

# Drug Courts and State Mandated Drug Treatment Programs: Outcomes, Costs and Consequences

## *Final Report Executive Summary*



*Submitted to:*

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March 2008



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**March 2008**

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*Informing policy, improving programs*



## ACKNOWLEDGEMENTS

This report was made possible through the good work, cooperation and support of many people and organizations. NPC Research would like to offer our deepest appreciation to all Drug Court and SACPA program staff who participated in our interviews, welcomed us during site visits and provided us with the data necessary to make this project happen. In particular, there were some who went out of their way to help us make this project a success:

- Peggy Shuttleworth who made herself available multiple times and opened doors to people and information.
- Rochelle Newble and programmers Eugene Cabrera and Arnold Serrano, who provided us with the cleanest data ever experienced by NPC staff and who took the time to patiently answer our questions on multiple occasions.
- Kyle Gilmore for providing information during multiple interviews (and for the tie).
- DeEtte Goni and Helen Ellis for their responsiveness, their tenacity when we needed their help obtaining data and for their support on this project as well as others.
- Commissioner Jose Rodriguez for being a consistent supporter of our evaluations and for all his time over the years answering our questions and allowing us to observe his courtroom.
- Donna Yim for her assistance in providing us with key data.
- Richard Simpson for his invaluable help in accessing CJIS.
- Jim Stephens for answering many (many) treatment questions for this project and past projects.
- Teresa Tejero for answering our questions about court data.
- Cynthia Acosta, Dwight Thompson, Paul Brennan, Rich Evans, and Kim Crosby for their help in gaining us an understanding of the Probation process in SACPA and Drug Courts.
- Judge Cinda Fox and Judge Anthony Lucaccini for agreeing to participate in this project and for their support and time providing us with information.
- Rolf Embom for providing us with clean and detailed criminal justice data.
- Vicki Sands at CLETS for providing us with this key data for this project and past projects, for always being timely and for answering our questions cheerfully and in detail.
- Francine Byrne and Nancy Taylor at California Administrative Office of the Courts for their continued support of this project and many other projects and for their assistance in providing information, introductions and directions.
- Linda Truitt at NIJ for always being available for questions and for her patience with delays.
- Doug Longshore, who consulted on this project and multiple other projects, assisted our access to important data, and provided general support and wisdom until the time of his passing.

- Finally, we would like to thank the National Institute of Justice (Department of Justice) for providing the funding and support for this study. This study was conducted under an NIJ grant, award #2005-U-CX-0010.

In addition to the multiple people outside NPC who assisted with this study, we would also like to thank all the staff at NPC Research who performed quality work to make this project a success:

- Anton Cox for data matching, cleaning, and counting extraordinaire! Also for his many long hours and true dedication.
- Lisa Lucas for her data charming techniques.
- Lara Miyahara and Rich Mackin for many hours of interviews.
- Tamara Perkins for reviewing the latest relevant literature and information and for her clear and concise writing.
- Elizabeth Autio for her amazing data cleaning and analysis skills.
- Kate Kissick for the fastest (most accurate) data entry in the West and for her detailed editing and formatting of the draft.
- Charley Korn for general office support over the course of this project.

## EXECUTIVE SUMMARY

Over the past decade in the United States there has been a trend toward changing criminal justice policy to provide treatment as an alternative to incarceration for nonviolent drug offenders. Two main models have emerged that are aimed at effecting this change. One model is Drug Court; the other is statewide policy reformation, mandating treatment for all nonviolent drug offenders.

The overall purposes of this study were twofold:

- To examine the varying effectiveness of the Drug Court model compared to other criminal justice related models for treating substance abusing offenders measured in terms of participant completion rates, criminal recidivism and cost;
- To determine the impact of statewide mandated treatment policy reform on the operation of Drug Courts.

The Drug Court model includes a higher level of supervision, particularly by the Court and (generally) a standardized treatment program for all the participants within a particular court (including phases that each participant must pass through by meeting certain goals). There is also regular and frequent drug testing. In contrast, most of the state-mandated program models for drug offenders have less criminal justice supervision (particularly less court involvement) and a less standardized, sometimes more individualized, treatment regimen. In addition, the non-Drug Court treatment model uses drug testing less frequently. For example, in California, the drug policy legislation provided funds for treatment and some for probation, but no funds for drug testing. It is of interest to practitioners and policymakers to determine the relative effectiveness of these two models in assisting drug offenders to complete drug treatment and in reducing the incidence of drug offenders returning to the criminal justice system (recidivism).

In November 2000, 61% of California voters approved Proposition 36, the Substance Abuse and Crime Prevention Act (SACPA). Modeled after the Arizona Drug Medicalization, Prevention and Control Act of 1996, the primary goal of SACPA is to provide an alternative to incarceration for low-level, nonviolent drug possession offenders (Prop36.org, 2004). At the time SACPA was implemented, California had also already broadly implemented the Drug Court model, another alternative to incarceration for (generally) nonviolent drug offenders. California has the largest number of Drug Courts (approximately 120 in operation) of any state in the union.

The SACPA mandate included specific offender eligibility criteria required for SACPA programs in every county; however, each county was given the freedom to create their own SACPA program model and processes. While some counties attempted to implement a SACPA program modeled after Drug Court practices, counties were encouraged by the legislations proponents to create a different SACPA program model that had little criminal justice involvement. California is therefore a unique setting in which to examine the effects of the Drug Court model compared to court mandated *non-Drug Court* treatment models on offender outcomes. This setting also allows for an examination of the relative program investment and outcome costs as well as the effects of the introduction of court mandated non-Drug Court treatment models on Drug Court policies, organization, practices and costs.

## Research Design and Methods

The research design for this study built on previous work performed by this evaluator. Detailed data on program resources (e.g., treatment services), outcomes (e.g., recidivism) and their costs were provided from a study<sup>1</sup> performed before the implementation of the Substance Abuse and Crime Prevention Act (SACPA) in California. This previous study included Drug Court participants from nine Drug Court sites. Two<sup>2</sup> of these sites, in two separate counties (the El Monte Drug Court in Los Angeles County and the San Joaquin County Drug Court), were selected for this study based on two main criteria; 1) The counties had SACPA programs that differed from each other and from the Drug Court model. (One was modeled somewhat like a Drug Court program but with less interactive court supervision and no rewards or sanctions while the other did not follow the Drug Court model and had no court supervision at all - both therefore stood as alternative approaches to the existing Drug Courts), and 2) Based on our experience in these sites from the statewide Drug Court study, it was known that high-quality data existed in a form reasonably easy to gather (e.g., administrative databases rather than just data in paper files).

For this study, detailed program, outcome and cost data were collected (from administrative databases and paper files) on a cohort of Drug Court participants after SACPA implementation (those entering the program in 2002-2003) as well as on a cohort of SACPA participants who enrolled in the program during the same time period. The data collected included the program resources (e.g., treatment services, probation services) used by Drug Court and SACPA program participants, outcomes such as criminal justice recidivism and social services use, and the costs associated with the use of these resources. These same data sources were used in the previous Drug Court cost study. All groups were tracked for 3 years after program entry.

Qualitative data (through interviews and document review) were collected, using a Drug Court typology guide developed by NPC Research and modified for use with the SACPA programs, to examine the changes that occurred in Drug Court organization and process due to the implementation of SACPA and to examine the current operations of both types of programs.

Costs data were calculated using an approach called Transactional and Institutional Cost Analysis (TICA) (Crumpton, Carey, & Finigan, 2004<sup>3</sup>). The TICA approach views an individual's interaction with publicly funded agencies as a set of transactions in which the individual utilizes resources contributed from multiple agencies. Transactions are those points within a system where resources are consumed and/or change hands. Indirect (support and overhead) costs (as a percentage of direct costs) are added to the direct costs of each transaction to determine the cost per transaction. The transaction cost is multiplied by the average number of transactions for program participants to determine the total average cost per transaction type.

However, to determine the relative effectiveness and the relative investment and outcome costs of the programs, it was necessary to control for differences between program participants. The

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<sup>1</sup> This study was a part of a statewide cost study of Drug Courts in California, funded by BJA and the California Administrative Office of the Courts.

<sup>2</sup> The reasons for choosing two sites for this study included the need to have at least one site to test against the other site to verify the consistency of the results. A second reason was the need to stay within a reasonable budget size. Additional sites could be added for additional funds.

<sup>3</sup> Crumpton, C. D., Carey, S. M., & Finigan, M. W. (2004). *Enhancing Cost Analysis of Drug Courts: The Transactional and Institutional Cost Analysis Approach*. Submitted to the National Institute of Justice, Office of Justice Programs, December 2004. Can be found at [www.npcresearch.com](http://www.npcresearch.com)



analyses of program outcomes including participant recidivism were adjusted to control statistically for differences between the groups. Analyses of Covariance (ANCOVAs) were used to calculate adjusted means and statistical significance for differences in re-arrests, time on probation, jail time served, prison time served, and new court cases. These analyses were adjusted based on criminal history in the 2 years prior to program start including past arrests and jail time served. Also included in the covariates were demographics (age, ethnicity, gender), drug of choice, and time in jail during the recidivism period (except when the mean of interest was time served in jail).

## Results

The results for this study were organized around six policy questions and are summarized in the following text.

### **POLICY QUESTION #1: HOW HAVE THE DRUG COURT AND STATEWIDE MANDATED TREATMENT MODELS BEEN IMPLEMENTED LOCALLY AND HOW DO THEY DIFFER?**

There are several key differences between the Drug Court model and the SACPA model. One obvious difference is capacity. SACPA is designed to treat all eligible offenders well beyond the current capacity of Drug Court programs. The ability to provide treatment to a large number of offenders is a large benefit of SACPA. In addition, SACPA uses a larger number of treatment providers than the Drug Court programs. The benefit of this is the ability to provide participants with treatment specific to their needs. The drawback is that it is more difficult to coordinate and determine the quality of the treatment with a larger number of providers and it can be difficult for supervision to consistently receive communications on participant progress.

The length of stay for participants in SACPA is longer, and longer time in treatment is known to be associated with better outcomes. However, the treatment received in SACPA during that time may not be consistent, depending on whether the participant follows through on their treatment plan. This is in contrast to the Drug Court model where the high level of court supervision enforces participant attendance at treatment.

The Drug Court model performs several activities that result in a high level of participant monitoring including court sessions, treatment sessions, and drug tests. In addition to learning to deal with their substance abuse issues in treatment, participants learn to modify their inappropriate behaviors from feedback provided by the Drug Court team. Appropriate behavior is rewarded and inappropriate behavior is sanctioned so that participants are accountable for their behavior either way.

The successful completion of Drug Court, for each participant, is decided by a team that follows a clear list of requirements. The completion of SACPA is not standardized and is decided mainly from reports on treatment completion by individual treatment providers who may use very different criteria. Finally, the successful completion of Drug Court is called “graduation” and is marked by a ceremony and celebration. There is no special marking of SACPA completion aside from a certificate of completion.

In summary, the Drug Court model is more personal, including a much higher level of supervision and participant accountability as well as including rewards and sanctions for behavior change while the SACPA program reaches and provides treatment to a much larger number of individuals making a more personal model more challenging.

**POLICY QUESTION #2: HOW HAVE DRUG COURTS ADJUSTED (HOW HAVE DRUG COURT PROCESS AND POLICIES CHANGED) WITH THE IMPLEMENTATION OF STATE-MANDATED NON-DRUG COURT TREATMENT PROGRAMS?**

One of the main findings for this question was that overall there was very little to no change in the basic Drug Court policies and procedures. However, there were some external changes that may have impacted Drug Court operations and effectiveness, mostly in relation to a change in participant population.

Funding for the Drug Court programs was perceived to have decreased with the passage of SACPA. Some staff perceived that the Drug Court program was now competing for scarce treatment resources with SACPA.

With the implementation of SACPA, the continuum of criminal justice diversion programs expanded. The role of the Drug Court program began to shift in response. After some confusion as to whether participants could go back and forth between programs, increasingly, the Drug Court programs are viewed as the next sequential step *after* a client has unsuccessfully participated in SACPA. The Drug Court now serves as a more intensive service option for those who are not succeeding under the less stringent criteria of the SACPA program. The Drug Court has also changed at what point in the case process they exist, changing from more pre-plea to post-plea.

And finally, there was a perceived change in the participant population with Drug Court participants becoming increasingly more addicted and more criminal by the time they enter the Drug Court program. This perception was confirmed by the available data on the Drug Court participants before and after SACPA implementation in both counties.

**POLICY QUESTION #3: WHAT IS THE SUCCESS RATE OF DRUG COURT PROGRAMS BEFORE THE IMPLEMENTATION OF STATE-MANDATED NON-DRUG COURT TREATMENT PROGRAMS COMPARED TO THE SUCCESS RATE OF DRUG COURT PROGRAMS AFTER?**

Drug Court participants at both sites received similar treatment services and court supervision before and after SACPA implementation, although data available at one site showed a significantly longer time from arrest to Drug Court entry after SACPA. It is probable that the increased time is due to offenders entering the Drug Courts after first spending extended time in the SACPA program. This means that the Drug Courts can no longer reasonably follow the third key component of Drug Court, that eligible offenders are identified quickly and promptly placed in the Drug Court program.

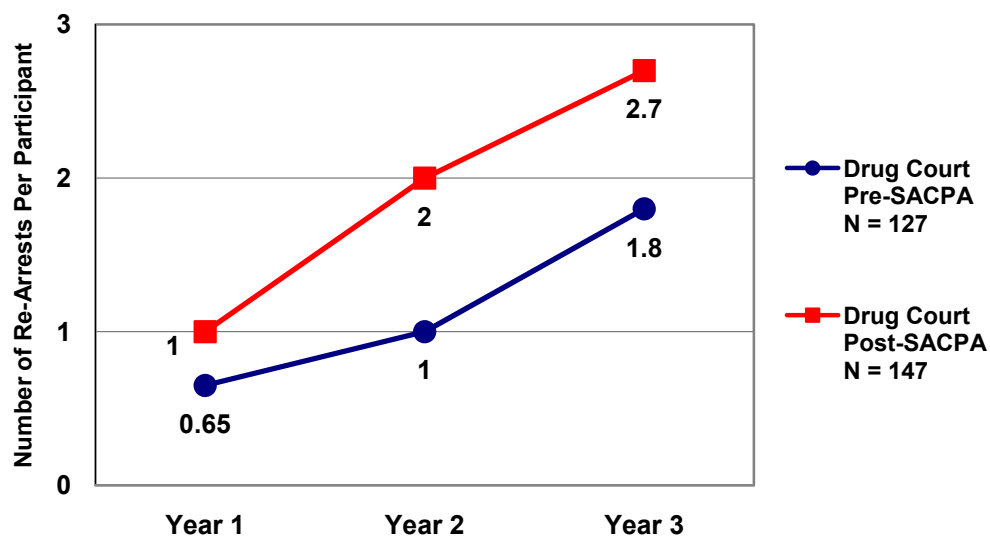
Graduation rate decreased for both Drug Court sites from pre-SACPA to post-SACPA; from 80% to 50% in El Monte and 29% to 23% in San Joaquin. Literature shows that graduation rates in different Drug Courts tend to vary widely (from 26% to 80%). These two Drug Court sites are quite typical. However, it should be noted that San Joaquin had a graduation rate that was quite low compared to the national average of around 50% (Cooper, 2004). In spite of this, San Joaquin Drug Court participants have low recidivism, regardless of whether they graduate from the program. This decrease in graduation rate at both sites is most likely due to the increase in criminality and the probable increase in addiction severity in the Drug Court population after SACPA implementation.

Recidivism increased significantly for Drug Court participants after SACPA implementation. The increased recidivism was significant even after taking into account any differences in demographics, criminal history, time incarcerated and drug of choice. Because the Drug Court

programs showed little to no change in policies or procedures, the most likely explanation for this is the probable change in the Drug Court population after SACPA to a more addicted population at the time of entry. It is also likely that the extended time from arrest to entry into the Drug Court program, as well as participants' experience with SACPA treatment, had an effect on how the participants perceived the Drug Court program and Drug Court treatment. Perhaps these participants become more jaded after experiencing and failing at treatment more than once, rendering the next treatment experience less effective.

Figure A demonstrates the change in recidivism over 3 years for Drug Court participants before SACPA compared to Drug Court participants after SACPA. This graph (see Figure A) looks similar in both counties.

**Figure A. Average Number of Re-Arrests Over Time for Drug Court Participants Before and After SACPA Implementation**



**POLICY QUESTION #4: WHAT IS THE RELATIVE SUCCESS RATE (MEASURED BY PROGRAM COMPLETION RATE AND RECIDIVISM) OF THE DRUG COURT PROGRAM MODEL COMPARED TO COURT MANDATED NON-DRUG COURT TREATMENT MODELS?**

SACPA participants in both counties spent significantly more time in the SACPA program than the Drug Court participants at either time period. Drug Court participants before SACPA show significantly lower recidivism compared to SACPA program participants and Drug Court program participants after SACPA implementation. While the recidivism for Drug Court participants after SACPA implementation was lower, it did not differ significantly from SACPA participants.

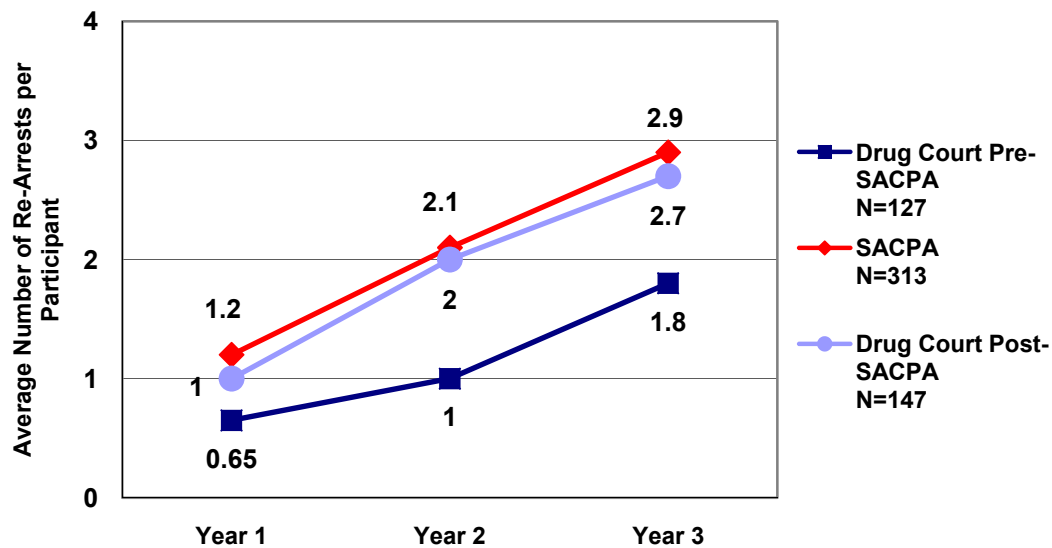
These results imply that the Drug Court model is significantly more effective in getting drug offenders to complete treatment. In addition, the Drug Court model, before the changes in funding and participant population brought on by SACPA implementation, was more effective in lowering criminal justice recidivism than the state-mandated treatment models that do not include the interventions shown to be effective in the Drug Court model (such as more

personalized supervision, more participant accountability and an option for incarceration as a sanction).

These results also imply that the Drug Court model may (understandably) be less effective with a more criminal, more heavily addicted population than it was with a less criminal, less addicted population. However, even with a more criminal population than SACPA, Drug Court performed at least as well, or better, than the SACPA programs in terms of criminal justice related outcomes in these two counties.

Figure B demonstrates the relative recidivism of SACPA participants compared to Drug Court participants at both time periods. Note this is the same graph presented in Figure A, but with SACPA participants added to demonstrate how SACPA participant differs from that of Drug Court participants at both time points. The graph (see Figure B) looks quite similar in both study sites.

**Figure B. Drug Court and SACPA Average Number of Re-Arrests per Participant Over 3 Years**



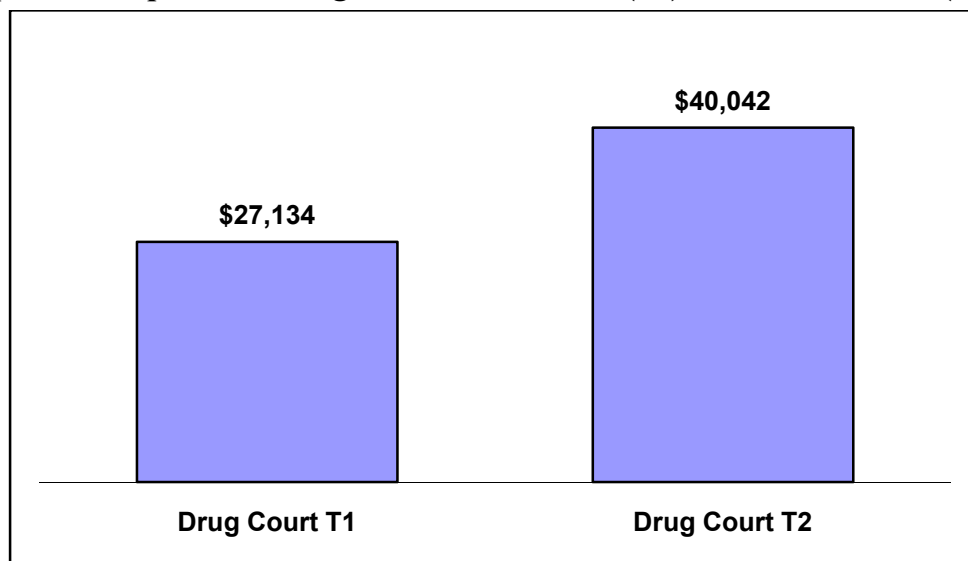
**POLICY QUESTION #5: WHAT ARE THE INVESTMENT AND OUTCOME COSTS OF DRUG COURTS BEFORE THE IMPLEMENTATION OF THE STATE-MANDATED NON-DRUG COURT TREATMENT PROGRAMS COMPARED TO AFTER IMPLEMENTATION?**

Drug Court program investment costs increased in both programs from pre-SACPA to post-SACPA, though this was significant only in one site. Outcome costs over 3 years for El Monte Drug Court participants were higher for participants who entered Drug Court after SACPA implementation than for participants who entered before SACPA. The difference between the two grows over time, with post-SACPA participants showing increasingly higher costs. For San Joaquin County in spite of the increased number of re-arrests, the decrease in days in jail led to no significant difference in outcome costs for Drug Court before and after SACPA. It may be that the decrease in jail time is due to SACPA changes in the use of jail for drug crimes. Unfortunately, the lower use of jail time did not lead to less crime, as the data showed a significant increase in re-arrests in the same time period.

Putting both the investment costs and the outcome cost together, we find that in San Joaquin, there was no significant difference in costs for all participants from pre-SACPA to post-SACPA. The increase in re-arrests for Drug Court participants post-SACPA is balanced out by the decrease in the use of jail time.

However, in El Monte total costs rose by 48% after SACPA implementation. The increase in costs in this site is due largely to the increased use of jail (or in-jail treatment) for Drug Court participants post-SACPA and higher recidivism (including re-arrests and prison time) for Drug Court participants post-SACPA. For this site, Drug Court costs to the taxpayer rose significantly after SACPA implementation, probably due to the increase in addiction and criminality of the participants. Figure C exemplifies this finding.

**Figure C. El Monte Drug Court Participant Total Costs: Program and Outcome Cost per Participant for Drug Court Pre-SACPA (T1) and Post-SACPA (T2)**

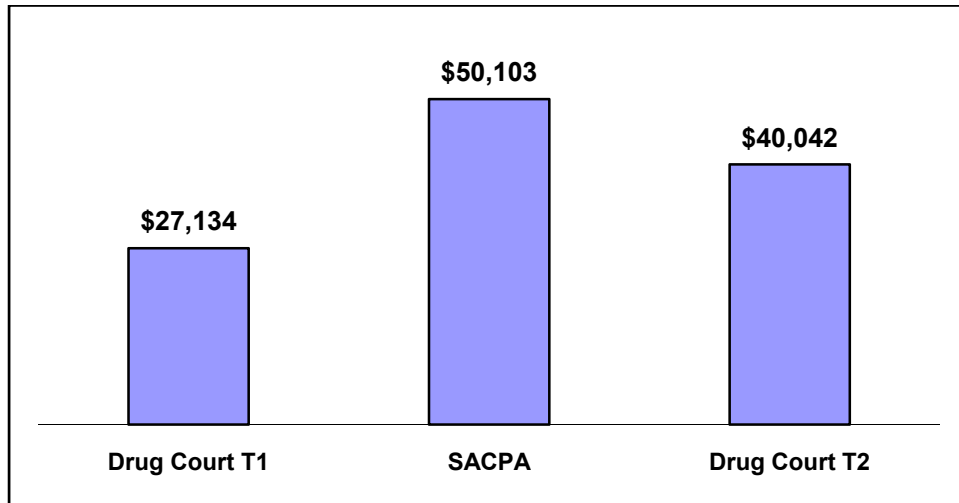


**POLICY QUESTION #6: WHAT ARE THE RELATIVE INVESTMENT AND OUTCOME COSTS OF DRUG COURTS COMPARED TO STATE-MANDATED NON-DRUG COURT TREATMENT PROGRAMS?**

SACPA produced a much higher per person program investment costs than Drug Courts. This is largely a function of the greater amount of treatment experienced by SACPA participants. Drug Courts had less treatment but were more likely to lead to treatment completion. While SACPA participants had a higher number of re-arrests than Drug Court participants, their overall outcome costs were similar due to less jail time for SACPA participants. Unfortunately, this provides evidence that decreased jail time for SACPA participants was related to more crime.

Overall, the total per person costs were substantially higher for SACPA participants. For a significantly lower investment cost, the Drug Court model produced outcomes as good as or better than SACPA outcomes (even after the Drug Court population became more criminal and more addicted than SACPA participants), resulting in lower costs over all. Although Drug Court participants appear to spend less time in the program, the Drug Court model is shown to be more efficient in treatment delivery and to produce better outcomes. Figure D provides an example of program investment costs from the El Monte Drug Court and SACPA programs.

**Figure D. Total Costs per Offender for SACPA, Drug Court pre-SACPA (T1) and Drug Court Post-SACPA (T2)**



### Limitations

Although analyses controlled for differences between these groups on criminal history, drug of choice, demographics and incarceration rates, data on addiction level was not available and therefore could not be controlled for. This is particularly important in looking at differences for Drug Court after SACPA implementation because many participants in Drug Court post-SACPA were former SACPA participants who were unsuccessful at completing their SACPA program. It is likely that these offenders had higher levels of addiction by the time they entered the Drug Court programs at both study sites.

Further, the ability to generalize these results is somewhat limited as this study was performed in only two study sites. However, given that every county has implemented SACPA differently, it would be difficult to generalize the results from any region to any other region. Although it may not be possible to generalize to every county in the state of California, there are clear lessons to be learned from these results in terms of the relative effectiveness of the Drug Court model (with practices that have been shown to be effective in other settings such as court supervision, rewards and sanctions and participant accountability) compared to other program models such as those demonstrated at these two study sites.

## Overall Conclusions

SACPA represents a broad based policy initiative aimed at reducing rates of incarceration and increasing recovery rates for low level, non-violent drug involved offenders. SACPA devotes considerable resources to treatment of those offenders. The policy initiative was developed without the use of interventions deemed effective in other researched and evaluated initiatives such as the Drug Court model. For example, SACPA did not use criminal justice leverage or sanctions found to be effective in Drug Courts. Consequently, retention in the SACPA and in treatment was lower than might have been anticipated. Nevertheless, on a large scale, California diverted many more people to treatment than the Drug Courts alone. In other words, treatment access was significantly increased. Further, it is likely that the total number of participants who entered recovery and did not recidivate exceeds the total number of Drug Court participants in recovery, even though the rates for Drug Court were higher.

Therefore, the state-mandated treatment in California (SACPA) has succeeded in two important ways that were central to its initial logic. First, it has provided an enormous benefit in being able to reach nearly all eligible offenders and offer treatment for their substance use issues instead of incarceration. Second, it has allowed offenders to have more total treatment than Drug Court. In this sense, it has had a much greater impact on the total system of offenders than Drug Court that often serves only a small number of offenders.

Yet, the Drug Court model has shown greater success at producing higher rates of treatment completion and lower recidivism. Further, it does this with a significantly lower per person taxpayer investment. In short, from these data it can be suggested that SACPA succeeds in providing more treatment but the Drug Court model produces better outcomes for less money. Overall, this data shows that the Drug Court model is a more efficient use of resources.

If the resources could be provided for SACPA to incorporate practices of the Drug Court model that have been shown to be effective in this population, particularly when based on participant risk-level as described by Marlowe (2006), (or Drug Court could be expanded to include a larger number of drug offenders) then this form of state-mandated treatment could be an effective benefit resulting in large cost savings for the state of California. Other states considering statewide treatment reform should take into account the clear benefits demonstrated by the Drug Court model in this study, as well as the myriad of Drug Court studies showing positive outcomes for Drug Court participants.