

# SWIFT AND SURE

## SANCTIONS PROBATION PROGRAM



FY 2022 ANNUAL REPORT

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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 quite some 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. Michigan Department of Corrections (MDOC) probation agents and court staff are responsible for monitoring participants. Like other programs predicated on the SCF principles, its goal is to result in positive behavioral change by providing clear and easily understood rules for violations and immediate sanctioning. Probation violations are met with swift, consistent, certain, and fair 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 might immediately result in two days in jail, while someone who will not accept accountability despite a confirmed positive drug test might result in a longer jail stay. 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 and expectations for noncompliant behavior.

## Target Population

SSSPP courts target felony offenders who are assessed as high-risk, meaning they have a high probability of committing further crimes. MDOC agents evaluate the level of risk and need by using the validated tool, the Correctional Offender Management Profiling for Alternative Sanctions (COMPAS). The instrument is designed to identify static and dynamic criminogenic risk factors that lead to reoffending. Offenders in SSSPP courts often have serious criminal histories, substance abuse problems or mental illness, and were often unsuccessful on standard probation.

MCL 771A.6(3) excludes probationers from participating in an SSSPP court that 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

As the method of sanctioning is the focus of SSSPP courts, offenders with a diagnosed substance use disorder might be eligible and more appropriate for adult drug treatment courts, and offenders with a diagnosed mental illness might be eligible and more appropriate for adult mental health court.



*Judge Clinton Canady III, of Ingham County Circuit Court, celebrating with a past SSSPP graduate.*

## Swift and Sure Sanctions Probation Program in FY 2022

The following table shows SSSPP grant funding requests and awards by court in FY 2022 among 21 SSSPP courts.

Court	County	Amounts Requested	Amounts Awarded	Amounts Expended
2nd Circuit	Berrien	\$257,121	\$257,000	\$221,638
3rd Circuit	Wayne	\$ 67,988	\$ 67,000	\$ 8,260
5th Circuit	Barry	\$173,655	\$125,000	\$125,000
8th Circuit	Ionia/ Montcalm	\$ 50,702	\$ 50,000	\$ 19,774
9th Circuit	Kalamazoo	\$140,547	\$140,500	\$131,935
10th Circuit	Saginaw	\$308,492	\$308,000	\$306,690
14th Circuit	Muskegon	\$321,880	\$295,000	\$173,120
16th Circuit	Macomb	\$ 83,005	\$ 45,000	\$33,913
18th Circuit	Bay	\$164,339	\$164,000	\$138,794
21st Circuit	Isabella	\$205,000	\$205,000	\$204,957
30th Circuit	Ingham	\$208,000	\$208,000	\$180,027
35th Circuit	Shiawassee	\$ 66,513	\$ 53,000	\$ 53,000
36th Circuit	Van Buren	\$199,038	\$199,000	\$175,224
41st Circuit	Iron	\$ 43,000	\$ 43,000	\$ 30,812
42nd Circuit	Midland	\$266,791	\$266,092	\$234,784
43rd Circuit	Cass	\$170,000	\$170,000	\$155,466
44th Circuit	Livingston	\$116,356	\$116,000	\$74,247
45th Circuit	St. Joseph	\$174,981	\$174,000	\$174,000
48th Circuit	Allegan	\$133,808	\$133,000	\$108,931
53rd Circuit	Presque Isle	\$ 26,050	\$ 18,000	\$ 15,199
56th Circuit	Eaton	\$ 94,211	\$ 94,000	\$ 58,829
<b>Total</b>	<b>21 SSSPP courts</b>	<b>\$3,271,478</b>	<b>\$3,130,592</b>	<b>\$2,624,601</b>



# CASELOAD STATISTICS FOR ACTIVE PARTICIPANTS

## (October 1, 2021 to September 30, 2022)

Michigan's SSSPP courts are statutorily required to collect data on their SSSPP probationers. The State Court Administrative Office (SCAO) contracts with Advanced Computer Technologies for the Drug Court Case Management Information System (DCCMIS), which is the web-based system that houses data on the number of SSSPP probationers who were screened, admitted to, active in, and discharged from an SSSPP court. During fiscal year 2022, Michigan's SSSPP courts:

- screened 417 potential participants.
- admitted 375 participants into a program.
- discharged 293 participants.
- had 846 active participants among 23 operating courts.

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

### Criminal History of Active Participants in FY 2022

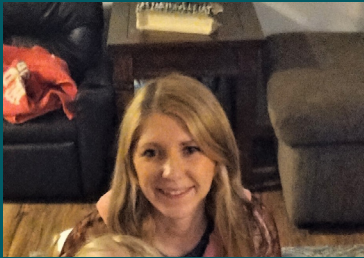
- Ninety-four percent had at least one prior conviction before entering an SSSPP program.
- Those with prior convictions averaged three prior felonies and eight prior misdemeanors.
- The majority of participants (67 percent) were straddle cell, which means that the judge may sentence the defendant either to prison or to intermediate sanctions (see MCL 769.34). Sixteen percent were presumptive/prison cell type, or prison bound. Seventeen percent were intermediate cell type, which precludes state imprisonment. Five participants had incomplete data.
- Ninety percent entered a program on a new criminal offense, six percent on a probation violation (new criminal offense), four percent on probation violation (technical)<sup>1</sup>; and the remaining one percent entered a program on a parole violation (new criminal offense).



<sup>1</sup> See MCL 771.4B.

## Demographics of Active Participants in FY 2022

- Age and Gender: The average age at screening was 35, and 84 percent were male and 16 percent were female.
- Race: Sixty-two percent of active participants were White; 34 percent were African-American; 2 percent were Hispanic/Latino; and the remaining were Native American, Multi-Racial, Asian/Pacific Islander, or answered their ethnicity as “Other.”
- Martial Status: 71 percent of participants were single, 14 percent were divorced, 12 percent were married, and the remaining were either separated or widowed.
- Education: Upon admission, 50 percent of participants had a General Education Development (GED) or high school diploma, 37 percent had an education level of less than 12<sup>th</sup> grade, and 13 percent had higher education or trade school level.
- Employment: Upon admission, 61 percent were unemployed, 28 percent were employed either part- or full-time, 6 percent were “Not in Labor Force,” and 5 percent were disabled. One person was a student full-time, and one participant had missing data.



*A recent graduate of Midland County Circuit Court’s SSSPP (called MiHOPE) said this: “The MiHOPE program saved my life. My life was a wreck before I entered the program. With the support of many people including my probation officer, I was able to successfully complete the program. I was always held accountable for my mistakes and learned how to stay sober. I’m proud to say I will be eight years clean this October. Now, I have purchased my first home all on my own and have a wonderful full-time job. My greatest success is being a mother to my four-year-old daughter. I can’t thank the program enough for helping me succeed. My advice to anyone in the program is don’t give up; it’s worth it in the end.”*

## Program Operations among Active Participants in FY 2022

Participation in an SSSPP court 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 2022 active participants’ compliance or noncompliance with probation orders.

- Two percent were rearrested while in the program.
- Eighteen percent of active participants were issued a bench warrant while participating in a program, and they averaged a total of two bench warrants.
- During their time in the program, participants received on average two sanctions for program violations, and averaged 37 days in jail for program violations.

# OUTCOME MEASURES

## (October 1, 2021 to September 30, 2022)

Measurable outcomes to determine the effectiveness of SSSPPs include rates of program completion, recidivism reduction, retention rates, and time in program.

### Success Rate and Graduate Outcomes for SSSPP Participation

The DCCMIS was used to track how many participants successfully completed a program. Of the 293 participants who were discharged during FY 2022:

- Forty-four percent successfully completed their probation.
- Twenty-eight percent were unsuccessfully discharged for noncompliance, 15 percent absconded, and 7 percent were unsuccessful due to a new offense.
- The remaining four percent were discharged for reasons “Other,” death, voluntarily withdrew, or transferred to another jurisdiction.
- Over a one-year period, SSSPP courts retained 83 percent of their participants.



*SSSPP judges and court staff participating in a training session at the Hall of Justice.*

### Graduate Caseload Measures in FY 2022

Caseload data among SSSPP participants that graduated from a program between October 1, 2021, and September 30, 2022, are shown below:

- During their time in the program, 52 percent received a jail sanction for a program violation, and they averaged 41 days in jail.
- Eight percent had a bench warrant issued.
- Graduates averaged three program sanctions.
- Graduates averaged 153 drug and alcohol tests, and an average of 4 percent were positive.
- Graduates averaged just over 612 days (20 months) in the program.
- Sixty-one percent of graduates were unemployed when they entered a program. Upon graduation, only 12 percent were unemployed, which resulted in an 81 percent reduction in unemployment.





## Recidivism Evaluation

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 Public Act 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 and five years after being sentenced to probation. To find similar offenders that had not participated in an SSSPP, SCAO collaborated with the MDOC to use data from the Offender Management Network Information (OMNI) system, which houses information on felony offenders. The data included felony offenders who received a probation sentence as of 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. 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

Each year, newer participants and those unmatched are reviewed for a matched participant and added to the matched sample from the year before to increase the overall sample size. 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.



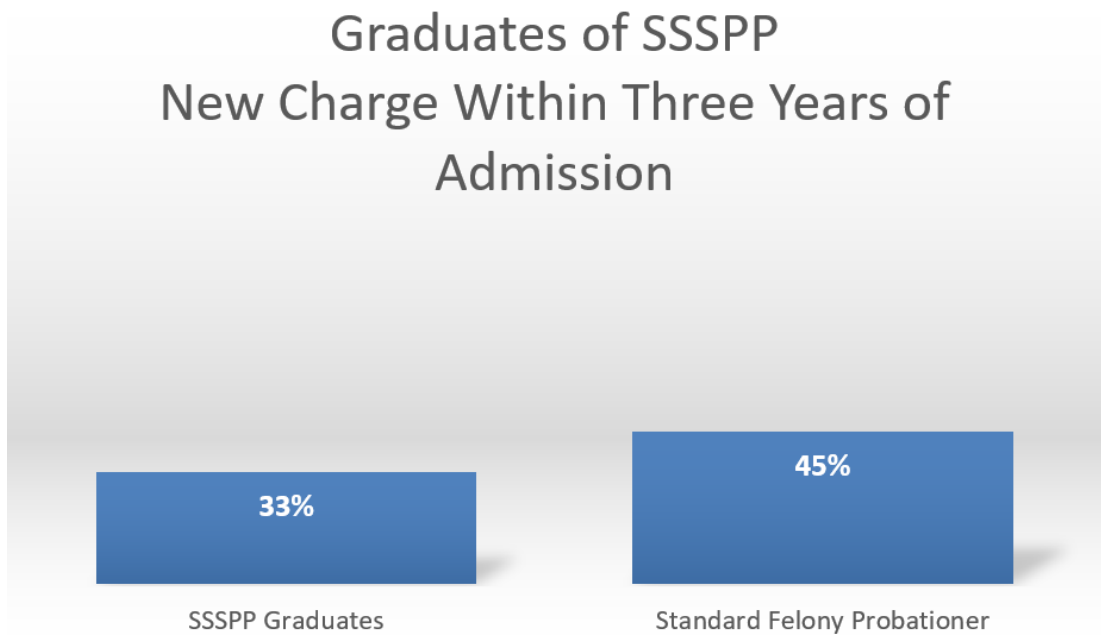
## Measuring Recidivism

The Judicial Data Warehouse (JDW), Michigan’s repository of court cases, was used to find recidivism events after the start of probation. Recidivism is measured separately in two ways: by a new conviction occurring three and five 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, dismissed, 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 participants in an SSSPP regardless of whether they failed or not, and a subset analysis of just those that graduated from a SSSPP.

Reporting the differences in recidivism rates between the participants and standard felony probationers who did not enter a SSSPP include whether the differences were statistically significant. When a difference is statistically significant, it means the differences are not happening by chance, but rather, as a result of program intervention.

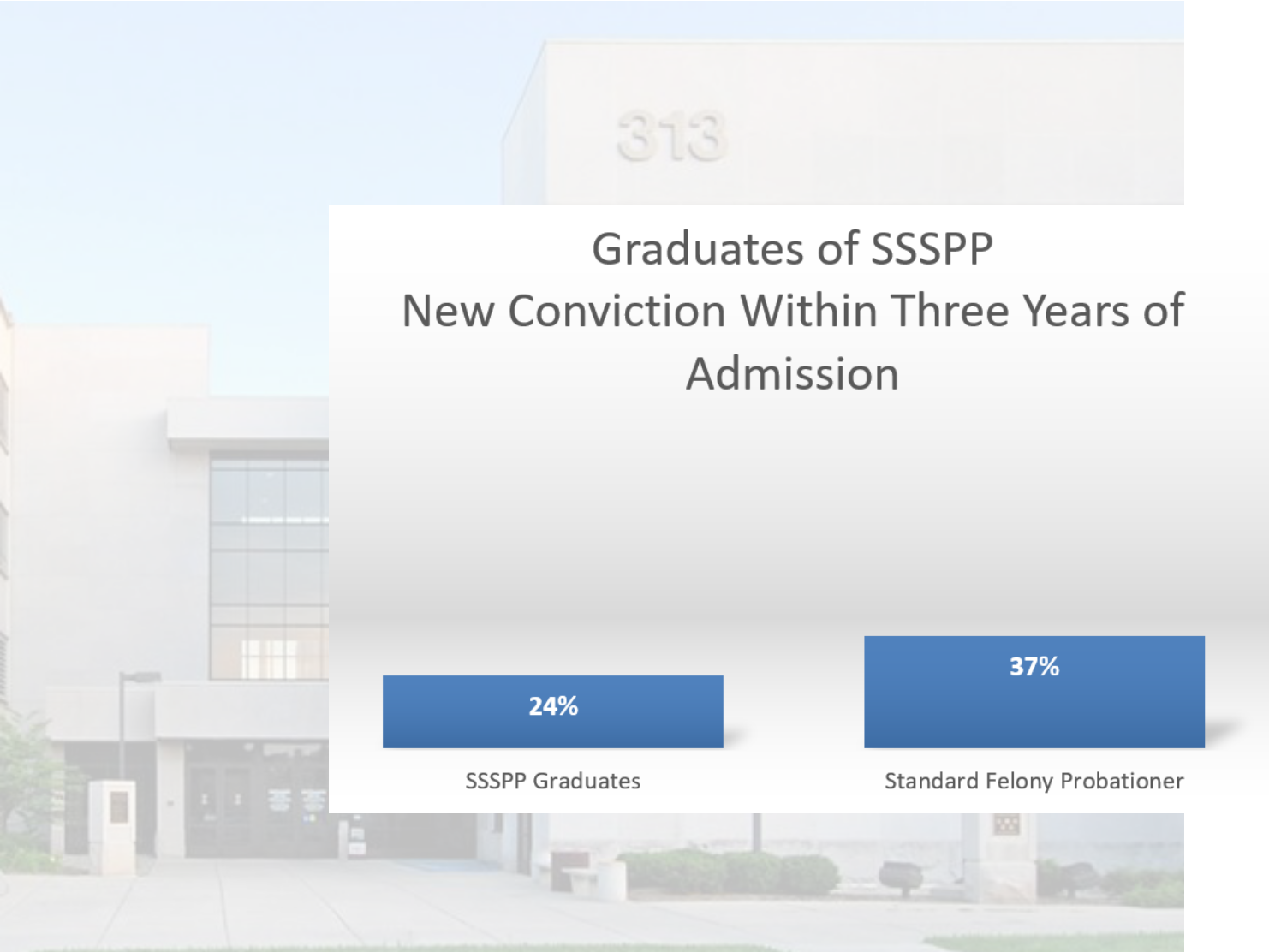
## Graduate Outcomes

### New Charge - Three Years



There were 835 matched pairs of graduates evaluated after three years of admission. Graduates of SSSPP had a 33 percent recidivism rate while their comparison member had a 45 percent recidivism rate. The differences in their recidivism rates were statistically significant. This means that there was a correlation between participants completing a SSSPP and reduced recidivism.

### New Conviction - Three Years



## Graduates of SSSPP New Conviction Within Three Years of Admission

24%

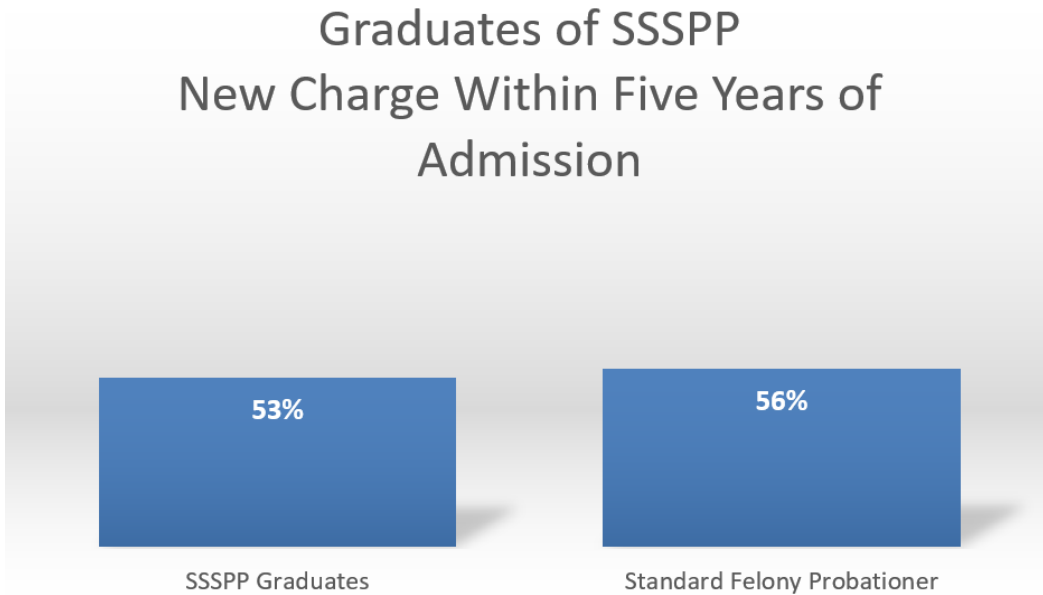
SSSPP Graduates

37%

Standard Felony Probationer

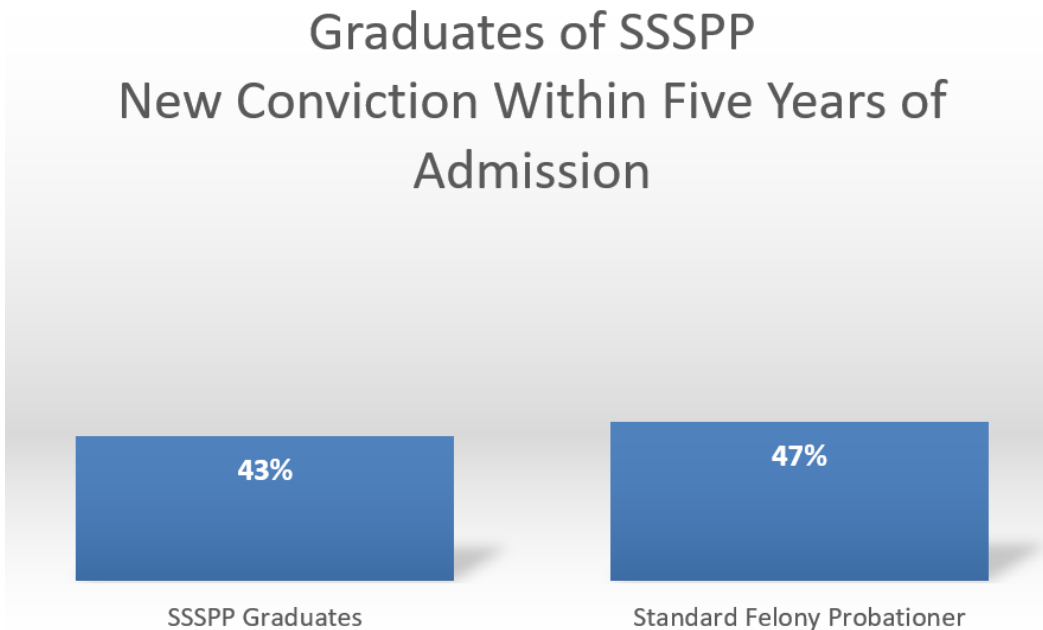
Graduates evaluated for a new conviction were lower (24 percent) than their matched comparison member (37 percent), and this difference was statistically significant.

### New Charge - Five Years



There were 522 matched pairs of graduates for evaluation over five years. Graduates had a slightly lower recidivism rate (53 percent) than their matched comparison member (56 percent), and this difference was not statistically significant.

### New Conviction - Five Years





Graduates evaluated within five years of admission for a new conviction also had a lower recidivism rate (43 percent) than their matched comparison member (47 percent). The difference in rates were not statistically significant.

## All Participant Outcomes

### New Charge - Three Years

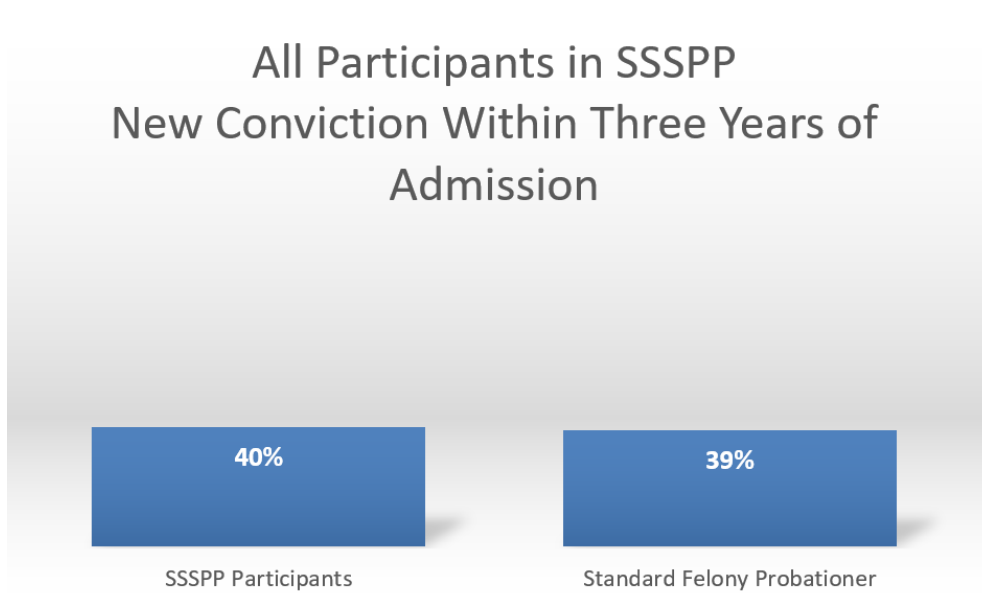
#### All Participants in SSSPP New Charge Within Three Years of Admission



Evaluation for the “All Participants” group include those that failed a program for different reasons, including absconding or noncompliance and participants that may have spent very little time in the program, minimizing its effects. There were 2,085 matched pairs for evaluation after three years of admission. Participants of a SSSPP had a higher rate of recidivism (51 percent) for a new charge three years within admission than their matched comparison member (47 percent) and the difference was statistically significant.

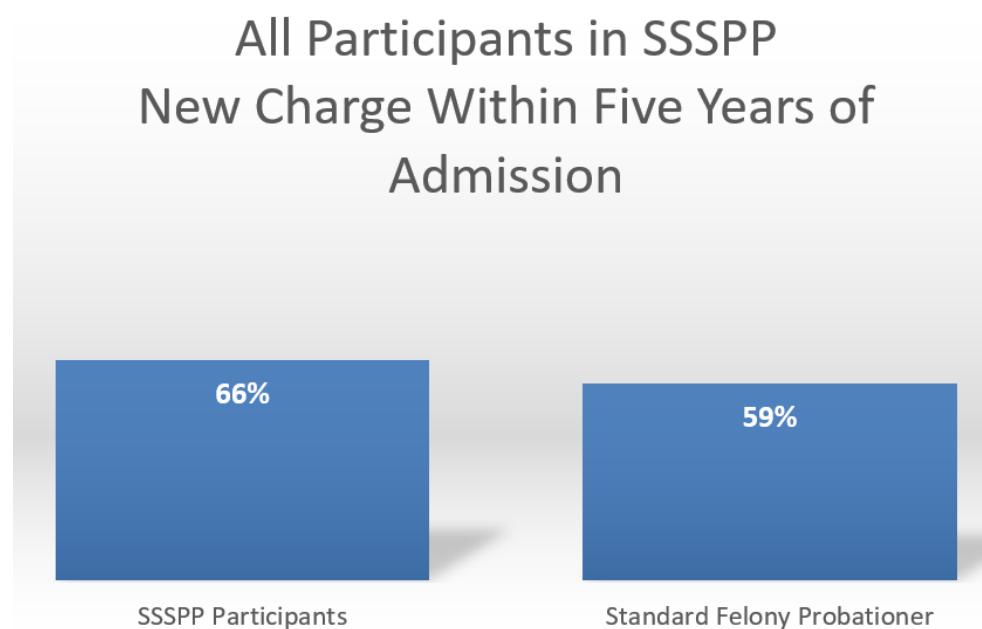


### New Conviction - Three Years



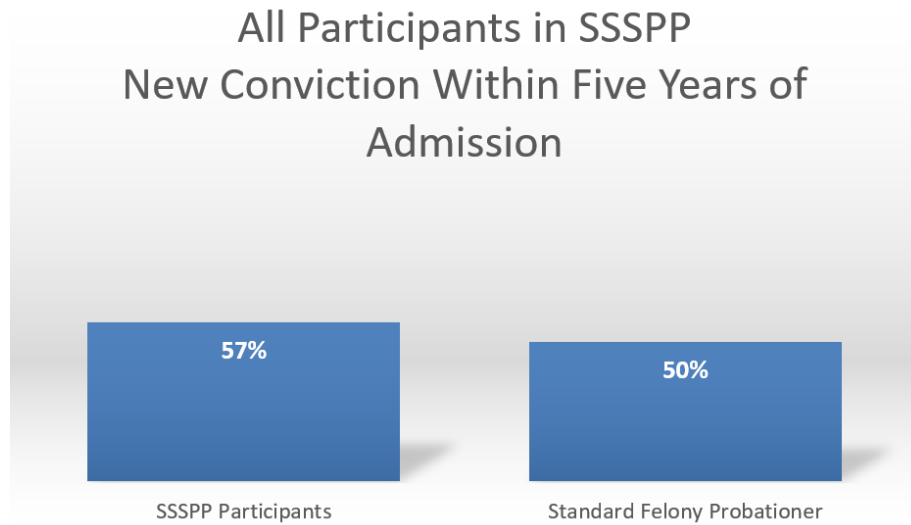
When evaluating new convictions within three years of admission, SSSPP participants had a slightly higher rate (40 percent) than the comparison group (39 percent) and the difference was not statistically significant.

### New Charge - Five Years



There were 1,292 pairs for evaluation after five years of admission. SSSPP participants had a 66 percent recidivism rate when evaluated for a new charge within five years of admission, while the comparison group had a 59 percent rate, and the difference was statistically significant.

### New Conviction - Five Years



SSSPP participants again had a higher rate (57 percent) than the comparison group (50 percent) when evaluated for new convictions within five years and the difference was statistically significant.

## CONCLUSION

SSSPP programs use immediate and increased jail sanctions to prevent further criminal activity and encourage compliance with probation terms. Jail is used frequently for program violations that can include positive alcohol or drug tests, missed appointments, or other acts of noncompliance. SSSPP's success rate of 44 percent indicate that using SCF principles to change behavior can be effective on the criminal-justice-involved who are at moderate to high-risk of reoffending. However, the greatest reduction in recidivism rates occurs within three years of graduation. When evaluating graduates after three years of admission into a SSSPP, their recidivism rates were lower than the standard felony probationers who did not enter a program, and the statistics support a correlation between having the SSSPP program and a reduced recidivism. But when evaluating graduates after five years of admission into a SSSPP, though the rates are still favorable for program participants, there is no correlation.

A more in-depth analysis such as a multivariate study should be considered to better understand which program components of SSSPPs are having a positive effect on recidivism outcomes and which are not. Measuring different sanctioning behaviors among the courts and the different services they require participants to attend, can help design an improved SCF model toward reducing recidivism.



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*Cover Images:*

*Top Row*

- 1. (l to r) Judge Suzanne Kreeger, of Ionia-Montcalm Circuit Court; a past SSSPP graduate; and Judge Amy McDowell, of Barry County Trial Court.*
- 2. Saginaw County Circuit Court, Saginaw*

*Bottom Row*

- 1. Barry County Circuit Court, Hastings*
- 2. Judge Michael Hatty, Livingston County Circuit Court*

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