

6

REMARKS BY PRESIDENT JUDGE SCOTT D. KELLER

Since 1995, Berks County has been implementing the Intermediate Punishment Act in a very formalized fashion. We have obtained grants from the Pennsylvania Commission on Crime and Delinquency to fund positions that have included an Intermediate Punishment Director, Assistant District Attorney, Public Defender representative, Prison Society Case Manager, Adult Probation Officer and TASC Case Manager. The process begins with defense counsel who identify a possible IPP candidate. We have developed an Intermediate Punishment Application which must be submitted before consideration by the IPP Committee (made up of the above staff) which meets bi-weekly to review the application.

The Assistant District Attorney checks the Defendant's criminal history and contacts the police and victim if any, regarding an IPP recommendation. The defendant submits to a TASC evaluation for D/A treatment and the Probation Officer performs a house assessment for electronic monitoring.

Once all the information is obtained on a defendant the Committee makes a recommendation as a group. As a trial Judge I am only cognizant of this activity by virtue of requests for continuances from the defendant to complete the IPP process.

If the defendant is approved by the Committee, he/she then pleads guilty with the recommendation of an IP Sentence. I am not aware of any case where any of our local trial judges refused to place a person on IP after a committee recommendation. Conversely, rarely is someone sentenced to IP if the committee rejects the recommendation. This process does take some time, but allows for a thorough analysis of treatment needs and as a practical matter will

provide the offender with an opportunity to detox if there is substance abuse problem.

In the calendar year 1997, there were 199 IP applications for 156 offenders filed. There were 62 offenders sentenced directly to IP from prison. Sentencing options include inpatient treatment, electronic monitoring, halfway house placements, intensive supervision and community service. During that period 17 offenders successfully completed IP and 17 were terminated (only 1 for a new arrest). For those offenders who were complying with the program in 1997, 3030 jail days were estimated saved. In the first 6 months of 1998 we have had 15 successfully complete their IP program with only 8 unsuccessful. Estimated saved jail days - 3,690. Within the last several months we have seen an increase in IP applications, however, we have found the most often cited reasons for non-consideration by the court of a IP sentence to be: ineligible underlying offense, prior "violent behavior" and occasionally the unwillingness of a defendant to agree to all of the conditions of IP.

Although we are still in the infant stages of IP, I am pleased with the results so far, especially with the success rate in the 1st six months of this year.

In speaking with the IP Director, it appears that the greatest debate concerning eligibility revolves around the term "present or past violent behavior" as a basis for ineligibility. To give an example, on Monday I sentenced a man to 11 ½ to 23 months at Berks County Prison on Accidents Involving Death or Personal Injury (Hit and Run). The other driver was slightly injured. Because this Defendant had a prior Robbery adjudication as a juvenile, he is currently 28, he was ineligible for an IP sentence. On Monday, I also sentenced a person to IP for 3 years for a Delivery of Heroin charge (small amount) who was facing a standard range sentence of 15 to 21 months.

I most likely would have been receptive to an Intermediate Punishment Sentence for the ineligible defendant who has a substance abuse problem, however, he was ineligible.

From a trial judge's perspective, I have been a proponent of maximizing our sentencing alternatives, especially when dealing with the substance abuse defendant. We have had significant use of our 2nd & 3rd time DUI offender programs that are also technically IP.

Trial judges are acutely aware of the exploding societal problem caused by drug abuse. The ripple effect in terms of retail thefts and other property crimes committed by the addict is seen daily in our courtrooms. The most effective way to deal with the addict/criminal is to fashion a sentence most likely to effect long-term behavior. A period of detox (usually provided by incarceration in lieu of bail) followed by a variety of treatment components and supervision gives the addict a chance to obtain the tools necessary to break the addiction. I look at Intermediate Punishment as a significant step toward attempting to deal with an offender that has been through the system before and who ordinarily like my 1st example will do significant jail time prior to receiving treatment.

I would recommend that the legislature consider loosening the eligibility standards, especially as they relate to the "past violent behavior" component. A trial judge can always decide the offender is not a good candidate for IP, however, by expanding the available offender pool you do not eliminate consideration in the first instance.

At this time I will entertain questions.