smoking cigarettes. He went from an A student to an F student in his sophomore year and we suspected he might be doing drugs. He denied it and

I'm ashamed to say we believed him until he dropped out of school in his junior year and ran off to live with some older kids near the college. It was an emergency room doctor who first made us aware that our son was a crack addict. It was on his eighteenth birthday that the overdose almost killed our boy.

Over the next two years we helped him get into several private rehab programs and spent most of our savings trying to help him, but he just didn't want to change his life. We hadn't seen him in a year when he called us from your jail. He had been arrested for burglary and when we visited him in jail we saw that he weighed about 130 pounds and looked near death. He told us he was only stealing to pay for his habit and that his only other option would have been to deal drugs to others.

We heard our son's attorney explain to you that our son had never been arrested before and was not a criminal, but when he told you that our son was on drugs and had simply entered the wrong house, I almost jumped up to tell you it was a lie. When the attorney said my son was sick and deserved a community-based treatment program we silently prayed that you wouldn't, because we knew he'd just slip away and be found dead in some abandoned house somewhere. Instead, you sentenced him to a privately operated lock-down treatment center not far from the jail and told him that his case would be reviewed in 6 months when he had completed his treatment program. You made it very clear that his only other option was a one-year jail term.

Well, he did complete the program and gained 50 lbs, and when he appeared again in your court you placed him on 3 years of formal probation. As a condition of his probation you required him to enroll in a private community-based aftercare and job development program. He's taking welding classes and working on his G.E.D. and it looks like he has a

real good chance of staying clean this time. Thank you, Judge, for caring enough about our son to lock him up, and please share our appreciation with the professionals who worked so hard to give our son the tools that we failed to provide.

The exercise of scenario building provides visionary leaders an opportunity to combine what they know about the present with the possibilities of the future, and then look at potential outcomes. The construction of a pessimistic scenario is like asking a crystal ball, what could the future look like if you do nothing to improve it. In the case of tomorrow's looming drug policy changes, the most critical question that law enforcement and the courts should ask themselves is, how will drug abusers be dealt with in California if they play no role in shaping the new policies? What will the future look like if only defense attorneys, civil rights activists and psychiatrists are heard?

Constructing an optimistic scenario is an exercise in wishful thinking. What could the future look like if you mold it to your liking? If law enforcement plays an influential role in shaping new drug treatment and punishment policies, can the future bring healthier communities and more effective use of police resources?

The normative scenario represents the middle ground that might occur as a natural progression of trends and events with some effort on law enforcement's part. What it does or fails to do as the future unfolds will determine whether the scenario begins to look like its pessimistic or optimistic scenarios. Through all three scenario building exercises, law enforcement is reminded that, to some degree, the ball is always in their court.

CHAPTER THREE

STRATEGIC PLANNING

Introduction

As mentioned in the previous chapter, futures scenarios are designed to prompt stakeholders to form visions of possible futures. The next step would then be to build strategies for their organizations that address each possible future. Should a scenario be too improbable, it may be reckless or wasteful for an organization to invest valuable resources preparing for such an event. If the scenario is too obvious, it is likely preparations are already underway and little need be done. The most helpful scenarios will identify an environment that is likely, or somewhat likely, to exist in the future and would have a great impact on an organization or the services it provides.

The Normative Scenario reflects the most likely future based on what is known today about substance abusers and the needs and hopes of society. While it is not a bad future, it marks a pivotal point in the evolution of this issue. It is apparent from recent studies on recidivism, from legislation and from the literature scanned, that medical and mental health professionals, the courts and law enforcement are currently in agreement that the problem can only get better if they work together to attack the underlying causes of drug dependence.

America is at a critical juncture in its effort to reduce the incidents of substance abuse and minimize the negative impact it has on society. It is also becoming clear that a diverse range of stakeholders will be attempting to move the issue in their desired direction. In this chapter, the author will look at stakeholder agendas and attempt to plot strategies that will help move the future of substance abuse treatment toward the most optimistic scenario.

Keeping the Scales Balanced

All evidence gathered in the past three decades points to one rather simple realization. Individuals use drugs when their motivation, or perceived need to use drugs, outweighs the inhibitors that previously deterred them from using drugs. When the scale tilts in favor of using drugs, and an opportunity presents itself to obtain drugs, drug use will occur. Law enforcement has been relatively ineffective in preventing opportunities to obtain drugs in America. In a recent study by the U.S. Department of Justice, participants in the Arrestee Drug Abuse Monitoring Program reported that police actions interfered with only 3 percent of their efforts to purchase narcotics on the street (U.S. Department of Justice, ADAM Report, 2000).

With so much opportunity to obtain narcotics, it is fortunate that other inhibitors against drug use have remained relatively high. Most individuals fear that using drugs would be unhealthy and could result in an overdose, a bad drug reaction, transmission of a communicable disease, or an injury accident. Many are concerned that drug use will result in an arrest, a costly legal battle, time in jail and a permanent criminal record. Other potential drug users fear that discovery of their drug use would cost them their job, the respect of their loved-ones, or self-respect. Even the high purchase price of drugs can be an inhibitor to their use.

Motivation to use drugs also takes many forms. Most will say they are recreational users who do so to feel euphoric, creative, funny, or uninhibited. Some use drugs to be sociable and feel accepted by their peers or to fully participate in the party atmosphere. Self-medicators take drugs to eliminate stress, get a good night's sleep, manage their moods, or forget about their problems. Some users began to use drugs as a personal statement; as a

form of rebellion against the rules; a means of saying to themselves and to others, I am in control of my own life.

A high-risk individual is someone whose scale is about to tilt toward drug use. Teenagers who are not getting enough attention at home are especially high-risk. Feeling that they are not loved or accepted at home, coupled with their biological need to be social, makes it easy for young people to be drawn into a group of similarly needy individuals. Teens who do not receive meaningful and caring encouragement from their parents to do well in school, participate in sports and other organizations, prepare for careers and pursue their dreams will often fall in with other young people who lack direction and self worth. Teens who come from drug abusing families or endure other forms of abuse are also at risk.

Tackling the Problem

The frequently used term war on drugs has led many to believe that America's drug battle is with foreign and/or domestic drug criminals. The Nation has targeted drug traffickers and drug producers and found that as long as there is a market for drugs in America, the flow of drugs into the country cannot be stopped. When targeting drug users, law enforcement and the courts found that simply jailing substance abusers does little to reduce the costly and seemingly endless revolving door of recidivism. Today, Americans have begun to realize that an effective war on drugs must target all of society including those persons who have not yet used drugs.

Victory will require a considerable commitment of resources and attention in three critical areas: 1) prevention, 2) intervention, and 3) consequences. The battle against drugs must begin with a strategy for prevention. Additional funding is needed for education

programs that teach children and adults about the dangers and consequences of drugs. The prevention component must also include community programs that provide healthy social outlets for young people and job development for adults. The greatest preventive measures, however, will start at home. Parents must be educated on the importance of setting a good example, encouraging goal setting, and steering their children toward healthy, growth oriented activities. Parents must make an effort to communicate with their children and show interest in what their children are learning at school. Just as importantly, parents must get to know their children's friends and always know where their children are.

Intervention is the component receiving the most attention today. California's Proposition 36 is a good example of society's desire to treat the underlying problem rather than simply punish misconduct. Drug users must be helped to understand why they are using drugs and how to substitute healthier alternatives to fill the voids in their lives. Intervention must include early recognition of drug problems and low cost opportunities for professional counseling. It must be an ongoing process and cannot end upon release from jail or completion of a treatment program. Recovering substance abusers will always be a high risk for recidivism and society would be wise to invest heavily in aftercare programs for these individuals.

Consequences are the negative things that result from drug use. They also play a huge role in the prevention component as they provide the inhibitors that many people need to stay away from drug use. Criminal records, loss of freedom, health consequences, poverty, and loss of respect are all real consequences to drug use. Unfortunately, as more funding and sentiment is invested in intervention and prevention, the consequences component may look less important to society. Many already believe this component to be

unjust or cruel and are looking for ways to minimize it. These include: legalizing drugs, providing clean needles, insisting that society forgive and forget, and calling drug abuse a medical condition. While these are well-intended philosophies, they seriously devalue the consequence component. If drug use was not a crime, and government regulations made drugs safer to use and more affordable, and society was accepting of responsible recreational drug use, how many otherwise drug-free young people would be inclined to engage in this dangerous practice? The collective objective of all stakeholders must be to reduce the motivation or need for drug use, while maintaining sufficient inhibitors or consequences. Agencies and interest groups must concede that their organization and the services they provide are insufficient to solve the problem alone. The solution will require contributions from many providers, both public and private, working together as a team. The result will be fewer new users, more humane treatment of drug dependent persons, safer communities, and less revenue lost to the problem of substance abuse.

Organizational Analysis

The sheriff's departments of California and the California Department of Corrections will play a significant role in the future delivery of substance abuse treatment options. Prior to the implementation of any new plan, these organizations must assess their readiness to make changes in the services they offer and work closely with private treatment contractors and the courts. Leaders of correctional institutions must make honest assessments of the threats and opportunities present and identify those strengths and weaknesses in their organizations that can determine the success or failure of their plans. A SWOT analysis model, Strengths, Weaknesses, Opportunities and Threats, was used to identify these

elements. Several attributes relevant to implementation have been identified based on literature scanning, discussions with public and private treatment center professionals and the courts, and personal experience as commander of a 1250-bed correctional facility.

Strengths for In-custody Treatment

- Persons who are in custody provide little risk to the public or themselves
- In-custody security environments are easier to monitor and keep drugs out of.
- Inmates who have hit bottom are more receptive to change.
- In-custody program participants rarely drop out, or backslide during the treatment.

Weaknesses for In-custody Treatment

- Limited available jail space and facility security concerns make in-custody substance abuse treatment challenging to set up.
- Many in the public and in politics believe jail is for punishment only.
- Many judges, attorneys, politicians and the public believe substance abusers needing treatment can best be treated out of custody.
- Judges, attorneys, politicians and the public are not aware that substance abuse treatment is already available in many correctional institutions.
- The public and many private treatment enterprises do not recognize that drugs users respond better to treatment when some threat of criminal punishment is present.
- Financial support for in-custody treatment programs is limited to that which can be generated by the Inmate Welfare Fund.
- Most correctional/peace officers do not embrace the treatment philosophy, believing instead that jail and prison is designed to be an unpleasant experience.

Opportunities for In-custody Treatment

- Growing public and political awareness of the benefits of substance abuse treatment could make additional revenue available to both in-custody and community-based treatment programs.
- Post Prop 36 statistical results from in-community treatment could point to a need for more in-custody treatment of substance abusers.
- Partnerships may develop in which private treatment providers contract to deliver services inside correctional institutions or lock-down treatment centers.
- Drug Court programs may be developed that use public and private agencies to assess a course of treatment and probation for substance abusers.

- Lower recidivism and decreased costs associated with drug abuse can free up revenues for reallocation to other law enforcement and correctional institution concerns.

Threats to In-custody Treatment

- Legislation (like Prop 36) could decriminalize additional drug and alcohol offenses and/or preclude correctional institutions from delivering in-custody treatment.
- Inmate telephone revenues could be dramatically cut through legislation eliminating much of the funding currently available for in-custody treatment programs.
- Outside competition for funding and grants may grow with the expansion of the court's use of private (in-community) treatment providers.
- Lawsuits for malpractice or failure to provide adequate treatment could make treatment too costly for correctional institutions.

Stakeholder Analysis

Any meaningful planning for an issue of this magnitude must include a careful analysis of the various stakeholders who will be impacted by the plan. Wherever possible, these stakeholders should be invited to participate in the planning and development of any significant changes. Failure to do so can result in a weak plan and almost guarantees outside resistance to the changes attempted. The stakeholders identified in this project are:

Community members

This stakeholder includes individuals and businesses not directly related to a substance abuser, but impacted by substance abuse in California communities and the crimes committed to support drug habits. These are the taxpayers and the voters who can have considerable influence on the services local and state governments are required to provide.

- The community wants to feel safe in their homes and in the workplace.
- The community cares first about their personal safety and prosperity, and the safety of their children and second about helping substance abusers kick their habits.
- The community understands that treatment is necessary to stop a drug dependent person from re-offending.

- The community does not want community-based treatment centers in their neighborhoods.
- The community wants their tax dollars spent on the programs that deliver the best return.
- The community does not believe law enforcement and correctional institutions care about substance abuse treatment.
- Continued drug problems in the community will drive good people and their businesses out of the community.

Courts and the district attorney

The court system provides an orderly means of determining guilt or innocence and selects the sentencing options that most benefit society and the offender. Their sentencing options are restricted by statute. The district attorney is society's advocate for responsible sentencing in the best interest of public safety and order.

- The courts and prosecution require sentencing options that can have a positive impact on the recidivism of crime and on public safety.
- The court must have sufficient range of options to design a course of punishment or treatment that is suitable for each offender brought before the court.
- The court must have sufficient sentencing authority and post-sentencing jurisdiction to convey to offenders that failure to comply with programs can result in more serious judicial consequences.

Law enforcement, probation, and corrections agencies

From arrest to probation or parole, substance abusers have contact with government agencies whose purpose is to investigate, prosecute, control, and monitor their behavior.

These peace officers play an important role on the team of professionals who will design and facilitate a course of treatment and/or punishment for offenders.

- Peace officers have limited resources to apply to society's demands and favor any programs that reduce substance abuse recidivism and drug related calls for service.
- Peace officers do not want to be part of a societal experiment that decriminalizes drug use.
- Correctional officers want to reduce overcrowded jails and prisons and want substance abuse treatment programs that result in lower recidivism of crimes.

- Correctional officers need funding and political support to offer in-custody treatment programs.
- Probation officers want the tools needed to monitor the behavior of probationers and the teeth needed to deal with uncooperative probationers.

Medical health and mental health agencies

Government funded mental and medical health agencies provide most in-custody treatment of substance abusers in California.

- Health professionals want more funding and support to offer in-custody treatment programs.
- In-custody treatment providers believe that substance abusers that have hit bottom are more receptive of treatment.
- In-custody treatment providers believe in-custody patients are easier to monitor during detoxification and the early phases of treatment.
- In-custody treatment providers understand the importance of aftercare and want to have more beds and program spaces available in the community for released offenders.

Private treatment providers

This group of stakeholders includes residential care, outpatient services, halfway houses, and drug education programs in the community. These organizations are privately operated, but sometimes partially funded by grants and other tax revenues.

- Private treatment providers want the same thing that government agencies do: to provide treatment programs that lower the number of substance abusers in their community.
- Private treatment centers are at risk of being sued for their practices.
- Private treatment providers require a profit margin sufficient to pay their staffs, maintain their facilities, and cover their risks.
- Private treatment providers receive negative public reaction to their community-based centers and have difficulty opening new facilities.

Substance abusers and their families

This group represents the consumers of the programs and support that are provided. They too have a strong voice in California through their attorneys, civil rights groups and the ballot box.

- Substance abusers often fail to recognize they need treatment until their world collapses around them and then make seven attempts at sobriety before treatment is successful.
- Many substance abusers will not seek help even when they recognize they need it.
- Substance abusers want treatment that delivers results with a minimum impact on their freedoms.
- Most substance abusers stopped developing socially when they began using drugs and need a parent figure to lay down the rules and keep them in line throughout the treatment process.
- Families and friends of substance abusers usually want treatment rather than jail for their loved one.
- Families and friends want access to their loved ones who are in treatment.
- Families and friends of substance abusers are often not the most suitable people to support the substance abuser while they are in treatment or aftercare.

Strategy Alternatives

The Nominal Group Technique and Cross-Impact Analysis show us that future trends and events can have a significant impact on the services that will be required for the treatment of substance abuse. From that process, two strategies surfaced pertinent to substance abuse treatment options. These strategies are similar by the nature of their ultimate goals, but vary in their approaches and basic philosophies.

Strategy One

The state, the courts, criminal prosecutors, law enforcement, corrections and probation agencies will work together to develop a new California standard for in-custody drug and alcohol treatment and job development programs, and in-community aftercare

services for persons convicted of drug or alcohol offenses. The new standard will also contain requirements for counties to provide in-community prevention services. These must include public education for at-risk youth and supervised social/recreational opportunities designed to provide young people with a healthy alternative to drug and alcohol use. Programs must also be implemented to provide adults with personal growth education opportunities, referrals to private treatment and/or low cost chemical recovery counseling.

Simultaneously, this task force will sell the public, the legislature, and the courts on the importance of continuing to treat substance abuse as a crime, while committing new resources and dollars to attacking the underlying cause. While traditional law enforcement efforts to intercept drug traffickers and drug sellers will continue in earnest, it is anticipated the cost of these services will diminish with time as the market demand for drugs decreases.

Treatment of convicted substance abusers while in-custody will remain voluntary and will range from personal development courses like anger management, G.E.D completion, and job development, to intensive lock-down treatment communities. Intensive treatment programs that combine personal growth courses with medical and psychological substance abuse assistance can be provided in a segregated wing of a county jail or in a contract lock-down facility operated by licensed private treatment and security providers.

Refusal to participate in treatment programs while in custody will result in full term jail sentences and fewer jail privileges. Upon completion of in-custody treatment programs and/or incarceration, individuals may be required to participate in an aftercare program as a condition of their probation. The nature of the program will range from routine drug testing to placement in a residential treatment program as determined by the probation department.

Public safety and reducing the cost of drug abuse to society remain the primary focus in this strategy. Additional legislation will be proposed that repeals Proposition 36, and restores the discretionary powers of the district attorney, courts, and probation to its previous condition. The new legislation would also include language that permits first-time offenders, upon completion of probation for specific drug charges, to apply to the court for a criminal record purge. All record purges will require a review by county probation and the district attorney and the applicant may be required to pay costs associated with additional medical and psychological testing if requested by the court.

The State shall be required to maintain a statewide database linking all court, law enforcement and corrections records for individuals charged with substance abuse offenses. This database will provide law enforcement, the courts, corrections institutions, and treatment providers throughout the state with valuable information to evaluate the treatment histories of individuals and the statistical success of treatment strategies.

Additional measures must also be taken to ensure that persons who are committing other crimes to support their drug habits are identified and receive treatment. The courts must increase their efforts to make in-custody treatment programs a part of their sentencing practices for any person the court believes is committing crimes as a result of their chemical dependence. Like those convicted of drug charges, these persons should be given a sentence that can be shortened by their participation in in-custody programs designed to reduce their dependence. For these individuals, refusal to participate in programs would constitute a refusal to work and would result in loss of work-time and some jail privileges afforded to workers and program participants.

Additional attention and resources must be committed to the identification of individuals who suffer from mental disorders that contribute to their drug dependence. With these offenders, recidivism is likely until they begin to address their underlying psychiatric conditions.

Strengths

- Helps substance abusers eliminate their dependence
- The courts maintain control of the individual until completion of all programs
- The courts have discretion to release individual to out of custody programs
- The courts have the ability to purge criminal record upon success
- Potential substance abusers fear a criminal record and incarceration for first offense
- Offenders are more receptive to treatment in custody than out of custody
- Offenders are not likely to re-offend while they are in custody
- Offenders can detoxify better in custody than out of custody
- More criminals needing drug treatment will be identified
- Few infrastructure changes are required to implement the strategy
- In custody services delivered and results can be monitored better by government
- Working together (statewide database) will increase ability to track success
- Encourages private/public treatment partnerships rather than competition

Weaknesses

- Will require new legislation
- May require additional tax revenues to support the additional programs and services
- Without sufficient PR campaign, public could see the plan as too similar to pre-Prop 36 practices
- Will be resisted by supporters of legalizing drugs and treating substance abusers like victims of society rather than criminals
- May be resisted by families of drug abusers
- Requires the courts, district attorney and probation department to spend more time reviewing program suitability, violations of orders, and criminal record purging applications
- Requires the State to gather and maintain more detailed records on drug abusers and treatment program success

Strategy Two

Strategy Two includes all of the provisions of Strategy One, but adds the following: New California legislation would require that each County Board of Supervisors appoint a Director of Chemical Recovery who is responsible to provide, or contract for the provision of, specific drug and alcohol recovery services in their respective counties.

Counties may elect to create a Chemical Recovery Agency (CRA) to provide some or all of the required services for their county, delegate services to other county agencies, or contract with private providers to deliver some services. The Director of Chemical Recovery will provide oversight and direction, and shall be responsible for all employees of the Chemical Recovery Agency, its service partners and delegates for the following responsibilities:

- Triage evaluations of persons detained by law enforcement for some drug or alcohol charges
- Public education programs, recreation services, counseling opportunities, and treatment referrals for at-risk youth and adults
- Collection of drug and alcohol related county statistics on crimes, emergency room admissions, court sentencing, program participation, and recidivism
- Delivery of in-custody drug and alcohol treatment programs
- Creation and maintenance of a list of qualified private treatment providers for community referrals, treatment contracts and custody-aftercare referrals
- Creation and coordination of a county Chemical Dependence Task Force comprised of public agency and private enterprise stakeholders

New legislation would also provide that peace officers with probable cause to arrest an individual for drug and alcohol charges shall transport the arrestee to a drug and alcohol triage center for pre-arrest processing by the district attorney. Triage centers can be located adjacent to or within a county jail. At the triage location, a lab technician will draw and test the individual's blood and/or urine. Individuals that are determined to be under the influence shall be either: 1) detained (under PC 849(b)2) and released once sober, 2) booked into the

jail and held for criminal/court processing, or 3) detained at the triage center and screened for a non-criminal referral to private treatment.

An individual whose offense is limited to a misdemeanor drunk driving, drug possession or under the influence, and who is not to be released (under PC 849b2), may be offered screening for a non-criminal referral to private treatment. For these individuals, a representative of the District Attorney's Office will examine the police report, a complete records check, and the result of blood and/or urine testing. If the minimum criteria are met, the individual will be afforded the opportunity to voluntarily participate in the private referral screening process. Detained individuals would be advised that they may elect to continue their detentions for a 2 to 24 hour medical and psychiatric evaluation, and that the screening process could result in a finding that they are eligible for release to private treatment with no criminal charges being filed. Detainees participating in the medical and psychiatric screening process would be required to sign a waiver permitting their statements and test results to be used for that limited purpose. A sample of the Consent for Detention and Screening Waiver may be found in Appendix B.

If the detainee is not sober enough to be processed through the triage center to the jail, or to give knowing consent for a referral screening, the individual would be held in the triage center until the medical staff believes they are sober enough to continue. Once sober, detainees would be given the option to give consent for a referral screening, or be booked into the jail for criminal processing.

Consenting qualified detainees would be thoroughly evaluated to determine their level of dependence on drugs or alcohol and to determine if other medical or mental health conditions may be contributing to their drug use. Using criteria agreed to by the local courts

and permitted by statute, the on-site representative of the district attorney's office reviews the individual's criminal record and the findings of the medical and psychiatric evaluation team, and decides whether to release the detainee to private treatment or to file criminal charges.

Disqualifiers for referral would include:

- The incident included property damage, injury, assault, resisting or evading arrest, or an allegation of additional non drug-related crimes.
- The individual refused to voluntarily participate in the screening process and/or to sign an agreement for treatment.
- The individual has a prior arrest or private treatment referral for an alcohol or drug related offense.
- The individual has a felony conviction within the last 5 years.
- The individual has a criminal history of theft, assault, weapons possession, or narcotics sale or trafficking.
- The individual is on parole or probation.
- The individual has an outstanding warrant for arrest.
- Medical or psychiatric professionals determine that the individual's condition of dependence is too advanced for a safe release into the community.

If the district attorney believes the individual is not suitable for a non-criminal referral, sheriff's personnel will arrest and book the detainee into the county jail for criminal processing. Information obtained because of the individual's voluntary participation in the screening process cannot be used in any criminal proceeding.

All persons who are found by the triage team and district attorney to be eligible for a referral to private treatment must sign an agreement to participate in a prescribed course of treatment and a waiver that permits the private treatment provider to report the individual's completion of the program or failure to participate in the program to the district attorney. Participants must also agree to provide a post-graduation critique of the private treatment program they have completed. A sample of a Referral Agreement Form may be found in Appendix B.

A map, directions, phone number, and appointment time for their first treatment session shall be provided by the triage center to all persons referred to private treatment unless direct transportation to the private treatment center is to be provided. If the individual fails to report for treatment or fails to complete the agreed-upon treatment program, the private treatment provider must notify the district attorney within 48 hours.

While no criminal record is created by a detention for voluntary evaluation, the district attorney will open a referral file for all individuals they screen and shall retain the ability to file criminal charges until they are certain the individual has complied with the conditions of the treatment agreement. Should an individual referred by the district attorney to a private community-based treatment program refuse treatment or fail to complete the prescribed treatment program, the district attorney may file the criminal charges and issue a warrant for the individual's arrest.

Persons for whom charges are filed by the district attorney and who are arrested will proceed through the jail and court process described in Strategy One. If found guilty, the offender may be ordered by the court to participate in a chemical recovery treatment program in the county jail, or in a privately operated lock-down treatment community. The court may also choose to offer the individual conditional placement in a non-custodial community-based private treatment program.

Selection of a course of treatment and program provider are the product of input from the district attorney, county probation, defense counsel and the courts. Appendix C contains a sample illustrating Strategy Two's referral and sentencing options for the district attorney and the courts. As illustrated in the attachment, the proposed drug and alcohol triage/detention strategy places emphasis on the condition of the individual and attempts,

where possible, to place eligible substance abusers in treatment prior to court involvement and a criminal record.

In addition to establishing a drug and alcohol triage center, the new Chemical Recovery Agency will be responsible for providing education programs to the public on the dangers of drug and alcohol use. The CRA will target at-risk youth and adults with special training and community programs designed to prevent drug use and help chemically dependent individuals find professional help.

The CRA will also provide oversight for a countywide Chemical Dependence Task Force and shall be the collection point for statistical data that measures the success of private and public drug treatment programs as well as law enforcement and public health intervention efforts. The CRA will use this information to assist them in the selection of local treatment providers and resource allocations and shall forward these statistics to the State for inclusion in the statewide Chemical Dependence Database.

Counties may require their Chemical Recovery Agencies to provide in-custody drug treatment programs in county jails. Counties may also chose to contract with private treatment providers for in-custody treatment of offenders and for aftercare programs for released offenders. Smaller counties may choose to regionalize their treatment services.

The State of California will retain the responsibility of licensing private treatment centers eligible to contract for treatment services. The State shall also be required to collect statistical data from California counties and maintain a statewide database. This database will provide law enforcement, the courts, corrections institutions, and treatment providers throughout the state with valuable information to evaluate the treatment histories of individuals and the statistical success of treatment strategies.

Strengths

- Provides new opportunities for all substance abusers to reduce or eliminate their dependence on drugs or alcohol
- Creates and empowers a new agency with a broad perspective of the substance abuse problems in their community
- Reduces the number of cases that law enforcement and prosecutors must process through the courts and jails
- Puts medical and mental health professionals in the role of determining the current condition of a substance abuser and best course of handling
- Provides law enforcement and the courts a wider array of options, while retaining the hammer needed to make them work
- Sends a clear message to the public that the government's primary focus is reducing drug dependence in order to help people and to reduce crime and costs to society
- Reduces the number of individuals who receive criminal records and occupy jail beds
- Will appeal to the families of individuals who receive treatment in the community rather than in custody
- Encourages private/public treatment partnerships rather than competition
- Increases ability to track success through use of a statewide database

Weaknesses

- Legislation and significant infrastructure changes will be required to implement
- Requires the creation of another government agency, or chemical recovery director, in each county
- Requires the construction of secured triage centers or the expansion of jail intake centers to accommodate the triage process
- May require additional medical and lab staff or to screen qualified detainees
- Will initially require additional tax revenues to support the new agency, services and programs
- Requires the counties and state to gather and maintain more detailed records on drug abusers and treatment program success

Selecting a Strategy

As noted in the introduction to this chapter, the future of California's substance abuse problem requires numerous fronts of attack. Both of the strategies discussed address the components of prevention, intervention, and consequences and are viable alternatives to California's current direction.

With the implementation of either strategy, education and law enforcement will be utilized for drug and alcohol prevention. Counseling and treatment will be provided to modify destructive behavior, and incarceration will result as a consequence for failure to make improvements in behavior. The principle goals of reducing drug use, protecting the community, and reducing the costs to society are present in both of these strategies.

Both strategies recognize the importance of maintaining custodial control of seriously chemical dependent persons who need intensive treatment. At the same time, either strategy permits the court to divert low-level drug users into private treatment and avoid a permanent criminal record.

The primary difference in the proposed strategies occurs prior to the courtroom. In Strategy One, a crime is a crime. Strategy One requires all offenders to begin in a courtroom and seek the most favorable course of treatment the law and/or the court will allow.

In Strategy Two, law enforcement and the district attorney ask medical and mental health professionals to assist them in determining whether to file criminal charges for individuals who are found to be in the earliest stages of substance abuse. In this strategy, the detainee is given the option of voluntarily participating in the screening process in order to be considered for a non-criminal tract.

Both strategies require participation by private treatment providers for contract services in lock-down facilities, or for community-based aftercare treatment of released chemical dependents. In Strategy Two, however, licensed private treatment providers will receive pre-criminal referrals, and will play a more significant role in the design phase of the programs that will be offered.

Whether in-custody treatment is more effective at reducing recidivism than community-based treatment is not yet known due to a significant lack of data collection or long term success tracking. As a result, experts are greatly divided over the benefits of in-custody versus in-community treatment.

It is also important to consider the financial cost to society when considering one form of treatment over the other. With in-custody treatment, it is a known fact that it is difficult for locked-down program participants to use more drugs, burglarize new homes, or cause additional traffic accidents. While this provides savings to the community, the increased costs of investigations, court trials, and incarceration may offset these.

Perhaps it is this uncertainty that makes Strategy Two the most practical. Strategy One's emphasis on criminal handling may leave society wondering if a private, non-criminal approach could have worked better given time. Strategy Two affords them the opportunity to look at both methods of treatment side by side without risking public safety or tying the hands of the courts, prosecutors, and law enforcement.

Currently, each stakeholder feels some responsibility to solve California's drug problem. Each has its own agenda, is competing for resources, and hoping the public and the legislature will support their agency's specific efforts. As a result, the snake may have too many heads to launch an effective attack. In many cases, this competition has been counter-productive to a shared goal.

Strategy Two provides the leadership essential for assessing and coordinating the roles played by private and public treatment providers, the courts, probation law enforcement and corrections. This strategy creates a team approach, parcels out specific responsibilities to

those experts best equipped to handle each piece of the process and assigns oversight to a single agency or director with a broad perspective.

CHAPTER FOUR

TRANSITION MANAGEMENT

Transition Management is the means by which resistance to change is overcome. Transition of the magnitude proposed in this project will be a challenging process impacted by medical and technological advances as well as philosophical and legal changes. The strategies proposed in the previous chapter are merely a starting place in the journey.

The greatest obstacle to transition may be the law enforcement community itself. For the last half-century law enforcement professionals have seen little difference between a substance abuser and a drug dealer. They are criminals with little regard for anything but a good time. Their selfishness and immaturity cost California a lot of money and tie up valuable police resources. Many peace officers still believe the answer to substance abuse lies in stopping the drugs at the border and making the penalties for drug use more severe.

Law enforcement and corrections institutions watched in disbelief as the passage of Proposition 36 provided the public's first signal that they no longer had confidence in law enforcement's drug punishment plan. Unfortunately, law enforcement has viewed this legislation as a temporary setback brought about by a radical and misleading pro-drug movement. Most peace officers believe that this movement will fail and Prop 36 will be thrown out as a failed social experiment.

Regardless of the eventual failure or success of Prop 36 programs, law enforcement and corrections institutions must admit that the war on drugs has not gone well and that past practices have brought them short of their goals. These stakeholders must agree that it will take the support and participation of the entire community to control this problem. No one agency has all the answers, and no one solution will permanently solve the problem.

Commitment

Implementation of a team approach to chemical dependence treatment, as described in Strategy Two, will require a good deal of commitment from diverse private and public entities. Competition for scarce resources and personal agendas make the process very challenging for these stakeholders and, despite their willingness to work together, there will be conflicts. As with any strategy, it is expected to find supporters, resisters, and active opponents to varying degrees. To further complicate this process, a strong supporter of one issue may quickly become the opponent of another. These opponents are often called snail darters, as they are difficult to predict and can make the negotiation and implementation process a tricky one. If the likely sticking points can be detected early on, it will be easier to be prepared to offer suitable compromises during implementation to address the dissenter's concerns and minimize the negative impact continued resistance would have on progress.

No component of the transition management process is more critical than predicting stakeholder commitment. An invaluable tool for evaluating the support and commitment levels of the stakeholders is the Critical Mass Chart. In the chart below, it is evident that the stakeholders bring a wide array of support to the proposed strategy:

Critical Mass Chart

Critical Mass Members	Block Change	Let Change Happen	Help Change Happen	Make Change Happen
Courts			X→○	
District Attorney			X→○	
Private Treatment Providers	X→	○		
Taxpayer Groups		X→○		
Law Enforcement & Corrections			X→	○
Legislators & Board of Supervisors		X→		○
Civil Rights & Criminal Defense	X→	○		

X = Current Position ○ = Desired Position
 → = Direction of movement desired

The Critical Mass Chart above illustrates the perceived level of each stakeholder's commitment today (indicated on the chart by X symbols) and the desired level of their commitment (indicated on the chart by O symbols). The arrows indicate the direction of movement desired for the most effective transition.

The Courts

It is anticipated that the courts will support a strategy that reduces their involvement in low-level first time offenders and/or those substance abusers who can be adequately helped through private treatment. On the other hand, any proposal that limits the court's power, jurisdiction, or involvement may be negatively received if adequate safeguards are not developed. Continued commitment from the bench can be expected if reasonable criteria are established to guide the district attorney in the appropriate filing or not filing of criminal charges.

The courts must also be confident that the Chemical Recovery Agency, the sheriff, county probation, and licensed private treatment centers are providing appropriate care and treatment for individuals ordered by the courts to participate in programs. Program consistency, adherence to State required minimum standards of care, accurate record keeping and responsiveness to the courts will all be critical in this relationship.

The District Attorney

The district attorney of each county will be charged with making determinations for the non-criminal handling of low-level drug and alcohol offenders, and this will require a

commitment of additional personnel for the screening process. At the same time, fewer trial prosecutors should be needed to prepare misdemeanor drug cases for trial. From a business perspective, the program should be fully supported by the district attorney's office if, over time, it results in lower recidivism and less courtroom hours.

While the new program will free up prosecuting attorneys' time for more serious criminal casework, individual attorneys may have personal concerns that the non-criminal disposition of these simple drug cases will negatively affect their prosecution/conviction ratios. Another potential downside is the subjective nature of the new program. This could lead to an increase in complaints or allegations against deputy district attorneys for selective prosecution, racial profiling, or preferential treatment.

Private Treatment Providers

Private treatment providers are businesses. While their fundamental goal is similar to the goals of other stakeholders, their business concerns will often influence their decisions. Sensitivity must be shown for their business needs and, where possible, efforts should be made to strengthen their survivability.

Profits can be quickly offset by malpractice lawsuits or fines for non-compliance with state regulations. The county Chemical Dependence Task Force must do what it can to assure their private partners that they will provide assistance where possible in this regard. If private treatment enterprises cannot function profitably, their support for this change cannot be expected.

Taxpayer Guardian Groups

While these interests groups will not have a seat at the table, they will play a large role in the success of this strategy. While the end result of this philosophy shift should be a savings to the taxpayer, some cost frontloading will be required. Because these programs take time to deliver quantifiable results, the cost benefits may be difficult to demonstrate for several years. Once successful, however, the high costs borne by society from drug abuse, and its efforts to combat it, should drop significantly. While the timing appears to be right for selling this new strategy to the California public, it is essential that the government win public support in advance of implementation and encourage the public to remain patiently committed to this bold effort.

Law Enforcement and Corrections

The primary obstacle with this stakeholder will be to convince line level employees that persons who use drugs need more than just jail or prison time to change their behavior. Failure of this stakeholder to accept the need for these programs will manifest itself in resistance on the street and in jails and prisons. This in turn will negatively impact the results law enforcement and corrections institutions hope to achieve from these new programs.

Approached from a law enforcement resource prioritization perspective, most officers will agree that they have better things to do with their time than prepare misdemeanor substance abuse cases or fill jail beds with inebriates and recreational drug users.

Law enforcement managers must be the moving force behind this transition. For the success of this strategy, it will be important that street officers and corrections personnel are involved at the earliest design phases. Their input on the triage process, criteria for filing

criminal charges, and the handling of in-custody treatment program participants will be invaluable to the team. Their commitment will also be critical for the introduction and passage of any new legislation that is needed.

County Supervisors, State Legislators and the Governor

Elected officials share society's goal to reduce the number of chemically dependent persons in California and should support any legislation and strategy that is supported by law enforcement, prosecutors, and the public. A strategy that puts people first and takes a proactive approach to combating the drug problem has few political risks. On the other hand, revenues today are scarce for existing programs, let alone new ones. Quick cost/benefit results or solid guarantees for new revenues may be necessary to convince elected officials that the strategy is a good one.

Civil Rights Groups and Criminal Defense Attorneys

This stakeholder's primary interest is to protect the civil rights of Californians. New legislation and programs of the nature proposed are a two-edged sword for these interest groups. They will fully support efforts to divert substance abusers into a non-criminal tract and should have little concern with the expansion of public education programs and in-custody treatment programs. On the other hand, civil rights groups and defense attorneys often fear subjectivity on the part of prosecutors and judges and may not favor the expanded discretionary power that this new strategy would provide.

Implementation of the Selected Strategy

Having briefly identified some of the primary stakeholder challenges for implementation the next step is to identify resources needed to put the proposed strategy into play and the process by which implementation might best be served.

Design Phase – State Level

Implementation of the strategy might begin with law enforcement's selection of a state legislator to author legislation that repeals Proposition 36 and either mandates or enables counties to create Chemical Recovery Agencies to perform required drug and alcohol services in their respective counties. A state-level design team would then be recruited from representatives of the following stakeholders within the California counties:

- Judges
- District attorneys
- Criminal Defenders
- Law enforcement
- Corrections
- Probation
- Private treatment providers
- County Health Care

Together this team will draft the bill's language defining the responsibilities of each county's Chemical Recovery Agency (CRA) to provide, assign, or contract for the following services:

- Prescreening chemical offender/detainees for a private treatment option
- Collecting, and forwarding to the state, local data on drug prevention, enforcement and treatment programs
- Providing in-custody drug treatment and personal development programs
- Coordination of a County Chemical Dependence Task Force
- Monitoring licensed private treatment contractors selected by the CRA for in-custody treatment programs and private-tract referrals

The bill will contain language defining the district attorney’s authority to offer certain detainees placement in private community-based treatment programs. It will also describe the duties of the State to collate county drug offense information and treatment statistics for a statewide database.

The state-level design team will also promote the proposed legislation to voters, other legislators, and the Governor, and shall recommend funding sources to assist the participating counties.

Planning Phase – County Level

With passage of a state bill creating CRAs, each county must create local stakeholder teams to plan the infrastructure used to deliver the mandated services. The local planning committee may be the same group of stakeholders that will, in the future, form the county’s Chemical Dependence Task Force. In the planning phase, a representative of the county’s Board of Supervisors would chair this committee. While input should be sought from outside interest groups whose support is desired for successful implementation, decision-making authority on the committee should be limited to county agency department heads or their designees.

The first priority of the local planning committee must be to determine the services required in the county, and which agencies or entities will provide each of the agreed-to services. The cost of proposed services and specific funding sources must also be determined prior to any additional work toward implementation.

Responsibility charting is a mechanism ideally designed to identify the responsibilities of each party that will be involved in a project. The chart below is an

example of a responsibility chart for the development of a county’s new Chemical Recovery Agency. Using this chart, those who are critical to the success of the project can see clearly what their role is at each phase of project’s development and implementation:

Responsibility Chart (Creation of a County CRA)									
Decisions	Participants								
	Courts / Judges	County Board Of Supervisors	County Council	District Attorney	Law Enforcement & Corrections	Private Treatment Providers	County Probation	County Health Care	Criminal Defense
Initiate Project	S	R	I	S	S	I	I	I	I
Select Project Leader	I	R	I	I	I	I	I	I	I
Select Project Team Members	S	R	S	S	S	S	S	S	S
Determine Project Scope	I	R	I	I	I	I	I	I	I
Establish CRA Authority & Responsibilities	S	R	A	S	S	S	S	S	S
Establish CRA Organizational Structure	S	R	S	S	S	S	S	S	S
Establish CRA Core Policies	S	R	A	S	S	S	S	S	S
Establish CRA Funding	S	R	A	S	S	S	S	S	S
Establish Selection Criteria for CRA Director	S	R	I	S	S	I	I	S	I
Select CRA Director	S	R	I	S	S	I	I	S	I

Legend

- R Parties responsible for the work
- S Parties who’s support is needed
- A Parties who’s approval is required
- I Parties to be informed of the actions taken

The next phase of planning would begin with a planning committee that now includes the Director of the new Chemical Recovery Agency. This project team's responsibilities may include:

- Establishing the county's Chemical Dependence Task Force
- Dividing responsibilities and funding for various recovery treatment programs and screening processes among existing agencies
- Dividing responsibilities and funding for various educational programs
- Establishing selection criteria for private treatment center programs and providers
- Selection of sites for new county programs and services

Logistical planning, hiring, facility acquisition, and material purchases can be performed by smaller work groups once the service providers, funding sources and budgets have been determined by the planning committee.

Program Evaluation

Critical to the success of any plan, is a vehicle to measure progress. In the strategy proposed, the evaluation must begin with the establishment of a statistical baseline. Useful data on program participation and completion, and criminal recidivism has never been compiled in California, making it difficult to compare service providers and treatment methods. Strategy Two proposed in Chapter Three creates such a tracking method by mandating that each county's Chemical Recovery Agency collect data on each local program and treatment provider, as well as standardized statistical data on law enforcement's effort and the court's handling of chemically dependent persons. This data must be forwarded to the State quarterly for inclusion in their quarterly reports on the status of chemical recovery and related crimes in California. By asking each county to collect the same quantifiable information, trends can be quickly identified by those who query the database and resources can be shifted to maximize local effectiveness.

In addition to local and state databases, the success of new programs can be measured through the use of county Chemical Dependence Task Forces. Monthly meetings to discuss resources and difficulties in their coordinated efforts will illuminate weaknesses that must be addressed by the teams. Better communication will also result in the identification of strengths that can be exploited for increased effectiveness.

Another valuable means of measuring success is to solicit feedback from participants and graduates of treatment programs. Because most recovering chemical dependents take seven or more serious attempts at sobriety before they stay clean, these individuals are an ideal source of comparison information. Efforts must be made to gain the assistance of these persons in assessing what these education and treatment programs can offer for optimum success.

In addition to the evaluation of criminal trend statistics, recidivism rates, program completion rates and participant preferences, the counties and the state must measure program success in terms of cost. While helping individuals to eliminate their dependence on drugs and alcohol is the primary goal, taxpayers should not be asked to spend scarce resources on programs that do not deliver. An accounting of expenses can be made for each program as can an estimate of the financial cost to society of drug-related crimes. This information coupled with program success rates can be used to make decisions regarding the profitability of each effort.

CHAPTER FIVE

CONCLUSIONS AND RECOMMENDATIONS

Having reviewed the current literature on the condition of America's on-going battle with drug and alcohol dependence, a conclusion can be drawn that new strategies are badly needed to deal with this serious problem. California's Proposition 36 acted as a valuable trigger source for this movement, and while many believe it to be flawed, it has opened the eyes of many to a new way of thinking about the war on drugs. Furthermore, it has provided irrefutable evidence of the public's dissatisfaction with previous efforts and a new willingness to support change.

As a result of gradual cultural and economic shifts in California, society seems prepared to admit that parental supervision will never be what it was 30 years ago. Even two-parent households are finding that the demand made on adults to earn enough to house, feed, cloth and educate their children leaves little time for one-on-one attention. By necessity, parents have delegated much of the influence and control of their children to teachers, coaches, spiritual advisors, law enforcement, and the courts.

Society is also prepared to embrace a new way of looking at adults who become dependent on drugs and alcohol. Some simply care about the individuals whose lives are ruined by their dependence on drugs or alcohol. For others the motivation to help is more personal. Knowing that the health and prosperity of a community can hinge on the contributions or weaknesses of its members, all residents have a vested interest in the successful treatment of the chemically dependant.

Clearly, the role that chemical recovery treatment programs play in California will be greater in the future than any other component of the battle to reduce drug and alcohol crimes. It is also possible that community-based and correctional treatment programs will one day account for a greater expenditure of public funds than any other drug prevention measure. California's traditional punishment approach will soon be overshadowed by clinical treatment strategies and asset management decisions. The ability to track the success of new efforts will be paramount to their success.

Corrections institutions must develop custodial treatment programs that are effective and designed to reduce chemical dependence rather than simply punish the offenders. Efforts must also be made to form mutually beneficial public/private partnerships to maximize the quality of services offered and minimize the competitive climate that exists today between these stakeholders.

It is now known that a heavy investment in crime prevention is a sound business decision for society and for law enforcement. Identifying at-risk children and adults, and providing education and counseling in the community are just the start. Taxpayers must also be prepared to fund attractive alternatives to drug and alcohol use. Supervised recreational and social outlets and community courses in job development, personal management, and goal setting have a fantastic opportunity to change lives and prevent more costly drains on public resources. For every dollar that is committed today to preventative measures, it is expected that three fewer dollars will be spent arresting, convicting, jailing, and/or treating drug addicts, and alcoholics.

Unfortunately, no matter how well California does in the area of substance abuse prevention, it will always need programs and strategies to deal with those who slip through the cracks. It has become apparent to most that, while punishment is a valuable inhibitor for those considering their first drug experience, it has limited value to persons who are already chemical dependent.

Society's greatest challenge today is to identify drug or alcohol dependent individuals who are no longer able to make sensible decisions, and to get them quickly into a controlled environment. These individuals must be parented by the system. A course of treatment must be mandatory; consequences for failure to change their behavior must be serious; and help must be directed at the specific needs of each individual.

A young college student detained during his first cocaine party experience may not require the same costly intervention as a long-term heroin addict experiencing his first arrest. Because each offender enters the judicial system at a different level of dependence, a subjective but scientific method of evaluating their dependence is required. In this regard, there can be no substitute for thoughtful jurisprudence backed by the advice of trained medical and psychiatric professionals.

With the passage of Proposition 36, the courts now find they must release persons into the community who are clearly not suited for non-criminal handling. These persons may be a danger to themselves or to society and yet the courts are bound, under Proposition 36, to find community-based programs for their treatment. Many of these serious addicts are returning to the system before completion of their programs and needlessly use additional court time.

Valuable court time is also spent finding treatment for persons whose level of drug or alcohol use may not yet rise to the need for judicial intervention. In these cases, judges are asked to make assessments that could easily have been made by other professionals with more expertise in chemical abuse. If these low-level offenders could be referred to treatment prior to a criminal filing, county jail beds, investigative resources, and public defender expenses could be applied to more serious offenders.

Finally, the most seriously dependent substance abusers often move unidentified through the criminal justice system. Persons who are arrested for crimes they committed to support their chemical dependence, are not typically identified by the courts as substance abusers. As a result, their sentences rarely require drug treatment programs to help them break the cycle of drugs, support crimes, and jail. A strategy to identifying more of these individuals and mandate treatment must be found if California is to reduce its drug consumption and related crime.

Recommendations

Shaping the roles played by treatment providers will not be a simple task. It will take legislation, money, patience and some degree of risk. Commitment and compromise will be required of each of the stakeholders, but perhaps most important, vision and leadership will be needed.

It is recommended that California law enforcement and corrections set the vision and take the lead through the introduction of legislation that either requires or encourages counties to commit new resources to the problem of chemical dependence. Empowering legislation, or perhaps sunset, or pilot program legislation, may be the best initial approach. The state must offer funding incentives for counties that are willing to participate in a program that 1) re-empowers the court, the district attorney, law enforcement and probation, 2) collects desperately needed data, and 3) initiates a team approach to the problem of chemical dependence.

As described in Strategy Two, Proposition 36 must be replaced with legislation that will have a realistic positive impact on California's communities. The spirit of Prop 36 was not a bad one, but the results have fallen seriously short of the public's intended mark. The time is right to create a system that permits the non-criminal processing of substance abusers who are appropriately suited for a community-based course of treatment and intensive lock-down treatment programs for those people who are not. Most importantly, treatment placement decisions must be made by qualified professionals.

A method must also be found to identify drug dependent people who enter the criminal justice system for non-drug crimes and who committed their crimes to support a drug habit. If these individuals can be identified prior to sentencing, they can be placed in

treatment programs as a condition of their incarceration and/or probation. Even persons forced to participate in treatment programs have a better chance at recovery than persons who do nothing while in custody or on probation. In-custody participation in treatment programs should be considered a work assignment and qualify the participant for work-time credits toward early release.

Counties must be encouraged to concentrate and coordinate their resources and programs to improve service delivery and reduce wasteful spending, jail overcrowding and court backlogs. The public is ready to support innovative ways of attacking America's addiction to drugs and the timing is right for the stakeholders to work together for their common interest. Working as a team, public and private stakeholders can pool their experience, knowledge and resources to solve this problem, turn lives around, and make their communities healthier and safer places to live and work.

Californians are ready to explore new chemical abuse strategies and need a strong leader for the fight. To assume that leadership role, law enforcement and corrections institutions must publicly recognize that treatment is essential for serious behavior modification, and the battle to stop drug trafficking can only be won by reducing the market demand. Failure to compromise on this issue could result in a loss of public confidence and this, in turn, may relegate law enforcement and corrections institutions to a supporting role in someone else's plan. By demonstrating a sincere willingness to shift strategies, we can win the public and legislative support needed to maintain an influential position on this important topic.

APPENDIX A
NGT Panel Members

Dr. Kevin Smith
Program Manager, Correctional Mental Health Services
Orange County Health Care Agency

Sherri Curl
MFT RN Service Chief, Correctional Mental Health Services
Orange County Health Care Agency

Mack Jenkins
Director, Adult Court Services
Orange County Probation Department

Tom Havlena
Senior Assistant Public Defender
Orange County Public Defender's Office

Dean Stepper
Cornerstone of Southern California
Administrator of a private treatment center

Richard Lewis
Vice President, College Health Enterprises
Administrator of O.C. Jail's Best Choice Program

Al Coutts
Lieutenant, James A. Musick Jail
Orange County Sheriff's Department

Gary Bruton
Sergeant, James A. Musick Jail
Orange County Sheriff's Department

Susan Bellonzi
Manager, Correctional Programs Unit
Orange County Sheriff's Department

NGT Facilitator

Steve Harding
Captain/Commander, James A. Musick Jail
Orange County Sheriff's Department

APPENDIX B

Consent for 2 to 24-hour Detention and Screening for Private Treatment Referral 1st Misdemeanor Drunk Driving

You were stopped by law enforcement for a violation of Vehicle Code Section 23152a (driving under the influence with a blood/alcohol level exceeding 0.08) and the detaining officer has established probable cause to arrest you for this offense. The officer has advised the district attorney that you are not suspected of committing any other crime in connection with this police contact and that you did not:

- Cause property damage or an injury to yourself or another.
- Resist or evade the officer, or physically assault any person.
- Drive at speeds in excess of 10 miles over the legal speed limit.
- Have minors in the vehicle.

Your blood/alcohol level did not exceed 0.13 and no controlled substances were found to be present in your blood or urine. As a result, the detaining officer is recommending to the district attorney that you be considered for a non-criminal referral to private treatment.

The district attorney records indicate that you have not previously been referred to private treatment in-lieu of criminal prosecution. A check of your criminal records indicates that you have no prior convictions for alcohol or drug related offenses, or reckless driving, and are not currently on probation or parole for any prior criminal offense.

At this point you are being offered the opportunity to participate in a voluntary screening/referral process. By signing the attached waiver, you understand that:

- You are requesting to be detained by law enforcement for 2 to 24 hours for a voluntary evaluation by medical and psychiatric professionals to assist the district attorney in making a decision whether or not to file criminal charges against you for VC 23152a.
- Should the district attorney determine that you are suitable for non-criminal processing, you may be released to the community upon your agreement to:
 1. Complete an 88-hour private D1-Alcohol Program in a 12-week period.
 2. Pay \$1,000 dollars for referral screening costs and treatment programs (may be paid over 24 months).
 3. Have your driver's license restricted by the DMV for 90 days (see attached agreement for details).
 4. Participate, upon graduation, in a confidential survey to assess the quality of services offered by your treatment provider.
- Your treatment providers will be required to report to the district attorney your successful completion of, or failure to complete, the terms of your agreement. The Department of Motor Vehicles shall be required to report to the district attorney any failure to adhere to the terms of your voluntary license restrictions.
- Within one year from the start of the private treatment program, you will be mailed a confidential survey form regarding the quality of service you received from your private treatment provider. This information will be used solely for the purpose of evaluating the licensed service provider that assisted you.
- Your agreement to participate in a private treatment program is not an admission of guilt to any criminal conduct. Furthermore, insurance companies may not conclude from your voluntary license restriction that you are guilty of any offense.

- No criminal or DMV record of the incident shall be generated if you successfully complete the terms of your agreement. *California drivers will only be eligible for one non-criminal referral to private treatment in a ten-year period.*
- The police report submitted by the officer that detained you, your blood sample, and your signed Agreement to Participate in Private Treatment will be held by the district attorney pending the successful completion of the conditions of your agreement. Upon completion, the district attorney shall determine that no criminal charges are to be filed and no criminal record is to be generated regarding this offense.
- Failure to complete the conditions of the signed agreement may result in the filing of criminal charges and issuance of a warrant for your arrest for Vehicle Code Section 23152a. Upon filing of criminal charges, the DMV may suspend your driving privileges and will notify your insurance carrier.

Typically, a criminal filing resulting in a conviction for 23153a will result in court fines and fees of up to \$_____, attorney costs of up to \$_____, a loss of driving privileges, a significant increase in automobile insurance premiums, and a period of informal probation.

Understanding all of the above, I wish to be detained for 2 to 24 hours for medical and psychiatric evaluation to determine my suitability for non-criminal treatment. I further understand that:

1. Medical screening may include:
 - additional testing of my blood, urine and pupils for the presence of controlled substances and alcohol
 - questions regarding my medical history
2. Psychiatric screening may include questions regarding my:
 - history of drug or alcohol use
 - home and employment environment
 - mental health care history
3. I may stop the screening process at any time and be transported to the jail for criminal/court processing.
4. Should the district attorney determine that I am not suitable for a non-criminal treatment referral, the information obtained during my voluntary detention and screening process cannot be used against me in a court of law for any purpose.

_____ Signature of Detainee	_____ Date	_____ Time		
_____ Print Name	_____ Date of Birth	_____ Drivers License Number / State		
_____ Current Residential Address	_____ City	_____ State	_____ Zip Code	_____ Phone Number

Referral for Non-Criminal Treatment Recommended by:

_____ Detaining Officer	_____ Badge #	_____ Agency	_____ DR Number
_____ Deputy District Attorney	_____ ID #	_____ Title	_____ File Number

Agreement to Participate

D-1 Treatment Program Referral In-lieu of Criminal Prosecution for Vehicle Code Section 23152a

Initials

- I understand that the District Attorney of Orange County has recommended me for referral to a community-based D-1 Treatment Program in lieu of filing criminal charges for a violation of Vehicle Code Section 23152a.

- I agree to report on _____ at _____ am/pm to _____ to participate in a D-1 Treatment Program offered by _____ on the dangers and consequences of drinking and driving. Their phone number is _____. I shall cooperate fully with the program provider and complete the agreed-to program by _____. I understand that the program will involve 88 hours of counseling and instruction over a 12-week period.

- I agree to pay \$1,000 to offset the costs associated with my referral screening and treatment. I may apply for a re-payment plan spreading my obligation over a period from 6 to 24 months based upon my ability to pay.

- I authorize the California Department of Motor Vehicles to restrict my driving privileges for 90 days (until _____). I understand that by so doing I will only be permitted to drive to and from school, my place of employment, my residence and my D-1 Treatment Program provider. My voluntary license restriction cannot be used by my automobile insurance carrier to raise my premiums.

- I agree to participate in a confidential survey provided to me at the conclusion of my treatment. The purpose of the survey is to evaluate the quality of care delivered by my treatment provider.

- Additional conditions will include: _____

- If circumstances arise that interfere with my ability to fully meet the conditions of this agreement, I shall contact the district attorney's liaison at the Chemical Dependence Triage Center at (714) 555-1234 within 24 hours of my failure to comply.

- I authorize my treatment provider to report my failure to fully participate in the program, and/or my successful completion of the program, to the district attorney's liaison at the Chemical Treatment triage Center.

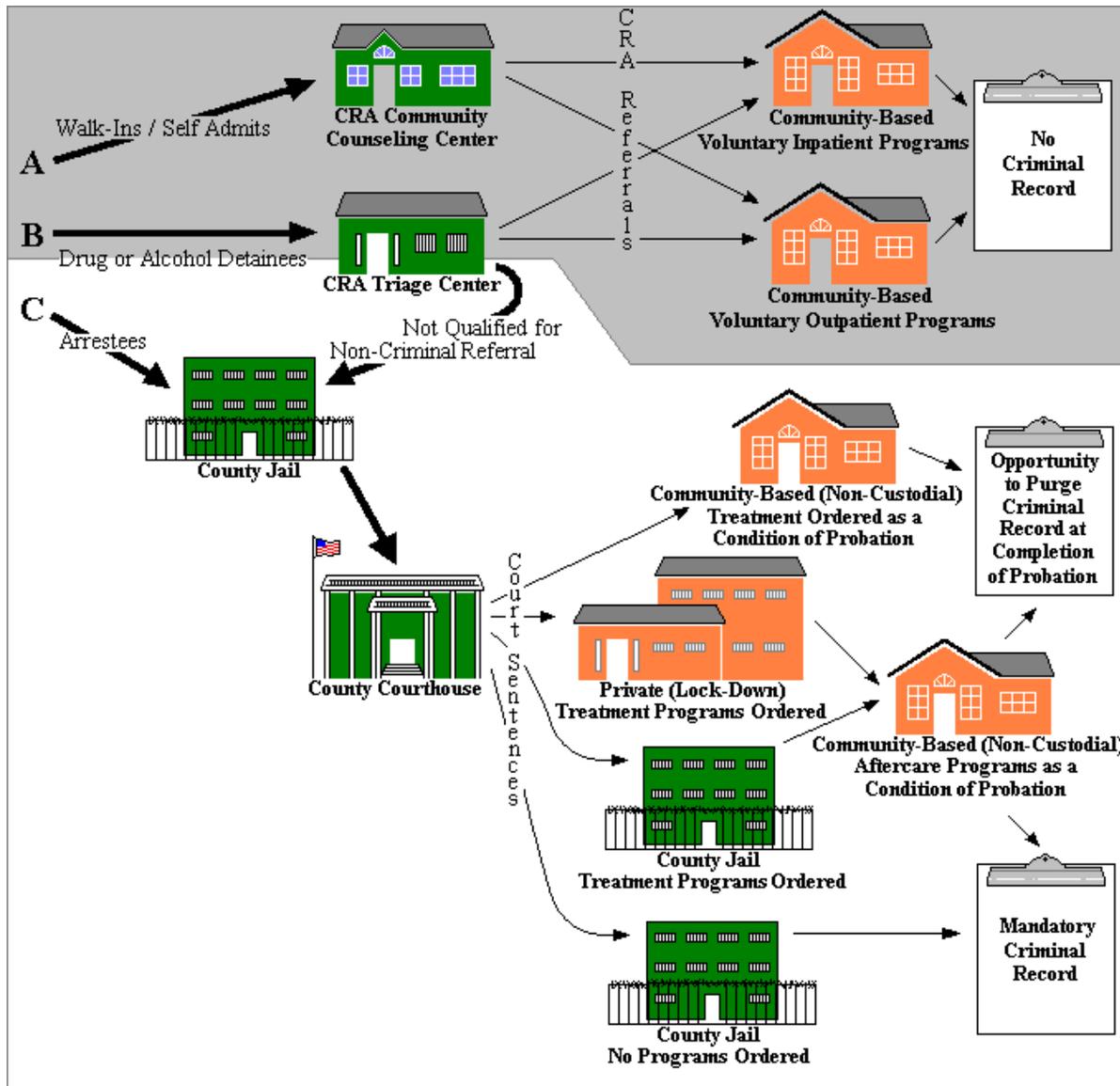
- I understand that failure to comply with the terms of this agreement, absent new conditions agreed to by the district attorney, can result in the filing of criminal charges for this offense, the issuance of a warrant for my arrest, loss of my driving privileges and a DMV report to my insurance carrier.

- I understand that criminal charges may be filed in this matter if am arrested for another drug or alcohol offense prior to completion of the agreed-to treatment program.

Signature of Participant	Date	Time		
Print Name	Date of Birth	Drivers License Number / State		
Current Residential Address	City	State	Zip Code	Phone Number
Signature of Deputy D.A.	ID #	Title	File Number	

APPENDIX C

County Assisted Paths from Chemical Dependence to Treatment Programs



Darker buildings (green) are county facilities. Lighter buildings (orange) may be privately operated facilities. Some counties may wish to combine the services (and facilities) of their CRA triage center with their jail’s booking/medical screening functions. They may also wish to provide their community counseling, referral services, and education programs in the same structure as the CRA administrative offices to minimize the number of facilities and staff needed for operation.

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