



Testimony from Keisha Hudson, Chief Defender on
**Resolution #240896 - Diversion Programs
in the Kensington Area**

Good morning, Chairwoman Lozada and Members of the Committee. I'm Keisha Hudson, Chief Defender for the Defender Association of Philadelphia. On behalf of the Defender Association, I want to thank you for inviting us to testify today on the effectiveness of diversion programs for individuals suffering from substance use disorder in the Kensington area.

In my 22 years as a public defender, I have represented countless individuals whose struggles with addiction led them into the criminal legal system—many of them had no opportunities for treatment extended to them until they were enmeshed in the criminal legal system. I have seen firsthand how our clients get into the system, what solutions work, and how we can sustain, expand, and strengthen the diversion programs that will help them break the cycle of addiction, succeed in recovery, and successfully reenter their communities.

Accelerated Misdemeanor Program:

The Accelerated Misdemeanor Program (AMP) is a post-arrest diversionary program that is available for eligible arrestees with no or minimal criminal histories who are facing charges for non-violent misdemeanors. This program is a collaborative effort between our office, the Department of Behavioral Health and Intellectual Disabilities, Public Health Management Corporation, the Philadelphia Police Department and the District Attorney's Office. In November 2024, stakeholders agreed to expand eligibility criteria, allowing for more individualized participant assessments. AMP Court runs weekly and recent investments from city council, led by Councilmember Squilla and supported by many members of this committee, have improved our capacity to provide direct legal services and connection to treatment providers.

In the last four months (October 2024 - January 2025), we observed 446 referrals to AMP and only one revocation from the program. This high rate of success is in part attributable to the treatment providers presence in the courtroom, real time updates on program availability, and the direct transportation to treatment services they provide. Our office is also physically present to provide warm hand-offs for our clients directly to the treatment providers.

Forensic Intensive Recovery (FIR) Program:

The FIR program was established in 1991 in response to a federal consent decree related to overcrowding in Philadelphia jails. FIR referrals were implemented as a population reduction strategy by removing those in need of treatment. While an alternative to incarceration program, and not a true diversion initiative, this program is typically discussed within the context of diversionary programming in the city.

Essentially, individuals who are incarcerated are referred for evaluation by a FIR evaluator to see if they qualify for release in favor of placement at a substance abuse or mental health treatment facility. The evaluators are contracted by the City of Philadelphia to conduct the evaluations, generate and distribute reports, and assist in matching the client with an appropriate level of care. Our office processes all FIR referrals for our clients as well as those referred by private and court appointed attorneys.

As a result of our attorneys direct experience representing clients, we decided to take a closer look at the wait times people referred to the FIR program experience. We looked at referrals made from April to June 2024. During that time period **654 FIRs were filed for 615 unique individuals**. For **37 individuals, more than 1 FIR was filed** on their behalf during an identical incarceration event so we only counted one FIR. For 2 individuals, more than 1 FIR was filed but during different incarceration periods, so we counted them as two unique referrals. So our final referral count was **617 FIRs for 615 individuals**.

Our review revealed that on average, it takes over two months for incarcerated people referred to FIR to be released from the jail. On average it takes 35 days from referral for the incarcerated person to be evaluated and then another 12 days for the report to be generated and circulated to justice system stakeholders. In 18% of referrals (113 individuals), the clients were released from the jail prior to their evaluation and were never evaluated by FIR. This is a missed opportunity to intervene. While we don't usually discuss re-arrest, 45 of the clients (39%) released prior to their evaluation were subsequently re-arrested and re-admitted to the jail within 6 months.

This process is simply not a sustainable solution to the substance use crisis we are facing in the city right now. Here at Defender, our social services staff are able to connect clients with evaluations and appropriate placement more effectively and efficiently than this process. But with limited social service advocates, serving all of our clients' social services needs, we do not have the capacity to provide direct case management and coordination services to meet this need.

An additional investment in our office to expand our social services capacity to better serve all of our clients with substance use and behavioral health needs, especially those residing in or arrested in Kensington would go a long way to reducing the jail population, reducing recidivism, and offering the types of interventions people need when they are in the best position to voluntarily accept help and participate in treatment.

Wellness Court: Progress and Challenges

The Neighborhood Wellness Court (NWC) represents an important acknowledgment that substance use disorder is a public health crisis, not a criminal justice issue. But it ignores some of the more complicated realities of addiction and recovery. In theory, NWC offers participants an opportunity to engage in treatment and social services instead of incarceration. While this approach has the potential to help some individuals stabilize their lives, the approach relies on the threat of prosecution for a summary offense, without more, to incentivize participation.

Our experience as defense attorneys working with this particular population tells us that, as currently constructed, its impact will likely be limited by several key challenges:

- **Capacity Constraints** – Wellness Court serves too few people. Last year alone, the Defender Association handled more than 1,500 new adult cases linked to arrests near Kensington & Allegheny, yet only a small fraction of those individuals would be able to access this program.
- **Uneven Access to Immediate Treatment Services** – While most defendants can be connected to services, individuals who are not eligible (due to out of county warrants, violations of probation, wanted cards, etc) are unable to access same day services because they are sent to State Road. This not only impedes the person’s direct access to treatment but also increases the prison population.

This isn’t just an increase in the number of people—it’s an increase to the prison’s burden of caring for people with complex medical needs, at a time when severe staffing shortages at the jails make it difficult to meet basic care standards. **If diversion is to work, it must be swift and seamless—every day in jail increases the risk of relapse, overdose, and further destabilization.** It also strains our city’s resources as our jail is already embroiled in federal litigation over conditions of confinement.

- **Lack of Holistic Support from Trusted Resources** - To its credit, the NWC has leveraged the relationships established through the Police Assisted Diversion program and partnered with a number of well respected treatment providers who offer a spectrum of services in the city.

The challenge is that these providers focus solely on substance abuse treatment, neglecting clients’ legal issues, housing needs, and underlying disabilities. Substance use and mental health treatment needs are only part of the myriad challenges faced by many of our clients. The ramifications of their legal, family, or housing situations can be overwhelming, and often cause them to miss treatment or court scheduled court dates.

Investing in our office to provide social services, case management and legal representation **could increase engagement in treatment, reduce non-appearance at subsequent court events, and prevent subsequent engagement with the criminal legal system.** Peer Navigators from our office could also be used to help increase voluntary attendance for treatment and other services.

- **Limitations On Eligibility for Transitional Housing** – The Riverside Wellness Village is exemplary in its recognition that recovery cannot happen without stable housing. It addresses the very real issue that many participants leave treatment with nowhere to go, making their path forward far more difficult. However, in recent weeks, we’ve seen that limiting these beds to people leaving inpatient facilities prevents those whose main issue is housing—not substance use—from accessing them until a permanent solution is found.

The beds are available, but homeless individuals processed through Wellness Court for trespassing are not permitted to stay there and are instead directed to apply for housing through DBHIDS, a process which can take 3 to 4 weeks for placement.

- **Legal Barriers** – While wellness court provides an alternative to incarceration, it still requires individuals to enter the court system first. We need to rethink diversion as a truly pre-arrest intervention. This avoids the trauma of arrest for the clients but also reduces the administrative burden on officers who are actively present and patrolling the Kensington neighborhood. This puts patrol officers in a challenging role as both social worker and police officer. By contrast, teams of social workers, peer navigators, and those conducting outreach outside the criminal justice system, could accomplish the same goal pre-arrest by making same-day, immediate, voluntary and direct connections to people at risk for arrest.

Beyond Wellness Court: A Smarter Strategy

With over two decades of experience defending people in this system, I can say with certainty: we cannot arrest or prosecute our way out of this crisis. We need an approach that prioritizes **treatment first, not court first.**

Instead of relying solely on post-arrest diversion, we should be investing in:

- **A Kensington Pretrial Diversion Hub** – A dedicated resource center in Kensington where individuals can access treatment, housing, and behavioral health support before they face criminal charges. The facility that the city established at 265 E. Lehigh Avenue can easily serve this purpose. If councilmembers have not yet toured the facility, I'd encourage you to do so. But a physical building alone is only one component necessary for this effort to succeed. If we do not incorporate basic tenets of public health, prevention, protection, and promotion of health and wellness, into substance use disorder treatment, we will not achieve the long term goal of eradicating addiction and addressing quality of life for all Philadelphians, especially residents of Kensington.
- **Sustained Early Bail Review Services** – With the support of the MacArthur Safety and Justice initiative, our office redesigned our interview process and dedicated experienced attorneys to staff early bail review hearings. These hearings prevent unnecessary incarceration and ensure people who may need additional support—like substance abuse treatment—have access to them immediately upon their release.

Over the last five years, we've relied on our direct experience litigating these hearings to collaborate with the other stakeholders to establish reasonable program criteria and avoid the unnecessary pretrial detention of people who can be safely released. While all of the other justice system stakeholders have sustained funding from the MacArthur initiatives, Defender's funding has not been sustained. Despite the city's lack of commitment, we've expanded our

decarceration efforts to include emergency bail hearings, reducing the prison population and decreasing reliance on FIR as an alternative to incarceration.

But we need to couple these early bail review hearings with meaningful opportunities for diversionary programming. We could accomplish this by expanding eligibility for

- **Housing as the Foundation** – Without housing, every diversion effort will fail. We need to expand transitional and permanent supportive housing tied to diversion programs so that it is not limited to only those people with the most significant treatment needs. Furthermore, we need to prioritize all justice system-involved people for housing assistance. Instead of serving as an additional barrier to housing, an arrest, particularly for something like trespass, could and should signal that this person is most in need of housing support.
- **Community-Led Solutions** – The most effective interventions are those that do not require court involvement at all. We need more investment in harm reduction, peer-led outreach, and direct connections to treatment services.

Conclusion

Our office's experience in representing clients from marginalized and vulnerable populations have shown us firsthand the consequences of policies that rely on punishment rather than support. I myself have represented people whose struggles with addiction were met with incarceration instead of intervention. And I have seen how diversion—when done right—can change lives.

The Defender Association is committed to working with City Council, the courts, and community partners to implement meaningful solutions. But we must recognize that **real diversion happens outside of the courtroom**. If we want to reduce crime, save lives, and strengthen our communities, we must move away from criminalization and toward **treatment, housing, and real public health responses**. This includes prevention initiatives that address root causes of substance use, including mental health issues and exposure to trauma. It includes investing in protections for vulnerable people and creating meaningful emergency response plans for those whose involvement in the criminal legal system is tied to substance use disorder. It also promotes health and wellness by removing barriers linked to poverty, racism, and gender discrimination.

Thank you again for including the perspective of Defender Association in this critical conversation. My team and I welcome any questions you may have today or in the near future.