



Michigan Supreme Court

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Swift and Sure Evaluation for Study Period Fiscal Years 2012–2013

In February 2015, the State Court Administrative Office (SCAO) provided a preliminary program review to the Chairs of the Senate and House subcommittees on Judiciary. The preliminary review was intended to provide an initial snapshot of the “final” program evaluation due later in the Spring. The final program evaluation — covering a study period of October 1, 2011 through September 30, 2013 — is attached to this document and significantly tracks the preliminary program review.

Included in the final evaluation are a set of recommendations based on the system as it existed during the study period of October 1, 2011 through September 30, 2013. Independent from and previous to this final evaluation report covering the study period, SCAO had already taken actions that track those in the final evaluation, and information on those actions are provided here as context for the recommendations in the final evaluation report.

1. Drug Testing

The first recommendation was that drug and alcohol testing needs to be more frequent and comprehensive than it was during the study period.

Swift and Sure courts currently administer drug and alcohol testing that is more frequent and comprehensive than it was during the study period. Based on the programs’ grant applications, the majority of programs administer drug testing two or three times per week during the first several months in the program, and the range of frequency of drug testing is at least once per week and as often as five times per week. Alcohol testing occurs up to three times per day. Drug testing includes EtG, PBT, urinalysis, oral swab, and up to 14-panel testing. SCAO will be monitoring the actual frequency and type of drug testing even more closely in the Drug Court Case Management Information System (DCCMIS) beginning this fall.

2. Treatment

The second recommendation was that probationers be allowed to request substance abuse treatment when needed without restricting treatment length.

While during the time period of this study, grant funds for substance-use disorder treatment were an allowable expense for a maximum of 90 days upon probationer request, there is currently no limitation on the number of days for substance-use disorder treatment, but the individual must test positive twice and be sanctioned twice as a result of the positive tests before receiving treatment. This grant requirement is consistent with the overall HOPE philosophy and the focus of Swift and Sure as a compliance-first approach, not a treatment-first approach. However, Swift and Sure participants still have access to non-grant funded treatment; for example, if a judge orders treatment, the Michigan Department of Corrections is required to provide it.

3. Graduated Sanctions

The third recommendation was that the Swift and Sure program “carefully consider the effectiveness of the use of graduated sanctions.” In this context, “graduated sanctions” means that the number of days that probationers are sentenced to jail increases as the number of probation violations increases.

Since May 2014, SCAO has recommended to the courts that their team should carefully reconsider whether graduated sanctions make sense, if at all. To assist in program development, SCAO has explained that there are four basic considerations when thinking about whether to use graduated sanctions:

First, the certainty of the sanction is more important than the severity of the sanction.

Second, to the extent graduated sanctions make sense, they should be used for repeat violations rather than for consecutive violations. A repeat violation is the same violation — for example, testing positive multiple times. A consecutive violation is the next violation — for example, testing positive one month and missing an appointment with the probation officer the next month.

Third, if courts choose to use graduated sanctions, they should consider using them when there is little time between sanctions. For example, graduated sanctions make more sense if someone tests positive three times in three weeks than if someone tests positive twice in nine months.

Fourth, the number of repeat violations should inform decisions about graduated sanctions. For example, graduated sanctions make more sense if the person has missed five appointments with his or her probation officer than if the person has missed two appointments.

These considerations tend to recommend against graduated sanctions.

4. The Four-and-Out Rule

The fourth recommendation was that SCAO should reevaluate the four-and-out rule for revocation. This is the rule where the client's participation in the program is revoked for any four violations — for example, missing four appointments. During the study period, many Swift and Sure programs used the four-and-out rule or a three-and-out rule for revocation.

Since May 2014, SCAO has recommended to the courts that they stop using the four-and-out rule or any version like it. In the last 10 months, only three Swift and Sure programs continue to use these revocation practices.

5. DCCMIS and Data

The fifth recommendation was that all Swift and Sure programs enter information into DCCMIS uniformly and receive training on it.

SCAO is currently making enhancements to the DCCMIS system for Swift and Sure and will provide training on the system in September 2015. The Swift and Sure courts will be required to enter a set of standard data into DCCMIS for the Swift and Sure program beginning October 1, 2015.

6. Program Staff and Stakeholders

The sixth recommendation was that program stakeholders (judge, court staff, law enforcement, probation, etc.) have a clear and consistent understanding of the program philosophy and that SCAO provide training sessions to ensure that this objective is met.

SCAO has done this from the beginning of the program, but during the last 12 months, SCAO has redoubled its efforts to communicate a clear and consistent Swift and Sure program philosophy to program courts. SCAO hosted a comprehensive training in November 2014, will have several Swift and Sure trainings throughout 2015, and will also create a Swift and Sure Advisory Committee during Spring 2015.

In October 2014, SCAO received a federal Bureau of Justice Assistance grant to receive technical assistance from Pepperdine University, the evaluators of the HOPE program. This two- to three-year grant will assist SCAO in ensuring that there is consistency in program structure throughout Michigan.

7. How the Swift and Sure Program and Problem-Solving Courts Work Together

The final recommendation was about how the Swift and Sure program and problem-solving courts can work together to maximize efficiency and effectiveness.

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There are significant differences between Swift and Sure courts and treatment/problem-solving courts. Any structure that encourages greater coordination and cooperation between the two must be determined on a case-by-case basis in each circuit court because program eligibility differs by jurisdiction. As long as these differences are recognized, the benefits of cooperation and sharing of resources, including efficiencies and even better service, can be achieved without sacrificing outcomes.