

# Statewide Advisory Group Meeting

March 14, 2001

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## **Overview and Opening Remarks**

The second meeting of the Substance Abuse and Crime Prevention Act of 2000 (SACPA) Statewide Advisory Group was held at the Department of Alcohol and Drug Programs (ADP) office in Sacramento on March 14, 2001. Kathryn Jett, Director of the Department of Alcohol and Drug Programs, welcomed group members and guests, thanking those who were involved in generating the progress made to date. Director Jett reported that all counties have submitted County Board of Supervisor resolutions and have identified lead agency contacts — generally within health or mental health agencies — and that funds are being distributed.

A critical element of the implementation of the Act by July 1, 2001, involves promulgating the regulation package for the distribution of the next \$120 million. ADP provided a high-level description of the proposed regulatory provisions and asked the Advisory Group to comment on them. Director Jett explained that the Department would be listening carefully and taking this group's comments back to the Administration for review and consideration.

Facilitator Lisa Beutler reviewed the agenda and ground rules. Key elements of the group charter relating to process continuity were highlighted, specifically:

- group members who need to send alternates to the meeting should assure that the same individual serves as the replacement whenever the primary member cannot attend.
- alternates must be able to speak on behalf of that organization or agency so that those perspectives can contribute to informed decision making by the Advisory Group.

Ms. Beutler provided a brief update on outstanding issues. Although items raised around faith-based providers remain on the list of issues to be addressed, ADP's first priority is to move forward on the regulatory package. With regard to confidentiality, one member noted that drug courts can provide guidance on confidentiality, but this may not be well known in the field. Guidelines need to be developed that reflect requirements within various codes.

## **California Department of Corrections Data**

Louie DiNinni, Executive Director of the Board of Prison Terms; and Sharon Jackson and Greg Potnick, Parole Administrators from the Department of Corrections, presented revised figures on the expected number of SACPA parolee referrals. These numbers represent improved data utilizing Department of Corrections Spring 2001 projections as well as historical revocation data. Correlation of various data relating to the SACPA population was done to create a reasonable baseline. Draft figures were tabulated for each county and region. The total number of referrals for FY 2001-02 is anticipated to be around 7200, with a baseline bottom number of approximately 4500 remaining in

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treatment. The referral numbers include some repeats — to calculate the number of actual individuals that are SACPA eligible, subtract eight percent. Potentially, additional referrals could increase baseline estimates by 25 – 30 percent.

A question was raised regarding the amount of Department of Corrections (CDC) funds available for treatment. CDC provides a variety of programs, including sober living, inpatient and outpatient treatment, as well as in-prison programs. About 50 percent of parolees can go into treatment when released. The Department of Corrections will continue to provide and fund treatment programs. Currently the SACPA referral process for parolees involves two subjective components:

- parolee special condition guidelines regarding treatment
- evaluation as to whether case gets referred to the Board of Prison Terms

Standardized use of these referral guidelines for parolees should allow more accurate estimates of the number of parolees that counties would be seeing under SACPA whether referrals were from judges, district attorneys, or Board of Prison Terms. It was noted that interstate cases and civil addicts remain ineligible for SACPA referral.

## ***Review of Readopted \$60 Million Emergency Regulations***

ADP Deputy Director Del Sayles-Owen presented an overview of changes made to emergency regulations issued in December for allocation of start-up funds. The complete text of proposed changes to \$60 million emergency regulations was included in meeting materials. Upon completion of the review by the Statewide Advisory Group, the package will be submitted to the Office of Administrative Law. Key points include:

- separate trust fund account to permit true accounting for expenditure of funds
- definitions to expand allowable equipment costs
- expanded cap for alteration / renovation costs and a waiver request from the Board of Supervisors that can result in full reimbursement

## **DISCUSSION POINTS:**

1. Concern was raised that requiring Board of Supervisor approval for projects where full reimbursement is being requested for alterations/renovations over \$150,000 may be problematic. Approval could slow the process down. The group determined that project contracts could be bundled together for approval. ADP concurred that the proposed regulations would permit this.
2. Should there be caps on other items as well, especially non-treatment items?

Members were asked to have feedback and comments returned to ADP by Wednesday, March 23. The Department is looking for ways to avoid having the process get

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weighted down at the county level, while striking a balance between accepted accounting standards and local control.

## ***Model for Integrating SACPA Cases into Court-Supervised Treatment Programs***

Advisory Group Member Judge Stephen Manley described a potential model for managing SACPA cases within the court system. This model is part of a set of recommendations made by the Proposition 36 Implementation Workgroup of the Judicial Council of California. A key component would be to develop specialized departments and/or calendars to oversee court supervised drug treatment. Judges and support staff in these departments should have had or would receive training in supervising defendants with substance abuse issues.

Judge Manley stated that reviewing Proposition 36 cases in the general judicial system might be counter-productive. In changing “business as usual,” the proposal is to modify drug court system models in order to make this process work. Specialized departments would serve as “treatment courts” — with treatment hearings instead of violation hearings — to create a system of accountability-based treatment.

Since SACPA infractions will stay within the court system, a way to deal with the first groups of participants within existing resources must be developed. The courts are often the only certain way of achieving meaningful dialogue between two overwhelmed systems (probation and treatment) through required reporting processes. The drug court case manager would be in direct contact with treatment providers. This process also provides an opportunity to bring in the clientele and involve them in treatment decisions. These Workgroup recommendations serve as a foundation for incorporating additional changes and providing guidance for local decisions. The suggestions are meant to be distributed at the local level to courts, to help them step up to the plate and change what they’ve done in the past.

## ***Proposed New Regulations for FY 2001-2002***

ADP Deputy Director Del Sayles-Owen presented the second component of the discussion on regulations. Highlights of the proposed emergency regulations for the \$120 million available July 1 were presented. The actual proposed regulations were to be sent to the members and Invited Guests within five days of the meeting. Ms. Sayles-Owen discussed the key questions that ADP used guiding its development of the regulations: Do the proposed guidelines address items that need to be regulated? Is this an area of best practices or training? Should the area be addressed as a state or local decision?

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## **DISCUSSION POINTS – PROPOSED REGULATIONS:**

### □ County Request for Funds

Proposed Requirement:

The county must submit a Board of Supervisors' resolution and a county plan approved by the Board by June 1.

Reaction:

Should lead agencies be empowered to speak for the Board of Supervisors and submit implementation plans? Concern was expressed that boards will not be able to review and approve plans in a timely way if required to address all components of the county plan in detail. As a county effort, lead agencies cannot submit implementation plans that are not approved by the Board.

### □ County Implementation Plan

Proposed Requirement:

1. Develop a county plan in collaboration with the county alcohol and drug program administrator, the probation department, the parole authority, the courts, other participating county agencies, and representatives of the Native American community.
2. A narrative must be included in the plan which describes how county services will be coordinated including:
  - Listing of contractors and their program capacity
  - Listing of participating entities
  - Process used to plan, communicate, distribute funds, keep records and collect data
  - Process used to determine participant eligibility
  - Process used to ensure provision of drug treatment services that are available and appropriate to meet clients' assessed needs
3. Charts of processes and client flow must be included in the plan.
4. Description of the county's progress in complying with the provisions of the Act must be included in the plan.
5. Submission of "Intended Use Plan" for trust funds.
6. Updates and revisions of the plan must be submitted quarterly.

Reaction:

1. Should regulations provide a comprehensive list of who needs to be considered (add in treatment community/ providers, law enforcement, clients/ defenders office) or just high-level suggestions? Due to sovereignty and

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- jurisdictional issues, federally identified Indian Tribes need to be involved in county planning efforts versus the Native American community.
2. Does the phrase “ensure provision of drug treatment services that are available and appropriate” create an entitlement? What happens when counties do not have appropriate treatment facilities available? How do you frame counties making best effort at client placement? Providing quality treatment to address clients’ assessed needs will probably involve a phased approach that results in gradual capacity building and implementation. There will need to be identification and assessment of gaps in service that get brought back into the planning process and evaluated in terms of a continuum of services.
  3. “Intended Use Plan” initiated a discussion on how funds will be used. Concerns were raised about how much will go to non-treatment services, including probation and court costs. There was a view expressed that non-treatment costs should be minimal since SACPA does not create a new population for the courts and probation system. Another perspective was that misdemeanors now will not need to be supervised, but there will be new court costs.
  4. The Act does not provide guidance on allowable expenses or setting caps. Local discretion will factor in heavily. Statewide assessments of outcomes will tell whether county processes and allocations are appropriate. This entails the need to develop well thought-out evaluation systems. Counties may be asked how they developed funding estimates in relation to projected caseload and capacity. There are concerns that if left to political processes, SACPA clients will be short-changed. Possible options suggested by some members include ADP providing some level of approval for county plans and/or empowering local groups by ensuring that local planning and information is available to constituents so that intervention and advocacy can provide checks and balances.
- Responsibilities of County Lead Agency  
Proposed Requirement:
1. The county Lead Agency must:
    - Coordinate the provision of services and client flow
    - Sustain existing services and expand capacity as needed
    - Monitor the provision of services
  2. The county must retain policies, protocols, and monitoring reports for review.

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## □ Distribution of Funds for the Trust Fund

### Proposed Requirement:

1. Allows ADP to reserve up to five percent of state trust funds for unmet drug treatment needs.
2. Continues the distribution formula used for the \$60 million
3. ADP must distribute funds annually pursuant to the approval of the county plan, but no sooner than July 1.
4. Allows expenditure of funds necessary to provide services required or permitted pursuant to the Act.

### Reaction:

1. The proposal to reserve up to five percent of SACPA funds brought up the following issues:
  - How would funds be distributed?
  - What would funds be used for: pilot projects, evaluation, and unmet needs? Who determines?
  - Would funding go to evidence-based treatment?

## □ Allowable Costs and Activities

### Proposed Requirement:

1. Allows funding for temporarily licensed or certified drug treatment programs providing services pursuant to the Act.
2. Allows funding for halfway houses, transitional living facilities, or sober living facilities providing services pursuant to the Act.
3. Counties and entities providing services pursuant to the Act must maintain confidentiality of client records and information in accordance with federal law.

### Reaction:

1. ADP should reference California state law requirements regarding confidentiality.
2. Funding for transitional living facilities raises critical certification issues.

## □ Client Fees

### Proposed Requirement:

1. "Cost of Placement" incurred by the courts and probation fees assessed and collected by a trial judge or the parole authority must be deposited into the county's trust fund.

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2. Drug treatment programs must assess and collect fees based on client's ability to pay as defined in the Act.

## Reaction:

1. "Client Ability to Pay" comments included:
  - Clients could feel demeaned by having to show expense records and justify inability to pay.
  - Should be based on county standards for ability to pay.
  - Who assesses? How many times does client have to prove ability to pay?
2. "Cost of Placement" discussion raised the following points:
  - How would funds be released?
  - How should the state weigh in?
  - Are there standardized or variable fees?

## □ Drug Medi-Cal Services

### Proposed Requirement:

Medi-Cal eligible individuals will be referred to a Drug Medi-Cal Program using the normal processing except:

- Client shall not be charged a fee for services provided. It should be noted on claims that the client is receiving services pursuant to the Act.
- Counties shall not use funds from the Act to meet Drug Medi-Cal federal financial participation (FFP) requirements.

## Reaction:

Drug Medi-Cal guidelines need to follow lower of costs or charges reimbursement principles for federal Medicaid law. Audits needs to look at local costs. More information is needed to determine how this all comes into play.

## □ County Records and Reporting Requirements

### Proposed Requirement:

1. Deletes requirements for monthly reports on county's progress.
2. Three quarterly financial status reports must be submitted by the county no later than 30 days after the end of each of the first three quarters.
3. A final report for the fiscal year must be submitted by the county 90 days after the end of the fiscal year (September 30).
4. All obligations must be liquidated 90 days following the end of the fiscal year.

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5. Expenditure of “excess funds” must be reported to and approved by the Department of Alcohol and Drug Programs.
  6. The county must maintain records for a period of five years.
  7. The county must monthly report client data needed for evaluation purposes.
- Evaluation by the Department of Alcohol and Drug Programs  
Proposed Requirement:
1. The Department must conduct an annual study to evaluate the effectiveness and financial impact of the program.
  2. The Department, in conjunction with a selected public university, must develop a standardized assessment for the evaluation data needed.
  3. The county lead agency must participate in surveys and data collection activities developed for the purpose of the annual and long-term statewide evaluation.

## ***Certification of Sober Living Environments***

APD Deputy Director Rebecca Lira discussed the Department’s Licensing and Certification program, and transitional living facilities. Since passage of the Act, the Department has received almost 1300 requests for certification or licensure.

Ms. Lira presented two potential models for oversight of transitional living centers. One model would utilize certification of transitional living centers. The other would have transitional living centers working under the umbrella of either an ODF (Outpatient Drug-Free) certification or a residential licensed facility. There was a discussion illustrating some of the advantages and disadvantages of both models.

### **DISCUSSION POINTS:**

1. Need to look at existing county guidelines (for example, San Joaquin)
2. Involve law enforcement in developing criteria
3. A solution needs to protect public safety as well as reputation of the program
4. Should analyze whether to have licensing instead of certification.

## ***Legislative Report***

ADP Deputy Director Fran Burton referred Advisory Group members to a handout in their meeting packet, outlining legislation that has been introduced which may affect SACPA implementation. She requested that the members review these bills and provide their comments to her.

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## ***Other Points***

- Reimbursement from other programs. Can services be provided through Veterans Affairs? To what degree will insurance provide compensate for services?
- Evaluation. What's working and what's not need to be identified. Some front-end data collection criteria to guide local assessments must be developed. ADP should become the clearinghouse for county-specific and statewide results to ease dissemination.
- Cross-jurisdictional responsibilities. Issues related to non-county residents committing offenses and specific counties lacking capacity in particular modalities of treatment.
- Internet Treatment Service Providers. A member announced that there are now treatment programs being offered through the Internet.

## ***Concluding Remarks***

Director Jett expressed her appreciation to all Advisory Group members for their tolerance of diverse perspectives. The meeting generated healthy dialogues where members shared honest and frank comments and suggestions. The State does need to clarify and provide leadership in certain areas, but true vision and leadership will come from extended involvement between all parties. Some specific issues will need additional time for full discussion, and we will be exploring the potential for some special meetings to build extra time for those topics.

## ***Potential Agenda Items for the Next Meeting***

Evaluation  
Treatment Courts model  
Allocations in future years