

# Prop 36 Update



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**News from The Lindesmith Center - Drug Policy Foundation**

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## Announcing the Prop. 36 Update

Proposition 36 is underway! On July 1, 2001, California's new initiative allowing for treatment instead of jail for non-violent drug offenders went into effect.

So far, everything is on track. However, there are still questions as to how to implement Prop. 36 most effectively. Is enough money going directly to treatment? How can affected community members become more involved in the implementation process? Who, exactly, is eligible? Is there a sufficient range of treatment options available?

These questions and many others will be addressed in the new "Prop. 36 Update" – a new newsletter by The Lindesmith Center - Drug Policy Foundation (Lindesmith-DPF), a non-profit organization working on public health alternatives to the war on drugs.

### **This week's topic: Who is eligible for Prop. 36?**

The Substance Abuse and Crime Prevention Act, also known as Proposition 36, clearly states that first- and second-time, nonviolent, simple drug possession offenders are eligible to receive probation and substance abuse treatment instead of incarceration.

However, there is already strong debate in various counties as to which offenders will benefit. When Prop. 36 became effective on July 1, it mandated that persons "convicted" on or after this date should be eligible for treatment. This has created ambiguity in certain cases because under California law there is no bright-line rule as to when a conviction is said to be final. Because of procedural convenience, conviction is sometimes said to occur at the time of a plea or jury verdict, and sometimes at the time of sentencing.

### **The cases of Darrell Eugene Scoggins and Janet Delong**

Consider the current cases of two defendants in Los Angeles County, Darrell Eugene Scoggins and Janet Delong. Both were found guilty before July 1, but not sentenced until afterwards.

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In both of these cases, the judges found the defendants ineligible for treatment under Prop. 36, a position disputed by Lindesmith-DPF, because both defendants clearly meet the criteria for treatment and can be properly considered convicted on their sentencing dates. Their cases are currently under appellate review.

The Court of Appeal is expected to clarify the issue sometime in September. Meanwhile, in keeping with the spirit of Prop. 36, they have ordered the defendants released from jail pending their decision.

### **Lindesmith-DPF's Position**

Our position is the same as the California Judicial Council, the California Department of Alcohol and Drug Programs (which officially oversees Prop. 36) and the California Public Defender's Association: **the sentencing date should be the date of conviction.** Because Prop. 36 is a probation initiative and probation is not granted until sentencing, holding the sentencing date to be the date of conviction for purposes of Prop 36 makes sense. Such a finding by the Court of Appeal in Los Angeles will go a long way toward furthering the intent of California voters, who did not intend for those in need of drug treatment to be victims of legal hair-splitting.

### **Upcoming Events**

Successful implementation of Prop. 36 depends on active community involvement. The following upcoming events offer such an opportunity. Two African American women, Kemba Smith and Dorothy Gaines, who were granted clemency by President Clinton after being sentenced to excessively long prison terms for their tangential roles in their boyfriends' drug conspiracies, will join hundreds of California residents to draw attention to issues of race and the drug war, mandatory minimums, and Prop. 36.

**Sacramento – Wed., Aug. 8, 3:30-5 PM, Capital Plaza Holiday Inn, Calif. Room, 300 "J" St.**

**Fresno – Thurs., Aug. 9, 7-9 PM, Ted C. Wills Community Center, 770 No. San Pablo Ave.**

For more information about these events, please call Lauren Leslie at Legal Services for Prisoners with Children, (415) 255-7036 x 318.

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If you would like to receive the Prop. 36 update either by fax or email, please contact Julie Ruiz-Sierra at (916) 444-3751 or [jruiz@drugpolicy.org](mailto:jruiz@drugpolicy.org).