

1 IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY, PENNSYLVANIA

2 Administrative Order

3 Number 7 of 2022

4 In Re: Intermediate Punishment Program

5 **ORDER OF COURT**

6 AND NOW, this 7th day of July, 2022, in order to continue to provide for Intermediate
7 Punishment Program services (“the Program”) in Adams County, it is HEREBY ORDERED that the
8 Program shall be administered as described in the program description, attached hereto as Exhibit 1,
9 effective January 1, 2021.

10 This Court recognizes the Adams County Criminal Justice Advisory Board and specifically, its
11 executive committee members, to serve in the role of reviewing and approving the Program
12 documentation for submission to the Pennsylvania Commission on Crime and Delinquency,
13 understanding that adoption of the Program is vested solely with the Court as reflected in this Order.

14 Administrative Order 2 of 2016 is HEREBY VACATED, effective immediately.

15 BY THE COURT,

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17 THOMAS R. CAMPBELL

18 Judge

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20 df

21 Board of Judges/Executive Assistants to the Board of Judges

22 Court Administrator

23 District Attorney

24 Victim/Witness Coordinator

25 Public Defender

1 Department of Probation Services
2 Warden, Adams County Adult Correctional Complex
3 Adams County Bar Association
4 Law Library

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Exhibit 1

Adams County Intermediate Punishment Plan (Effective January 1, 2021)

On December 19, 1990, the Legislature enacted the County Intermediate Punishment Act (P.L. 799, No. 193) (61 P.S. §§ 1101-1114). Intermediate Punishment is a program providing for restrictive conditions of probation. Intermediate Punishment Programs are imposed under section 42 Pa. C.S.A. § 9763(c) or (d) and are to be used for sentences under 42 Pa. C.S.A. § 9721(a)(1) Probation. An eligible offender is defined by the County Intermediate Punishment Act as “a person convicted of an offense who would otherwise be sentenced to a county correctional facility, who does not demonstrate a present or past pattern of violent behavior who would otherwise be sentenced to partial confinement pursuant to 42 Pa. C.S.A. § 9724 (relating to partial confinement) or total confinement pursuant to 42 Pa. C.S.A. § 9725 (relating to total confinement)”. The term does not include an offender convicted of murder, voluntary manslaughter, rape, statutory rape, aggravated assault, robbery, burglary of the first degree, (as provided in 18 Pa. C.S.A. § 3502 [relating to burglary]), involuntary deviate sexual intercourse, arson, extortion accompanied by threats of violence, assault by a prisoner, assault by a life prisoner, kidnapping, aggravated indecent assault, escape or drug trafficking, (as provided in 18 Pa. C.S.A. § 6314 [relating to sentencing and penalties for trafficking drugs to minors] or 18 Pa. C.S.A. § 7508 [relating to drug trafficking sentencing and penalties]). Related legislation, Justice Reinvestment Initiative – II (JRI – II) (42 Pa. C.S.A. § 9804) (Act 115 of 2019), amended Title 42, the Judicial Code, to provide judges with the authority to sentence defendants to Probation with Restrictive Conditions. Provided, the county must have an established an intermediate punishment program which was approved by the Pennsylvania Commission on Crime and Delinquency.

Purpose

To establish policy and procedure governing the administration of Adams County’s Intermediate Punishment Program. To establish a process that provides the courts with innovative sentencing alternatives that may permit a better balance between the dual needs of community safety and the welfare of the offender.

The Program consists of:

- a. Restrictive Conditions: - Work Release in Community Re-entry Center
 - House Arrest w/Electronic Monitoring
 - Residential Inpatient Treatment; and
- b. Non-Restrictive Conditions: - Community Supervision

Applicability

To the Adams County Court of Common Pleas, Adams County’s Prison Board, all probation staff and adult offenders under the jurisdiction of the department within levels 3 & 4 of the Pennsylvania Sentencing Guidelines or as ordered by the Court.

Definitions

As utilized in this document, the following definitions shall apply:

1. **Collateral Contact:** Communication with another person having regular contact with the offender, such as family members, law enforcement, employers or treatment personnel.
2. **Home:** The actual living area of the temporary or permanent residence of an offender, which will only include “inside the confines” of the established home or apartment.
3. **House Arrest / Electronic Monitoring:** A restrictive condition of a probation sentence in which the offender is required to wear or carry an electronic device which monitors an offender’s movements.
4. **Community Supervision:** The non-restrictive portion of a probation sentence in which supervision occurs within the community. Probation Officers will monitor court ordered conditions, work or vocational training, community service, drug/alcohol treatment, etc. The number of contacts per month will be based on policy and related to the risks and needs of the offender.
5. **Intermediate Punishment Plan:** A document which describes a proposed intermediate punishment program.
6. **Intermediate Punishment Programs:** A program provided in the community for eligible offenders that serves as an alternative to incarceration by imposing restrictive conditions of probation.
7. **Community Re-entry Program:** A Probation Services program that involves work release and programming for those subject to restrictive conditions of probation. Participation in this program as well as length of time in the program are ordered by the Court.
8. **Community Service Program:** Unpaid work performed for non-profit, charitable organizations and victims of crime which holds offenders accountable for their actions and allows them to make a positive contribution to their community.
9. **Intermediate Punishment Board:** A collective body of county officials that is responsible for the oversight of the Adams County Intermediate Punishment Plan and programs.

Policy Statement

The Adams County Department of Probation Services and the Adams County Court of Common Pleas recognize that innovative sentencing or alternatives to incarceration for medium to low risk, non-violent offenders are essential as a legitimate sentencing option available to the court. Offenders who do not demonstrate present or past patterns of violent behavior and would normally be sentenced to total confinement can be diverted by the imposition of restrictive conditions of probation. This approach will permit offenders to remain in the community and provide support for themselves and their families.

Restrictions that are placed on the offender provide a balance between punishment and rehabilitation without compromising the safety of the community.

Intermediate Punishment Board

In accordance with 42 Pa. C.S.A. § 9802, The Criminal Justice Advisory Board shall oversee the functions of the County's Intermediate Punishment Board. The County Intermediate Punishment Board consists of the District Attorney, Public Defender, Prison Board Judge, the Chief of the Department of Probation Services, and chaired by the Administrative Judge of the Department of Probation Services. The board will periodically meet at the chairperson's request and shall periodically assess available county-wide services and future needs; shall work with the county Department of Probation Services in the development of the County Intermediate Punishment Plan; and monitor its effectiveness and identify needed modifications. The Chief of the Department of Probation Services shall be designated as the county government official with the overall responsibility for supervision of fiscal affairs of the intermediate punishment program and the reports relative to the program.

Goals and Objectives

The Adams County's Intermediate Punishment Programs are consistent with the Intermediate Punishment Programs established by the Pennsylvania Commission on Crime and Delinquency which are as follows:

1. To protect society and promote efficiency and economy in the delivery of corrections services.
2. To promote accountability of offenders to the community.
3. To fill gaps in local correctional systems and address local needs through expansion of punishment and services available to the court.
4. To provide opportunities for offenders who demonstrate special needs to receive services which enhance their ability to become contributing members of the community. The use of existing community agencies and organizations are an essential part of the plan.
5. To divert low-risk, non-violent offenders from exposure to incarceration, when possible, and to provide a degree of punishment that is less severe than incarceration, yet more punitive than existing probation.
6. To provide counseling, treatment and education opportunities for targeted offenders.

Intermediate Punishment Program Guidelines

The Pennsylvania Commission on Crime and Delinquency has adopted the following minimum guidelines. These guidelines shall be incorporated into the Adams County's Intermediate Punishment Programs as follows:

Work Release at Community Re-entry Center: The Adams County Intermediate Punishment Board will approve and implement policies and procedures for the Work Release Program (See Pa. Code § 451.124). This program shall include the following elements:

- a. Specific criteria for eligibility for participation in work release.
- b. A drug testing capability for offenders.
- c. A mandated number of visits to or contacts with the workplace by Probation staff.
- d. Procedures for notifying employers of their responsibilities to their employed offenders.
- e. Procedures for notifying employers of the status of their employed offender.
- f. The length of offenders' participation in the Work Release/Re-entry.
- g. The mechanics of accounting for and auditing of offender earnings.
- h. A monitoring component to ensure offenders' compliance with the conditions of the Work Release/Re-entry Program.
- i. Procedure for responding to major and minor violations of the Work Release/Re-entry Program conditions.

Residential Inpatient Drug and Alcohol: The Adams County Intermediate Punishment Board will approve and document that the services are provided by a licensee of the Department of Health, Office of Drug and Alcohol Programs (ODAP) for residential inpatient drug and alcohol treatment. (See Pa. Code § 451.121). These programs shall include the following elements:

- a. A drug testing capability.
- b. Established services based on an assessment of the offenders' needs and available community resources.
- c. Established aftercare and follow-up services involving sustained and frequent interaction with recovering individuals who have progressed from the intensive or primary phase of treatment.
- d. Efforts to recruit screen and select service providers.
- e. Guidelines to monitor the purchase of services for offenders.
- f. A monitoring component to ensure the offenders' compliance with the conditions of the Residential Inpatient Drug and Alcohol Program.
- g. Policy and procedure for responding to major or minor violations of Residential Inpatient Drug and Alcohol program conditions.

House Arrest / Electronic Monitoring: The Adams County Intermediate Punishment Board will approve and implement policies and procedures for the House Arrest (See Pa. Code § 451.117) and Electronic Monitoring (See Pa. Code § 451.114). This portion of the Intermediate Punishment Program shall include the following elements:

- a. A drug testing capability for offenders.
- b. The timely detection of violations.
- c. The maintenance of a 24 hour-per-day response to detect violations.

- d. A monitoring component to ensure offenders' compliance with the conditions of House Arrest / Electronic Monitoring.
- e. Procedure for responding to major and minor violations of the House Arrest / Electronic Monitoring conditions.
- f. Offenders must be employed or actively seeking employment or enrolled in educational program/vocational training or participating in community/public service, unless the offender is physically or mentally incapable of performing the same, and have a fixed residence.
- g. A monitoring component which defines the frequency of face-to-face and collateral contacts to ensure offenders' compliance with the conditions of the House Arrest / Electronic Monitoring.
- h. Limitation of the caseloads of probation officers supervising offenders during the restrictive period.

Community Service: The Adams County Intermediate Punishment Board will approve and implement policies and procedures for the Community Service portion of Intermediate Punishment (See Pa. Code § 451.112). This shall include the following elements:

- a. Equitable and consistent assignment of community service hours within a standard range.
- b. Procedures for the documented onsite supervision of each offender performing community service.
- c. The establishment of an annual reporting system to collect individual offender and aggregate data on community service ordered and performed.
- d. The anticipated length of offenders' participation in Community Service.
- e. A monitoring component to ensure offenders' compliance with the conditions of Community Service.
- f. Procedure for responding to major and minor violations of Community Service conditions.

Drug Testing: The Adams County Intermediate Punishment Board will approve and implement policies and procedures for the Drug Testing portion of Intermediate Punishment (See Pa. Code § 451.113) The Drug Testing policies and procedures shall include the following elements:

- a. The purposes of testing, that is, whether it is for rehabilitative or treatment purposes, for the protection of the community, for the use of the Court in sentencing or for the compilation of statistics.
- b. The manner of offender selection, that is, whether Court-ordered, randomly selected or applicable to eligible offenders.
- c. The frequency of testing.
- d. The chain-of-custody procedures.
- e. Confirmation procedures for positive drug tests through the use of a more sensitive procedure than used in initial screening and the rationale for use of the particular method selected.

- f. A description of drug testing methodologies.
- g. A policy regarding reporting and use of testing results.
- h. A confidentiality policy.
- i. Evaluation procedures.
- j. Policy and procedure for responding to major and minor violations.

Individualized Services Program: The Adams County Intermediate Punishment Board shall approve and implement written policies and procedures for the Individualized Services Program (See Pa. Code § 451.118). The board shall document, when appropriate, that the services provided are in compliance with applicable State and local laws and regulations. The Individualized Services Program policies and procedures shall include the following elements:

- a. A drug testing capability for offenders.
- b. Licensure by the Department of Health's Office of Drug and Alcohol Programs, when applicable.
- c. Establishment of services based upon offenders' needs and available community resources.
- d. Guidelines to monitor the purchase of offender services.
- e. A monitoring component to ensure offenders' compliance with the conditions of the Individualized Services Program.
- f. Policy and procedure for responding to major and minor violations of Individualized Services Program conditions.

**Adams County Department of Probation Services
Intermediate Punishment Program
(January 2021)**

The Adams County Department of Probation Services (DPS) provides an Intermediate Punishment Program (IPP) which may serve as an alternative to incarceration by imposing restrictive conditions of probation for non-violent participants. A drug and alcohol assessment is completed pre-sentence in order for any recommended treatment to be included as part of the conditions of the sentence. A risk/needs assessment is also completed to ensure offenders are supervised at appropriate levels of supervision.

A sentence of probation with restrictive conditions includes supervision crafted independently for each participant. Restrictive and non-restrictive sanctions are applied by the court based on sentencing guideline parameters and encompass the risks and needs of the participant. This type of sentence is intended to provide the service that meets the needs of the participant and enhance their ability to become contributing members of the community while meeting the expectation of monitoring or punishment warranted or recommended. Listed below are the services provided as part of the Adams County IPP.

Actuarial Risk/Needs Assessment
Drug and Alcohol Evaluation
CRN (Court Reporting Network) Evaluations
Work Release (Adams County Community Re-entry Program)
House Arrest w/Electronic Monitoring
Residential Inpatient Treatment
Continuous Alcohol Monitoring
Drug Screening
Community Service
Drug and Alcohol Outpatient Treatment
Alcohol Highway Safety School

Intake and Assessments:

Prior to sentencing, all participants entering a plea and requesting Probation with Restrictive Conditions (PRC) consideration are referred by the court to DPS to undergo the intake process. They are provided with an appointment to meet with probation staff so they can participate in an intake interview and the completion of a validated **actuarial risk/needs assessment**. They also participate in a **drug and alcohol level of care assessment (LOCA)** which is completed by a licensed provider contracted through the local SCA (York/Adams Drug & Alcohol Commission). In addition, all DUI offenders will participate in a **CRN (Court Reporting Network) evaluation** prior to sentencing. This evaluation is required for all DUI offenders in the state of Pennsylvania and is considered a pre-screening tool to assist in determining the need for additional drug and alcohol assessment or treatment. The CRN also initiates placement in the **Alcohol Highway Safety School** which is facilitated by DPS.

Upon completion of all assessments, a pre-sentence intake summary is provided to the court for sentencing purposes. This one-page summary provides the court with the participant's eligibility for IPP, their risk/needs assessment score indicating domain areas of risk and need that may be addressed by the court through sentencing conditions, and the recommendation from the Drug and Alcohol assessor. This is also to be considered by the court when imposing a probation with restrictive conditions

sentence. The court can then impose a sentence that will provide parameters of supervision, programming conditions, and treatment.

Restrictive Conditions:

When sentenced to probation with restrictive conditions in Adams County, the restrictive conditions can be served in partial confinement programs such as work release or halfway facilities, house arrest with electronic monitoring, or residential inpatient drug and alcohol treatment.

These programs restrict the participant's activity similar to confinement while providing opportunities through employment, treatment, and rehabilitative programs. Generally, if partial confinement is ordered as part of a restrictive condition, IPP participants are housed in the Community Re-entry Center for a two-thirds portion of the total restrictive period imposed unless otherwise ordered. The remaining one-third portion of the total restrictive condition is spent on house arrest with electronic monitoring and/or in an inpatient treatment facility when such treatment is recommended.

DPS is responsible for the facilitation and supervision of the restrictive conditions. DPS will determine whether or not participants have satisfactorily completed the restrictive conditions and approve the transition to the non-restrictive portion of the imposed sentence.

While participating in the **Community Re-entry Program (work release)** participants are housed in the Adams County Adult Correctional Complex Re-entry Facility. They are provided with opportunities for employment, job search, community service, drug treatment and/or behavioral programming, and educational opportunities. Programming is established with the participant as a part of case management by a Restrictive Probation Officer. It is expected that when participants complete two-thirds of the restrictive period ordered by the court, they have been productive and achieving conditions set forth in the sentence or the individualized case plan and have no misconducts. It is also expected that participants have an acceptable home plan that is appropriate for supervision success. Participants would then be approved to transition to the House Arrest/ Electronic Monitoring Program.

The **House Arrest/ Electronic Monitoring Program** utilizes equipment worn by the participant that provides continuous monitoring of the participant. The participant is permitted to leave the confines of his/her home only as scheduled and approved by a Restrictive Probation Officer to include releases for employment, community service, treatment and/or behavioral programming, medical and/or healthcare needs. Recommended field and office contacts of participants, collateral, and/or employers are dictated by agency policy and based on assigned supervision levels.

IPP participants may be referred to a **Residential Inpatient Drug and Alcohol Treatment Program** that is licensed through the Department of Drug and Alcohol Programs for residential inpatient drug and alcohol treatment for a portion of the court directed restrictive period of the sentence.

Non-Restrictive Portion:

Prior to the commencement of the restrictive conditions, the defendant is placed on non-restrictive sanctions to provide for planning and adequate preparation for the participant's participation in the restrictive conditions. The remainder of the non-restrictive portion typically follows the successful completion of the court-imposed restrictive conditions.

Community supervision levels of the restorative terms of the sentence are based on the risk/need assessment scores and the corresponding supervision specifications based on agency policy. This level can be reduced or enhanced by the assigned probation officer with Director approval when reassessment indicates a change in the assessment score.

Other IPP Sanctions:

Continuous Alcohol Monitoring (CAM) is typically utilized with Electronic Monitoring/House Arrest for participants with restrictive DUI conditions. On-demand alcohol monitoring can be utilized for those unable to wear the CAM device. CAM can also be used as a sanction for alcohol violations for participants serving both the restrictive and non-restrictive portions of the sentence.

Drug and Alcohol Testing will be conducted based on agency policy. The frequency of testing is determined by the supervision level of the participant and/or history of drug and alcohol use. Lab testing will be utilized for confirmation purposes where applicable.

Community Service Program provides community service opportunities for participants to satisfy this court-ordered condition. The purpose of the program is to allow participants to take responsibility for their actions and to perform work that is worthwhile and makes a positive contribution to the community. The program also allows exposure to positive role models to make positive connections with local citizens as well as gain work experience to develop employable skills. Hours assigned are standard based on an Administrative Order unless otherwise ordered by the court.

Drug, Alcohol, and/or Mental Health Outpatient Services will be pursued when recommended on a LOCA or other evaluation and required as a standard condition when ordered by the court. Outside of treatment provided when participating in the Community Re-Entry Program, it is expected that Treatment Providers in the offender's County of residence will provide coordination to the appropriate level of care.

Eligibility Criteria and Conditions of Probation per Title 42 Pa.C.S.A:

An eligible offender is a person convicted of an offense who would otherwise be sentenced to a county correctional facility, who does not demonstrate a present or past pattern of violent behavior, and who would otherwise be sentenced to partial or total confinement. It does not include an offender who has been convicted or adjudicated delinquent of a sexual offense that requires registration. An eligible offender does not include any person with a current conviction or a prior conviction within the past ten years for any of the following offenses:

18 Pa.C.S. § 2502 (murder)

18 Pa.C.S. § 2503 (voluntary manslaughter)

18 Pa.C.S. § 3301 (arson)

18 Pa.C.S. § 3502 (burglary, when graded as F1)

18 Pa.C.S. § 2702 (aggravated assault)
18 Pa.C.S. § 2703 (assault by prisoner)
18 Pa.C.S. § 2704 (assault by life prisoner)
18 Pa.C.S. § 2901(a) (kidnapping)
18 Pa.C.S. § 3122.1(a)(1) (statutory sexual assault)

18 Pa.C.S. § 3701 (robbery)
18 Pa.C.S. § 3923 (theft by extortion)
18 Pa.C.S. § 4302(a) (incest)
18 Pa.C.S. § 5121 (escape)

Any person receiving a penalty imposed related to a first, second, or third DUI or DUS/ DUI related, may only have probation imposed after undergoing a drug and alcohol evaluation prior to sentencing.

- If the defendant is determined to need treatment, the defendant shall have restrictive DUI probation conditions to include residential inpatient treatment; house arrest with electronic monitoring; a partial confinement program such as work release; or any combination of these programs.
- If the defendant is determined not to need drug and alcohol treatment, the defendant shall have restrictive DUI probation conditions of house arrest with electronic monitoring; a partial confinement program such as work release; or any combination of these programs.
- If the defendant is determined to need additional treatment, the judge shall impose a minimum sentence as provided by law and a maximum sentence equal to the statutorily available maximum.

In imposing probation, the court shall specify at the time of sentencing the conditions of probation, including the length of the term of restrictive conditions which shall be equal to or greater than the mandatory minimum term of imprisonment required by statute. Restrictive conditions of probation may include conditions that house the person full or part-time, including inpatient treatment; or, significantly restrict the person's movement and monitor the person's compliance with the program including electronic monitoring.

The District Attorney may advise the court that the Commonwealth has elected to waive the eligibility requirements if the victim has been given notice of the District Attorney's intent to waive eligibility and an opportunity to be heard on the issue. The court, after considering victim input, may refuse to accept the District Attorney's waiver of the eligibility requirements.

Termination from Probation with Restrictive Conditions:

Termination from a probation with restrictive conditions sentence generally occurs when;

- The defendant has successfully completed all conditions and has served the sentence in full; or,
- The defendant has successfully completed all conditions and has been recommended or requests early termination from supervision which is granted by the court; or,
- The defendant has violated the conditions of the sentence and is revoked and resentenced.