

President's Letter April 2000

California's Decriminalization Initiative

The Substance Abuse and Crime Prevention Act is expected to appear on the November California ballot. Massachusetts may vote on a similar initiative. This ballot initiative would change existing state law so that offenders with only drug use or possession charges would be required to attend treatment rather than be incarcerated. I think this initiative is worth watching because if passed, it would be a significant shift away from the "war on drugs." The initiative is financially supported by George Soros, John Sperling, Peter Lewis, and others who advocate for an end to the war on drugs.

For detailed information about this initiative, including the full text, the list of endorsers, the California Legislative Analysts Office's impartial analysis, and background information, see <http://www.drugreform.org/>. The purpose of the initiative is described there as follows:

1. To enhance public safety by reducing drug-related crime and preserving jails and prison cells for serious and violent offenders;
2. To halt the wasteful expenditure of hundreds of millions of dollars each year on the incarceration—and re-incarceration—of non-violent drug users who would be better served by community-based treatment; and
3. To provide community-based substance abuse treatment programs to non-violent defendants, probationers and parolees charged with simple drug possession or drug use offenses.

The impartial analysis of fiscal effects by the Legislative Analysts Office (required of all California ballot initiatives) found that between 1 and 1.5 billion dollars of state and county funds would be saved over the first 5 years. This is sure to be a selling point to many voters.

Of immediate interest to SMART Recovery[®] is a provision in Section 5 of the initiative that reads:

- (1) If at any point during the course of drug treatment the treatment provider notifies the probation department that the defendant is unamenable to the drug treatment being provided, but may be amenable to other drug treatments or related programs, the probation department may move the court to modify the terms of probation to ensure that defendant receives the alternative drug treatment or program.

This would appear to mean that if alternative support groups (such as SMART Recovery[®]) and alternative treatment programs (such as those listed on our website, www.smartrecovery.org) keep probation departments informed of their existence, individuals who are having trouble complying with and benefiting from traditional 12-step programs will be referred to alternative programs.

Ideally, of course, these individuals would be referred to the program of their choice initially! But given that probation departments (like the rest of us) would like to prevent additional paperwork, there is a reasonable chance that the opportunity to select a program initially would occur.

Beyond this immediate issue of choice of treatment, let's look at some broader issues. Relevant legal terms here are prohibition, legalization, and decriminalization. Prohibition (the current war on drugs) makes most drug possession, use, sale, or distribution major offenses, as in felonies with long, often mandatory, sentences. We had this for alcohol between 1919 and 1933. Legalization is the opposite. Drug use is viewed as a personal choice, although one is still responsible for one's actions while using. Decriminalization lies between prohibition and legalization. Drug use and possession are minor offenses (misdemeanors with small fines). Sometimes even these offenses are deliberately ignored, although sale and distribution are usually still major offenses. The Netherlands uses this policy.

Related treatment concepts are abstinence-only treatment, no treatment for addiction, and harm reduction. In the US, we currently have, for the most part, abstinence-only treatment. This approach emphasizes identifying all individuals who have the "disease" of alcoholism or addiction. These individuals are persuaded or coerced (in varying degrees) to abstain. Individuals whose problems from using are serious enough to place them above "social use" but below the level of having a disease are usually ignored by the treatment system, which has few services available for them. Having no treatment available for addiction, but viewing addiction as a free choice that can be changed when the individual chooses to do so, does not appear to be a widely held perspective currently, but it was until the 20th century. Harm reduction lies between the abstinence only and no treatment perspectives. Harm reduction recognizes a range of levels of harm from addiction, levels of willingness to change, and various types of assistance that could be meaningful. The Netherlands uses harm reduction as its treatment approach.

The Netherlands is a good example of how a combination of decriminalization and harm reduction can lead to much lower levels of addiction and related violence than is typically seen in countries pursuing a war on drugs, especially the US. These much lower levels are true despite some of the US government's inaccurate propaganda on this issue. The aim of this decriminalization initiative could be stated as attempting to replicate what the Dutch have accomplished. Of course, differences between the US and the Netherlands may make this difficult or impossible.

SMART Recovery[®] can be viewed as having a harm reduction perspective. Although SMART Recovery[®] is a program for individuals who desire to abstain, we recognize that our participants may not desire to abstain from every addictive activity (as a “chemical dependency” treatment approach would). We also recognize that not everyone with problems desires to abstain, and we do not attempt to browbeat anyone into an abstinence perspective. We remain available if abstinence is desired.

It can be argued that if SMART Recovery[®]'s perspective about treatment is one of harm reduction, then SMART Recovery[®]'s perspective about public policy would be that of decriminalization. I have attempted to identify some of the parallels between these perspectives. However, a disclaimer: Although SMART Recovery[®] clearly advocates for choice within addiction treatment, we have not taken a stand on any other public policy issue, including the issues of legalization or decriminalization. We have viewed public policy issues in general as “outside issues” that would distract us from our primary work, which is to assist our participants.

I think it would be worthwhile to discuss, however, whether the “freedom of choice” provisions in this initiative are compelling enough to lead us to support or endorse it, even though it contains other provisions as well. We might also consider setting up a separate public information and lobbying organization for this and similar purposes. AA members did this when they established the National Council on Alcoholism (now the National Council on Alcoholism and Drug Dependence). The SMART Recovery[®] Board of Directors will be discussing these issues at their April meeting. Your input is welcomed!