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Pennsylvania's State Intermediate Punishment Program: A Summary of the 2008 Legislative Report

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Legislative Background

In 2004, Pennsylvania's General Assembly passed legislation creating the State Intermediate Punishment [SIP] Program, which is a two-year, step-down, substance abuse program for offenders sentenced to state prison [Act 112 of 2004]. The impetus behind the creation of the SIP Program was the General Assembly's concern about the link between substance abuse and crime, and the finding that many persons commit crimes while under the influence of drugs and/or alcohol. Additionally, the Legislature determined that many crimes are committed by persons who are unable to secure employment because of their substance abuse problem, and committing crime allows these people to secure the necessary funds to purchase their drugs and alcohol. The SIP Program was viewed as a way to both enhance public safety and reduce recidivism by punishing offenders for the harm they have brought to their victims, while at the same time offering treatment as a mechanism for offenders to address their substance abuse issues.

Legislative Reports. By statute, the Department of Corrections and The Pennsylvania Commission on Sentencing must monitor and evaluate the SIP Program, with the Department submitting a report to the Senate and House Judiciary Committees in odd-numbered years and the Commission submitting a report to these committees in even-numbered

years. [42 Pa.C.S. §9907]. The reports are to include the following: the number of offenders evaluated for the SIP Program, the number of offenders sentenced to the SIP Program, the number of offenders sentenced to a state prison who may have been eligible for the SIP Program, and the number of offenders successfully completing this treatment program. Additionally, the reports are to provide the six-month, one-year, three-year, and five-year recidivism rates for offenders who completed the SIP Program and for offenders who were not placed in the SIP Program, and any recommended changes for improving the effectiveness of the SIP Program. Since the first graduate of the program was in July 2007, the 2008 Report did not yet include recidivism information, though this issue will be addressed in future reports. [Note: For a copy of the complete 2008 SIP Legislative Report, visit the Commission's website at <http://pasentencing.us> or call 814.863.2797.]

Eligibility for SIP

Act 112 of 2004 also mandated The Pennsylvania Commission on Sentencing to identify offenders who would be appropriate for SIP consideration. In accordance with its statutory mandate, the Commission on Sentencing adopted sentencing guideline recommendations for SIP offenders,

MAJOR FINDINGS

- ◆ The SIP Program became effective on May 18, 2005. As of September 30, 2007, there were 1,022 offenders referred to the DOC for evaluation, 662 offenders sentenced to the program, 22 offenders successfully completing the program, and 44 offenders expelled from the program. The DOC estimated that there were 4,646 offenders sentenced to a state correctional institution who were potentially eligible for the program but not referred for an SIP evaluation.
- ◆ Offenders from 51 of Pennsylvania's 67 counties have been sentenced to SIP. The majority have been convicted of drug delivery or driving under the influence. Most offenders had previously received some type of treatment, with outpatient treatment being the most prevalent treatment modality.
- ◆ Preliminary findings comparing offenders who successfully complete SIP with those who are expelled from the program show that those who use crack, are younger, and score higher on the recidivism risk assessment scale are more likely to be expelled from the program than those who do not use crack, are older, and score lower on the recidivism risk scale.

which became effective June 3, 2005. The current guidelines target drug dependent offenders who otherwise would be serving a minimum sentence of confinement in a state facility for 30 months or more. A 30-month minimum sentence was determined to be appropriate to ensure that drug dependent offenders who were eligible for the County Intermediate Punishment Program would not be sent to the state system for SIP consideration, and that a distinction be maintained between offenders who are considered appropriate for drug treatment through County Intermediate Punishment versus State Intermediate Punishment. However, as part of proposed revisions to the sentencing guidelines, scheduled for public hearings during February, the Commission is recommending a change that would place greater emphasis on the recommended place of confinement, rather than sentence length, for targeting the use of State Intermediate Punishment versus County Intermediate Punishment.

Offenders are ineligible for the SIP Program if they have a conviction for any of the following offenses: 1) an offense involving a deadly weapon enhancement under the sentencing guidelines, 2) a personal injury crime (as defined under the Crime Victims Act) or an attempt, conspiracy, or threat to commit such crime, and 3) crimes involving incest, open lewdness, abuse of children, unlawful contact with minors, sexual exploitation of children, or internet child pornography. Additionally, the offender cannot have a history of present or past violent behavior.

Procedure for Referral to SIP

Prior to sentencing an offender to the SIP Program, the court, upon motion of the District Attorney and agreement of the defendant, commits the offender to the Department of Corrections [DOC] for comprehensive drug and alcohol and risk assessments. The DOC evaluation must be based on valid, nationally recognized, instruments that assess drug and alcohol addiction, as well as crime risk assessments. These evaluations are to be conducted by persons skilled in the treatment of drug and alcohol addictions and trained to conduct assessments. The Department's assessment of the defendant's eligibility for the program and treatment recommendation must be provided to the court, the defendant, the District Attorney, and the Pennsylvania

Commission on Sentencing within 60 days of the defendant's commitment to the Department. The court may then sentence the offender to a period of 24 months of SIP.

Phases to the SIP Program. There are four phases to the 24 month SIP Program, allowing for a gradual step-down of treatment:

Phase I: a minimum of 7 months incarceration in a state correctional institution that includes a minimum of 4 months in an institutional therapeutic community

Phase II: a minimum of 2 months in a community based therapeutic community

Phase III: a minimum of 6 months in an outpatient addiction treatment facility

Phase IV: supervised reintegration into the community for the balance of the 24 months

The DOC has the right to refuse admission of a participant to a community-based therapeutic community or outpatient addiction treatment facility, and may expel a participant from the program for failing to comply with administrative or disciplinary procedures.

SIP Program Assessments. Treatment recommendations by staff from the Department of Corrections are based on information from the county, an interview with the defendant, and four assessment instruments. The assessment instruments used by the Department of Corrections are as follows:

The Level of Service Inventory (LSI-R) is a broad, evidence-based instrument used to determine an offender's risk for future criminal conduct and the need for treatment. Research indicates that higher scores on the LSI-R are related to higher rates of recidivism.

The Criminal Sentiments Scale-Modified (CSS-M) measures criminal attitudes and values, which have been linked to antisocial behavior. Higher scores on the CSS-M indicate higher levels of criminal attitudes and values.

The Hostile Interpretations Questionnaire (HIQ) measures an offender's propensity toward anger/hostility. Research indicates that higher scores on the HIQ are related to a greater predisposition to hostility/anger, which is linked to criminal conduct, including violence.

The Texas Christian University Drug Screen II (TCU) is a comprehensive instrument for assessing alcohol and drug use in an offender population. Higher scores on the TCU Drug Screen indicate more serious substance abuse problems.

Table 1. Characteristics of SIP Participants.

COUNTY	
Philadelphia	20%
Dauphin	8%
Washington	6%
Westmoreland	6%
Allegheny	5%
Delaware	5%
Other Counties	51%
GENDER	
Male	83%
Female	17%
RACE	
White	57%
Black	29%
Hispanic	7%
MEAN AGE	35
CURRENT OFFENSE	
Drug Delivery	48%
Driving Under the Influence	22%
Other	30%
PRIOR ARRESTS	
Mean number - adult	5
Mean number - juvenile	3
TYPE OF PRIOR [Adult]	
Drug possession	42%
Theft	37%
DUI	37%
Drug delivery	35%
TYPE OF PRIOR [Juvenile]	
Theft	38%
Underage drinking	32%
Drug possession	27%
Drug delivery	20%
DRUG USE	
Alcohol	87%
Marijuana	61%
Crack	46%
Cocaine	44%
Tranquilizers	29%
Heroin	26%
PREVIOUS TREATMENT	
No	25%
Yes	75%
PREVIOUS TREATMENT	
Inpatient/Residential	52%
Intensive Outpatient	16%
Outpatient	58%
Detox	9%
AGE AT FIRST USE [mean]	
Alcohol	15
Marijuana	15
Cocaine	20
Crack	24
Heroin	23
PROBLEMS WITH DRUGS	
Tolerance	85%
Morning use	66%
Mood swings	64%
Blackouts	54%
Withdrawal symptoms	44%
ASSESSMENT SCORES	
LSI-R Score	
High	45%
Medium	36%
Low	19%
HIQ Score	
High	35%
Medium	35%
Low	29%
CSS-M Score	
High	25%
Medium	29%
Low	45%
TCU Score -mean	7

Description of SIP Offenders

Since the inception of the SIP Program in May 2005 through September 30, 2007, there have been 1,022 offenders referred to the DOC for SIP evaluation, with 662 offenders being sentenced to the program. The majority of offenders who were rejected by the DOC have outstanding detainers or pending legal action that prevents participation. During this time period, the Department of Corrections estimates that there were 4,646 offenders sentenced to prison who may have been eligible for the program but were not referred.

Table 1 provides a summary of the characteristics of the 632 offenders sentenced to SIP for which the Commission received assessments. Judges in 51 of Pennsylvania's 67 counties have sentenced offenders to the SIP Program, with the highest percentage coming from Philadelphia [20%], Dauphin [8%], Washington [6%], and Westmoreland [6%] Counties. The vast majority of these offenders are male [83%], with an average age of 35 years. Most offenders were convicted of drug delivery [48%] or driving under the influence [22%] offenses. Additionally, a large percentage of the offenders had been previously arrested for drug possession [42%], drug delivery, [35%], and driving under the influence [37%] offenses.

About 75% of the offenders had previously received treatment with 54% receiving treatment more than one time. Outpatient treatment was the most prevalent treatment modality [58%], followed by inpatient residential treatment [52%]. Most offenders reported having successfully completed at least one type of treatment program in the past.

The most common substances used by the offenders at the time of their arrest were alcohol [87%], marijuana [61%], crack [46%], and cocaine [44%]. Over half of the marijuana [53%] and heroin [67%] users reported using the drug daily.

Offenders reported starting to use alcohol and marijuana at a young age [mean age = 15 years] while they were older when they first used cocaine, heroin, and crack, [mean age = 20, 23, and 24, respectively].

The most common physical problems experienced by the offenders as a result of their drug use were increased tolerance [85%], morning use [66%], mood swings [64%], blackouts [54%], and withdrawal symptoms [44%]. Most offenders also indicated that their substance abuse presented problems with their family [77%], friends [76%], work [76%], and police [77%].

As indicated earlier, there were four assessment tools used by the Department of Corrections to determine the offender's risk for future criminal activity, the seriousness of the substance abuse problem, and the need for treatment to evaluate whether the offender would be appropriate for the SIP Program. Overall, the assessment results indicated that most offenders had a medium or high risk of re-offending, and a severe substance abuse problem.

Differences Among Offenders Who Complete SIP and Those Who are Expelled

The first offender successfully completed the two-year SIP Program in July 2007, and as of September 30, 2007, 22 offenders had successfully completed the program. During that same time period, there were also 44 offenders who were expelled from the program. The major reasons for expulsion were: escaping from a community corrections center or treatment services, disregarding the rules and regulations, refusing to participate in the recommended programming, and engaging in threatening behavior toward others. Upon expulsion, offenders have a revocation hearing at which time the judge resents the offender in accordance with the sentencing alternatives available at the initial sentencing.

While there are too few offenders to conduct meaningful statistical analysis between offenders who complete the program and offenders who are expelled, some preliminary analysis does indicate that there may be some significant differences. Table 2 shows some factors that are potential indicators of whether an offender is likely to complete the program successfully or be expelled.

Table 2. Comparison of offenders who complete and who are expelled from SIP.

VARIABLE	Completed SIP		Expelled from SIP		Total
	N	%	N	%	
CURRENT DRUG USED					
Alcohol					
yes	18	34.0	35	66.0	53
no	4	30.8	9	69.2	13
Marijuana					
yes	12	30.0	28	70.0	40
no	10	38.5	16	61.2	26
a Cocaine					
yes	13	44.8	16	55.2	29
no	9	24.3	28	75.7	37
*Crack					
yes	6	19.4	25	80.6	31
no	16	45.7	19	54.3	35
Heroin					
yes	4	21.1	15	78.9	19
no	18	38.3	29	61.7	47
ASSESSMENT SCALES					
	N	%	N	%	
**LSI-R [risk of recidivism]					
High	2	8.7	21	91.3	23
Medium	12	40.0	18	60.0	30
Low	8	66.7	4	33.3	12
HIQ [propensity toward anger]					
High	4	21.1	15	78.9	19
Medium	9	32.1	19	67.9	28
Low	9	50.0	9	50.0	18
a CSS-M [criminal attitudes]					
High	2	11.1	16	88.9	16
Medium	9	40.9	13	59.1	22
Low	11	44.0	14	56.0	25
	N	Mean	N	Mean	
Number of previous treatments	15	2.0	33	2.4	48
Number of prior adult arrests	21	3.7	40	4.8	61
* Offender's age	22	37.6	44	31.2	66
Age at first alcohol use	20	15.2	36	15.5	56
Age at first marijuana use	17	16.0	35	14.9	52
a Age at first crack use	6	30.2	29	23.0	35
Age at first cocaine use	13	22.8	20	19.2	33
Age at first heroin use	6	29.8	17	22.5	23
* significant at .05 level					
** significant at .01 level					
a - approaches .05 level of significance					

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The Pennsylvania Commission on Sentencing is an agency of the General Assembly affiliated with The Pennsylvania State University. The Commission was created in 1979 for the primary purpose of creating a consistent and rational statewide sentencing policy to promote fairer and more uniform sentencing practices.

With respect to the type of substance used by offenders, those offenders who used cocaine had the highest rate of program completion, while offenders who used crack had the lowest rate of program completion. Further, offenders who used crack were significantly more likely to be expelled from the program than those who did not use crack. The most significant difference between offenders who completed SIP and offenders who were expelled is in relation to the LSI-R assessment tool, which is a broad, evidence-based instrument used to determine an offender's risk for future criminal conduct and the need for treatment. Offenders who ranked low on this assessment scale were most likely to complete the program, while offenders who ranked high were most likely to be expelled from the program. Finally, offenders who were older were significantly more likely to complete the program. It must be noted that caution needs to be applied to these findings as the number of offenders in the analysis is small. However they might still prove useful in the DOC's monitoring of offenders in the program. The issue of predicting successful program completion will continue to be studied for future reports.

Conclusion

The SIP Program opened in May 2005, and by the end of that year there had been only 24 offenders sentenced to the program. The Secretary of Corrections and the Executive Director of The Pennsylvania Commission on Sentencing made a concerted effort the following year to conduct statewide trainings and

presentations to provide information on the legislation, the procedure, and benefits of the SIP Program. Their efforts appear to have paid off as there has been an increase in referrals to the program during the last two years. As of September 2007, there have been 662 offenders sentenced to the program. However, the DOC estimates indicate that there are still many offenders sentenced to state prison who are eligible for this program, but not referred by the counties.

The first offender successfully completed the program in July 2007, and altogether there have been 22 successful program completions. Since the inception of the program there have also been 44 offenders who have been expelled. While there are too few offenders at this point to conduct meaningful statistical analysis between offenders who complete the program and offenders who are expelled, preliminary analysis indicated some significant differences. Offenders who successfully completed the program were older and had lower scores on the LSI-R assessment tool used by the DOC to determine an offender's potential for future criminal behavior. This issue of trying to distinguish which offenders are most likely to successfully complete the program will continue to be examined by the Commission for the Commission's next report. Additionally, the next report will include the findings of the Commission's first recidivism study of SIP offenders to see which offenders are most likely to desist from future crime.