FY 2018
SWIFT AND SURE SANCTIONS
PROBATION PROGRAM
ANNUAL REPORT
The Swift and Sure Sanctions Probation Program (SSSPP) is an intensive probation supervision program for medium- to high-risk felony offenders with a history of probation violations or failures. Governed by MCL 771A.1, et seq., SSSPP is modeled after Hawaii’s Opportunity Probation with Enforcement (HOPE) program, which aims to improve the rate of successful probation completion among high-risk probationers.

Program requirements include a higher frequency of testing for drug or alcohol use than standard probation and closer monitoring through frequent meetings with Michigan Department of Corrections (MDOC) probation agent and/or court case management staff. Sanctioning for program violations is designed to be transparent and predictable, thereby increasing the offender perception of fairness.

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| ESTABLISHMENT AND PARAMETERS OF THE PROGRAM |

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sanctioning. Probation violations are met with swift, consistent, and certain sanctioning and the sanctions are proportional to the magnitude of the violation and the accountability of the offender. For example, a positive drug test where the probationer admitted use may result in two days in jail, while someone who will not accept accountability despite confirmed positive drug test results will serve more time in jail. When probationers abscond, a bench warrant is issued immediately, and once arrested the absconder is ordered to an even lengthier time in jail.

Jail-sanctioning tools utilized by the programs are not meant to replace evidence-based practices that reduce recidivism such as case planning and motivational interviewing, but rather to provide transparency to probationers as to what sanctions they can expect for noncompliant behavior.

Target Population

Eligibility criteria of SSSPPs include felony offenders that are assessed as being a medium- to high-risk offender, meaning they are more likely to commit further crimes. Michigan Department of Corrections agents use the COMPAS risk and need assessment tool, a validated instrument that assesses static and dynamic criminogenic needs and risk of reoffending to determine eligibility. Offenders in SSSPPs often have serious criminal histories, substance abuse problems, and have often failed multiple times on standard probation.

In 2017 sections 3 through 6 of the Probation Swift and Sure Sanctions Act were amended in part to identify the types of offenses not appropriate for SSSPPs. Specifically, MCL 771A.6(3) excludes probationers from participating in an SSSPP program that have an offense types of:

- First-degree murder
- Second-degree murder
- Criminal sexual conduct in the first degree
- Criminal sexual conduct in the third degree
- Use or possession of dangerous weapon
- Aggravated assault
- Treason
- Manufacturing, creating, delivering, or possessing with intent to manufacture, create, or deliver controlled substance, prescription form, or counterfeit prescription form; dispensing, prescribing, or administering controlled substance in any amount
- Knowingly or intentionally possessing controlled substance, controlled substance analogue, or prescription form in an amount of 25 grams or more.
### SSSPPs in Fiscal Year 2018

<table>
<thead>
<tr>
<th>Court</th>
<th>County</th>
<th>Amount Requested</th>
<th>Amount Allocated</th>
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<tr>
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<td>Berrien</td>
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<tr>
<td>3rd Circuit</td>
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<td>29th Circuit</td>
<td>Clinton/Gratiot</td>
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<td>57th Circuit</td>
<td>Emmet</td>
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<td>$10,000</td>
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<td><strong>Total</strong></td>
<td>25 Programs</td>
<td>$3,708,130</td>
<td>$3,493,000</td>
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</table>
Caseload Statistics

Michigan’s SSSPPs are statutorily required to collect data on probationers that are participating in their program. The State Court Administrative Office (SCAO) contracts with ACT Innovations for the Drug Court Case Management Information System (DCCMIS). The system is web-based and collects data on the number of SSSPP probationers that were screened, admitted to, active in, and discharged from a SSSPP. During FY 2018, Michigan’s SSSPP courts:

- Screened 577 potential participants.
- Admitted 537 offenders into a program.
- Discharged 502 participants.
- Had 1,236 active participants among 23 operating courts.

The DCCMIS also collects data on program operations for each offender that participated, such as their criminal history, demographics, sanctions that were given for noncompliance and how many jail days were ordered.

Criminal History of Active Participants in FY 2018:

- Ninety-five percent had a prior conviction before entering a SSSPP program.
- Those with prior convictions averaged three prior felonies and seven prior misdemeanors.
- The majority of participants were straddle cell type (60 percent), meaning their sentencing guidelines recommend jail or prison, while 14 percent were Presumptive/Prison cell type or prison bound.
- Eighty-one percent entered a program on a new criminal offense, 12 percent entered from a probation violation technical, five percent entered as a probation violation new criminal offense, and the remaining two percent entered a program due to either a parole violation technical or parole violation new criminal offense.
Demographics of Active Participants in FY 2018:

- The average age at screening was 33.
- The majority of active participants were White (64 percent), followed by African-American (31 percent). The remaining 5 percent were Hispanic/Latino, Native American, Alaskan Native, Multi-Racial, Asian/Pacific Islander, or some “Other” ethnicity.
- Most participants were single (74 percent) while 11 percent were divorced.
- Upon admission, 35 percent had an education level of less than 12th grade, while 52 percent had a general education development or high school diploma. The remaining 13 percent had higher education or trade school.
- Upon admission, 63 percent were unemployed.

Program Operations among Active Participants in FY 2018:

Participation in an SSSPP requires frequent monitoring by the probation agent and immediate sanctioning for program violations. Program violations include any noncompliance with probation orders such as using alcohol or drugs, missing drug testing, failing to report for probation appointments, absconding, engaging in abusive or threatening behavior, or being convicted of a new criminal offense. Each subsequent violation may result in an incremental increase in the number of jail days dependent on the offender’s level of accountability.

Data below describes the FY 2018 active participants’ compliance or noncompliance with probation orders.

- One percent were rearrested while in the program.
- The average number of bench warrants issued per participant was less than one.
- Participants received on average two sanctions for program violations.
- Participants averaged 40 days in jail for program violations.
Measurable outcomes to help determine whether SSSPPs are effective include rates of program completion and recidivism reduction.

**Success Rate for SSSPP Participation**

The DCCMIS was used to track how many participants successfully completed a program. Of the 502 participants who were discharged during FY 2018:

- Thirty-four percent successfully completed their probation.
- Sixty-one percent were unsuccessfully discharged for noncompliance, a new offense, or having absconded.
- Five percent were discharged for other reasons, which included death, medical discharge, or having transferred to another jurisdiction.

**Recidivism Evaluation**

Michigan’s Public Act 2 of 2017 amended the Code of Criminal Procedure and included specific measures for evaluating recidivism. Michigan Compiled Law 761.1(s) states, “‘Recidivism’ means any rearrest, reconviction, or reincarceration in prison or jail for a felony or misdemeanor offense or a probation or parole violation of an individual as measured first after 3 years and again after 5 years from the date of his or her release from incarceration, placement on probation, or conviction, whichever is later.”

“*It really was the structure of the program that helped me to finally change my life around. The life I live today is so different.* I needed that last chance to prove myself to everybody.*”

— Debbie Reynolds

29th Circuit Court (Clinton & Gratiot Counties) SSSPP Graduate
Comparison Group

Guided by PA 2 of 2017, the SCAO developed a study that matches a comparison group of felony probationers on standard probation to probationers of SSSPPs on similar demographics and criminal histories, and evaluates recidivism three years after being sentenced to probation. To find similar offenders that had not participated in an SSSPP, the SCAO collaborated with the Michigan Department of Corrections (MDOC) to use data from the Offender Management Network Information (OMNI) system, Michigan’s offender database. The data included felony offenders who were sentenced to probation since 10/01/2011, the same time the SSSPPs began operations. Offenders sentenced to standard probation were matched to offenders sentenced into SSSPPs on demographics and criminal histories to develop a one-to-one matched pair. Criteria used in the matching process included:

- Age range at time of sentencing/admission
- Gender
- Race
- Geographical area
- Offense category
- COMPAS nonviolent risk of recidivism score
- COMPAS violent risk of recidivism score
- Screening year category

Using this strict set of criteria resulted in over half of the SSSPP probationers having a statistically comparable matched comparison person for the evaluation.

Measuring Recidivism

The Judicial Data Warehouse (JDW), Michigan’s repository of court cases, was used to find recidivism events subsequent the probation dates. Recidivism is measured separately in two ways: by a new conviction occurring three years after admission into a program or after the comparison member was sentenced to probation; and by a new charge determined by when the new case was opened in the court’s case management system. New convictions are cases with a final disposition of a conviction type whereas a new charge is any new case regardless of whether it was disposed as a conviction, dismissal, or had not yet had a disposition entered by the court. In addition, the analyses for new convictions and new charges include recidivism rates for all probationers of an SSSPP and a subset analysis of just those who graduated an SSSPP.

\[1\] The five-year analysis lacked enough matched pairs to include in this report. As the number of probationers in SSSPPs grows, the five-year analysis will be included in future reports.
New Charges

New Charges Within Three Years of Admission

<table>
<thead>
<tr>
<th>Percent With New Charge</th>
<th>All Participants of SSSPP</th>
<th>Graduates of SSSPP</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>61%</td>
<td>59%</td>
</tr>
<tr>
<td></td>
<td>45%</td>
<td>56%</td>
</tr>
</tbody>
</table>

Participated in SSSPP | Standard Probation Group

New Convictions

New Convictions Within Three Years of Admission

<table>
<thead>
<tr>
<th>Percent With New Conviction</th>
<th>All Participants of SSSPP</th>
<th>Graduates of SSSPP</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>46%</td>
<td>46%</td>
</tr>
<tr>
<td></td>
<td>32%</td>
<td>42%</td>
</tr>
</tbody>
</table>

Participated in SSSPP | Standard Probation Group
Measuring Recidivism (cont).

Although the outcomes for the “All Participants” group are not indicative of positive program impact, the graduate analyses were favorable. The differences in the recidivism rates for graduates were trending toward a level of statistical significance. As programs continue to sentence probationers into SSSPPs, the number of matched pairs will grow providing more statistical power for future analyses.

Program Operations among Graduates in FY 2018

Graduates of a program during FY 2018:

- Averaged two program sanctions.
- Averaged 21 days in jail for program sanctions.
- Averaged less than one bench warrant and 84 percent of graduates had no bench warrants issued.
- Averaged 209 drug and alcohol tests and of those, an average of two percent were positive.
- Averaged just over 17 months (521 days) in the program.
- Saw a reduction in unemployment by 89 percent from program entry to program discharge.

(l to r) Andrew Smith and Thomas Myers, of SCAO Trial Court Services, testifying before the House Appropriations Judiciary Subcommittee regarding funding for Michigan’s Swift and Sure Sanctions Probation Program.
The concept of using swift, certain, and fair (SCF) principles toward behavior modification has been in the criminal justice system for a long time. In 1993, Oregon’s Structured Sanctions program used a grid of sanctions for each type of violation to provide more celerity and consistency when sanctioning felony probationers.

In 2004, at the time the HOPE program was developed, Texas implemented a similar probation program called Supervision With Intensive Enforcement or SWIFT. Since then, programs using SCF principles to increase probationer compliance are on the rise. Alaska and Washington developed probation programs in 2010 and 2011, respectively, using the SCF principles. Shortly thereafter, Massachusetts and Arkansas implemented similar programs in their states. Despite the rise in programs predicated on operant conditioning through swift and sure sanctioning, results of program effectiveness are mixed.

In 2018, the National Institute of Justice published a multi-site evaluation of four states using the HOPE model. The study found no substantial differences in recidivism among the participants of the HOPE-modeled programs and probationers-as-usual. The study evaluated the sanctioning approach, rather than the added layers of rehabilitative services that the HOPE model sites had incorporated, and the authors noted that the original design of the HOPE model defined by the Bureau of Justice Assistance focused directly on sanctioning for drug use and missed appointments and not on drug treatment.

Many SCF programs order probationers to treatment services when they continually fail drug tests. This move away from a strict zero-tolerance deterrent model and a morphing into hybrid programs where jail sanctioning is combined with orders to treatment or other services can mask whether the swift and certain sanctioning approach is what produces any positive outcomes. The effect may be a hodgepodge of evaluation results that are mirroring the mixture of program operations. Most studies had been outcome evaluations focusing on whether probationers are more compliant while on probation and law abiding post the intensive probation term.

Perhaps future research will peel back the layers of program operations to determine which components of SCF programs that are incorporating a multitude of services really work and which do not. Additional research should also be conducted to identify specifically what types of offenders can benefit from swift, sure, and fair sanctioning approaches.

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