



# FY 2019

## SWIFT AND SURE SANCTIONS PROBATION PROGRAM ANNUAL REPORT

INDEPENDENCE • ACCESSIBILITY • ENGAGEMENT • EFFICIENCY



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## SWIFT & 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 speed and consistency when sanctioning felony probationers.

In 2004, Hawaii’s Opportunity Probation with Enforcement (HOPE) program was developed with the goal of increasing the rate of successful probation completion among high-risk probationers. At around the same time, Texas implemented a similar probation program called Supervision with

Intensive Enforcement, or SWIFT. Since then, programs using SCF principles to increase probation compliance are on the rise. Michigan’s Swift and Sure Sanctions Probation Program (SSSPP) is governed by MCL 771A.1, *et seq.*, and modeled after the HOPE program. It is an intensive probation supervision program for medium- to high-risk felony offenders with a history of probation violations or failures.

The SSSPP model includes increased testing for drug or alcohol use, as well as increased supervision and monitoring based on criminogenic risk assessment scores.





The Michigan Department of Corrections (MDOC) probation agent and court staff are responsible for monitoring participants. Like other SCF programs, its goal is to effect positive behavioral change among probationers by providing clear and easily understood rules for violations and immediate 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 a confirmed positive drug test result may 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. Sanctions to jail are not meant to replace evidence-based practices that reduce recidivism such as case planning and motivational interviewing, but rather, to add an additional layer of transparency of what to expect for noncompliant behavior.

## Target Population

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

In 2017, sections three through six 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 a SSSPP program who have an offense type 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.

By narrowing the types of offenses eligible for SSSPPs and excluding drug manufacturing type offenses, SSSPPs may target populations not already served by treatment courts, such as drug courts or mental health courts.

## SSSPPs in Fiscal Year 2019

The following table shows SSSPP grant funding requests and awards by court in fiscal year (FY) 2019 among 25 total programs (24 of which were fully operational and one of which was in the planning stage).

Court	County	Amount Requested	Amount Allocated
2nd Circuit	Berrien	\$250,000	\$250,000
3rd Circuit	Wayne	\$69,344	\$69,000
5th Circuit	Barry	\$163,703	\$123,000
8th Circuit	Ionia/Montcalm	\$47,366	\$61,000*
9th Circuit	Kalamazoo	\$165,000	\$165,000
10th Circuit	Saginaw	\$316,306	\$316,000
14th Circuit	Muskegon	\$320,000	\$320,000
16th Circuit	Macomb	\$69,813	\$69,000
18th Circuit	Bay	\$190,076	\$185,000
21st Circuit	Isabella	\$217,247	\$210,000
29th Circuit	Clinton/Gratiot	\$189,344	\$165,000
30th Circuit	Ingham	\$256,452	\$256,000
35th Circuit	Shiawassee	\$49,744	\$48,000
36th Circuit	Van Buren	\$210,497	\$200,000
39th Circuit	Lenawee	\$27,710	\$27,000
41st Circuit	Iron	\$50,000	\$50,000
42nd Circuit	Midland	\$274,859	\$230,000
43rd Circuit	Cass	\$176,000	\$176,000
44th Circuit	Livingston	\$167,410	\$120,000
45th Circuit	St. Joseph	\$225,000	\$225,000
48th Circuit	Allegan	\$114,625	\$114,000
49th Circuit	Mecosta/Osceola	\$14,982	\$14,000
53rd Circuit	Presque Isle	\$32,358	\$32,000
56th Circuit	Eaton	\$95,920	\$105,000*
57th Circuit	Emmet	\$14,373	\$10,000
<b>Total</b>	<b>25 Programs</b>	<b>\$3,708,130</b>	<b>\$ 3,493,000</b>

\* Courts were allocated additional funding mid-year.





## Caseload Statistics

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Michigan's SSSPPs are statutorily required to collect data on probationers who are participating in their program. The State Court Administrative Office (SCAO) contracts with ACT Innovations for the Drug Court Case Management Information System (DCCMIS). This web-based system houses data on the number of SSSPP probationers who were screened, admitted to, active in, and discharged from an SSSPP. During FY 2019, Michigan's SSSPP courts:

- Screened 521 potential participants.
- Admitted 482 offenders into a program.
- Discharged 529 participants.
- Had 1,214 active participants among 24 operational courts.

The DCCMIS also collects data on program operations for each offender who 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 2019:**

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- 96 percent had a prior conviction before entering an SSSPP program.
- Those with prior convictions averaged 3 prior felonies and 8 prior misdemeanors.
- The majority of participants were straddle cell type (64 percent), meaning they may or may not receive imprisonment as punishment, while 13 percent were presumptive/prison cell type, or prison bound. The remaining 23 percent were intermediate cell type.
- 79 percent entered a program on a new criminal offense, 10 percent entered from a technical probation violation, 9 percent entered as a probation violation that was a new criminal offense, and the remaining 2 percent entered a program due to either a technical parole violation or parole violation that was a new criminal offense.

## Demographics of Active Participants in FY 2019:

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- The average age at screening was 34, and the majority (81 percent) were male.
- The majority of active participants were White (66 percent), followed by African-American (30 percent) and Hispanic/Latino (3 percent). The remaining were Native American, Alaskan Native, Multi-Racial, Asian/Pacific Islander, or some “Other” ethnicity.
- Most participants were single (74 percent), while 12 percent were divorced. 10 percent were married, and the remaining were either separated or widowed.
- Upon admission, 33 percent had an education level of less than 12<sup>th</sup> grade, while 54 percent had a general education development or high school diploma. The remaining 13 percent had higher education or trade school.
- Upon admission, 64 percent were unemployed, 26 percent were employed either part- or full-time, 5 percent were reported as “Not in Labor Force,” and 5 percent were disabled or retired.

## Program Operations among Active Participants in FY 2019:

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 2019 active participants’ compliance or noncompliance with probation orders.

- 1 percent were rearrested while in the program.
- The average number of bench warrants issued per participant was less than 1, and the average number of days spent in jail due to bench warrants was 32.
- Participants received on average 3 sanctions for program violations, and averaged 43 days in jail for program violations.





# PROGRAM OUTCOMES

Measurable outcomes to help determine the effectiveness of SSSPPs include rates of program completion and recidivism reduction.

## Success Rate for SSSPP Participation

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The DCCMIS was used to track how many participants successfully completed a program. Of the 529 participants who were discharged during FY 2019:

- 39 percent successfully completed their probation.
- 36 percent were unsuccessfully discharged for noncompliance, 11 percent absconded, and 9 percent were unsuccessful due to a new offense.
- 5 percent were discharged for other reasons, which include death, medical discharge, having transferred to another jurisdiction, or reasons of “Other.”

## Recidivism Evaluation

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Michigan’s Public Act 2 of 2017 amended the Code of Criminal Procedure and included specific measures for evaluating recidivism. MCL 761.1(s) states, “‘Recidivism’ means any rearrest, reconviction, or re-incarceration 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.”

## Comparison Group

Guided by PA 2 of 2017, SCAO developed a quasi-experimental 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<sup>1</sup> after being sentenced to probation. To find similar offenders who had not participated in an SSSPP, 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 October 1, 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.

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<sup>1</sup>The 5-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.

Criteria used in the matching process included:

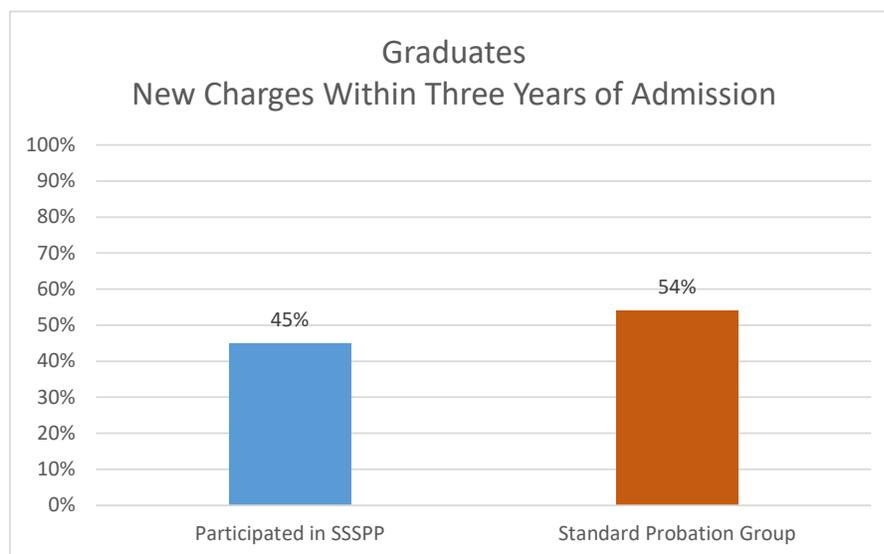
- Age range at time of admission/sentencing
- Gender
- Race
- Geographical area
- Offense category
- COMPAS nonviolent risk of recidivism score
- COMPAS violent risk of recidivism score
- Screening year category

Each year, newer participants and those past participants are added to the year's before matched sample to increase the overall sample size.<sup>2</sup> More than half of the SSSPP participants were matched to a comparison member using these strict criteria, and matched pairs were evaluated to be statistically comparable.

## 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 at the time 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 from an SSSPP.

### New Charges

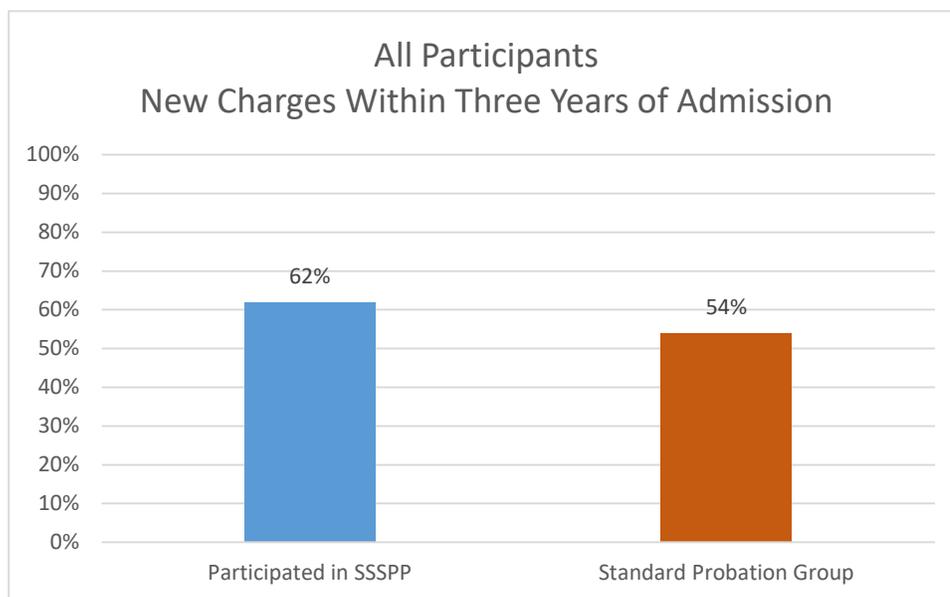


<sup>2</sup> As the number of probationers in SSSPPs grows, the 5-year analysis will be included in future reports.

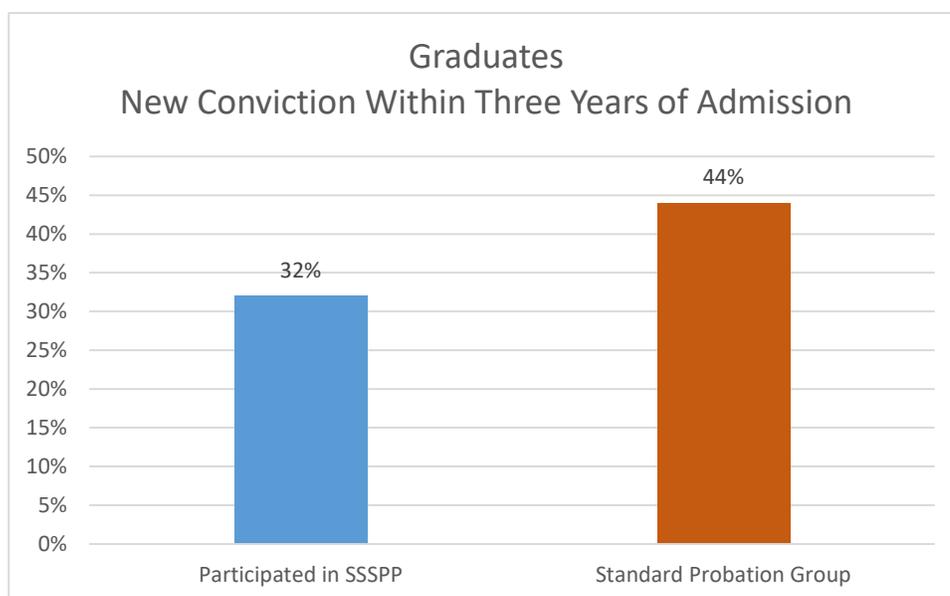




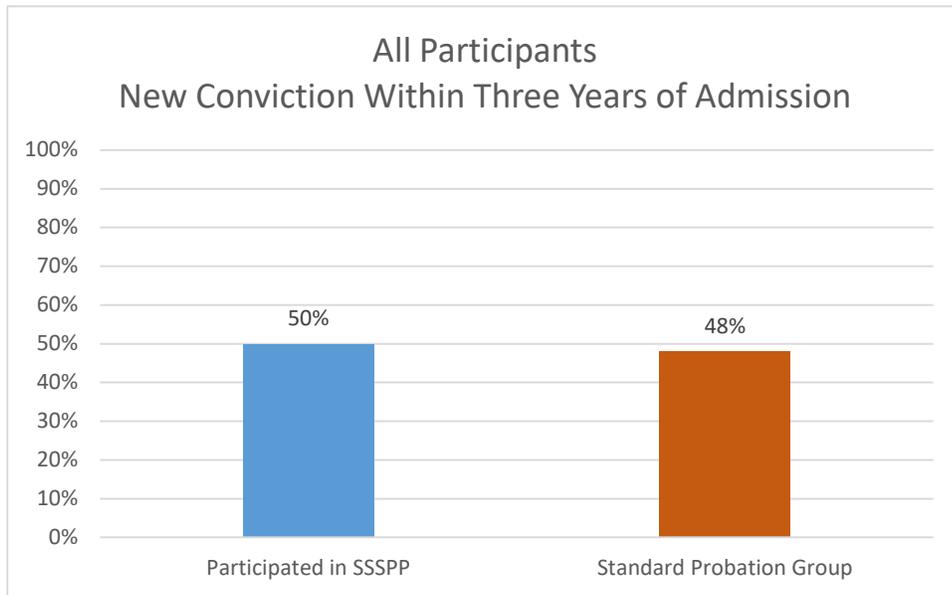
## New Charges (cont.)



## New Convictions



## New Convictions (cont.)



## Measuring Recidivism (cont.)

Outcomes for the “All Participants” group include those who failed a program for different reasons, including absconding, and are not indicative of positive program impact; however, the graduate analyses were favorable. The differences in the recidivism rates for graduates were statistically significant. 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 2019

### Graduates of a program during FY 2019:

- Averaged 2 program sanctions.
- Received jail for a program sanction (59 percent) and they averaged 23 jail days.
- 82 percent had no bench warrants issued.
- Averaged 194 drug and alcohol tests and of those, an average of 3 percent were positive.
- Averaged just over 19 months (580 days) in the program.
- Saw a reduction in unemployment from program entry to program discharge (87 percent).





## CONCLUSION

Although the SSSPPs began in late 2011, the method of fully evaluating long-term outcomes is newer, and not without its difficulties. Limitations to analyzing data include the reliability and health of data found between the JDW, DCCMIS, and OMNI systems, resulting in nearly half of participants not having a matched comparison member.

In addition, there are variations in how MDOC offenders and SSSPP participants are defined to have completed or not completed a probation term. For example, participants in an SSSPP can complete the actual program but continue on probation with MDOC, where they may eventually fail. Thus, the swift, certain, and fair sanctions concept could be considered as merely one subcomponent to the overall MDOC probation term.

Once exiting an SSSPP, the continued probation period may no longer include the swift sanctioning concept, which then makes it difficult to evaluate whether completing an SSSPP program had positive effects on the success of MDOC probation. Further analyses are needed to determine whether the overall impact of ensuring swift, certain, and fair sanctions is effecting positive behavior change among felony probationers.



*Judge Paul Stutesman, of 45th Circuit Court, presenting a certificate to a new SSSPP graduate.*



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Cover photos (l to r):

**29th Circuit Court, Clinton/Gratiot.** (l to r) Judge Michelle Rick celebrating with a new SSSPP graduate.

**8th Circuit Court, Ionia/Montcalm.** (l to r) Judge Suzanne Kreeger with Patrick, a new SSSPP graduate, and Judge Amy McDowell, of Barry County.

For more information, contact the Michigan Supreme Court Office of Public Information:  
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