



**Philadelphia District Attorney's Office  
Derek Riker, Chief, Diversion Courts Unit  
Testimony Before the Special Committee on Criminal Justice Reform  
May 13, 2016**

Good Morning. My name is Derek Riker, and I am the Chief of the Diversions Court Unit in the Philadelphia District Attorney's Office. Thank you very much for the opportunity to speak with you today on the use of treatment as an alternative to incarceration, specifically the Accelerated Misdemeanor Program or AMP as it is commonly known. AMP is a short intensive effort to engage individuals in substance abuse treatment for their addictions which allows individuals to avoid many of the collateral consequences of traditional prosecution. It is fitting that this hearing is taking place in May, widely recognized as National Drug Court Month.

Philadelphia has been at the forefront of trying to address the underlying substance abuse issues that lead defendants into the criminal justice system for nearly two decades now. In 1997, Philadelphia Treatment Court, under the leadership of then Municipal Court President Judge, Louis J. Presenza, was the first drug treatment court in the state. The program was established to provide intensive case management and supports for individuals who were evaluated and found to have a substance abuse issue, which in turn, was a contributing factor to their crime. Over the past 19 years, over 3,000 defendants have graduated from Philadelphia Treatment Court, enabling them to both avoid a felony conviction, prison sentence and also get the help they need to beat their addictions. The success of this program has led dozens of other jurisdictions throughout the state to use it as a model for their own efforts.

One of the keys to Treatment Court's success is an approach which focuses on four-phases of treatment over a twelve month period while participants are kept in the community and out of custody. These phases are steps towards sobriety and include mandatory substance abuse treatment, regular urine testing, meetings with case managers, and attendance at monthly progress listings before a supervising judge. In a city with nearly 38,000 arrests last year, there are many potentially eligible offenders who, unfortunately, are not able to take advantage of the program. The intensive hands on nature of this program is proven to work; however, it comes at a cost. The expense of the program limits its enrollment to approximately 450 individuals at any time. As such, the primary targets for participation are offenders arrested for selling narcotics as a means of supporting their habit. The hope is to simultaneously reduce the demand and supply of drugs through this program.

One relatively recent effort to fill this gap is the Accelerated Misdemeanor Program. Originally conceived in 2010 as a speedy way to resolve non-violent misdemeanor cases through community service, the program was expanded in October 2011 to include more habitual non-violent offenders who. These participants, through the nature of their charges, were likely suffering from a substance dependency which was leading them into revolving cycles of arrest.

AMP is now formally divided into a two tier system. It is a quasi-community court structured program in which the court travels to five different districts each week. Cases are heard in the section of the city where the offense occurred. There is no special funding to the Court, the District Attorney's Office or Defender's Association. Beyond a small contract with the Public Health Management Corporation (PHMC) through the Office of Addiction Services to provide

case managers, all court staff and attorneys are assigned as part of general staffing requirements.

First time offenders are still offered a pre-plea community service resolution to their case in AMP Tier 1. This allows them to avoid a conviction. Defendants perform either 12 or 18 hours at a pre-approved court supervised community service location. Upon providing proof that those hours are complete and paying the required court costs, the matter is closed with no further actions by the court.

The true innovation though is through Tier 2 of AMP. Candidates for this portion of the program are primarily defendants charged with non-violent misdemeanor offenses with a recent history of non-violent arrests and convictions. Defendants are accepted at the discretion of the District Attorney's Office and only after a careful review of their case. When a potential participant is identified at the time of arrest, the District Attorney's Office agrees to not seek bail on the case and the defendant is released on his or her own recognizance. Defendants normally would appear at their first court listing upwards of three weeks after their arrest; however AMP participants are subpoenaed to appear in court within days of their arrest to immediately address their issues while they still may be in active crisis.

Once present, an offer, based upon the defendant's record is conveyed to that defendant. In exchange for meeting with a substance abuse professional and agreeing to a treatment plan recommended by the court, the defendant can avoid both a potential jail sentence and probation. The initial evaluation is conducted immediately in the courtroom with case managers from PHMC. Prior to leaving court, defendants who accept the program are provided with a plan which may range from going for a more formal evaluation to reengaging with a treatment facility they were previously at. They also are advised how to use public assistance or their own insurance to cover the costs of treatment.

Defendants typically come back to court within five weeks and provide proof of compliance. PHMC confirms their paperwork and reports back to the court. If the defendant is testing clean, attending meetings and following through with other instructions, then a disposition is taken. They will enter a disposition either by way of Negotiated Stipulated Trial, which results in a conviction, or a No Contest Plea, which is potentially expungable. Defendants receive further instructions from the PHMC case managers and again subpoenaed back to AMP approximately five weeks later. If they continue on their treatment path, then the case is closed. There is no jail sentence and no probation, obligations to the court end. For those that have difficulty keeping faithful to the plan, AMP team members, which also include an Assistant District Attorney, Public Defender and Municipal Court Judge, work with them to provide additional time and resources to get in compliance. Those that fail to come into compliance and are terminated, resulting in a new traditional probationary sentence.

What makes AMP Tier 2 unique is that it is a short-term, less-hands on approach to substance abuse treatment. The burden shifts to the defendants to hold themselves accountable for their actions and their sobriety. There are no sanctions and rewards like other programs. Participants are given the resources to help themselves.

Beyond the benefit for the participants, there is benefit to the city as well. Since its inception, nearly 22,000 cases have been referred to AMP. It is not unusual for just two ADAs and two PDs to manage a day's case load of over 120 cases. In 2015, with over 20% of all misdemeanors in Philadelphia originating in the program, over 3,000 cases were disposed there. That's 3,000 cases that were successfully completed without defendants awaiting trial in custody, without police overtime being spent on subpoenas, without the time and expense of preparing and putting on a trial, and without jail sentences.

Though an argument can be made that the targeted population would not be the type of defendant slated for jail time, and would ultimately end up on probation, probation itself offers shortcoming and pitfalls that AMP2 seeks to avoid. AMP2 case managers have more experience, training, and practical application in dealing with addicts and are better suited to help guide them through the labyrinth of treatment providers and the nuances of insurance and public assistance. Addiction at its essence is a challenge to overcome and rarely is even the most committed individual able to succeed on their first attempt. Those on probation run the risk of violating their terms and ending up with more probation, potential jail sentences and falling into a cycle where they are unable to get off court supervision. AMP2 gives them the tools to succeed, sets them on the right path and removes the courts from involving themselves with this person's disease until they run afoul again, if ever.

The District Attorney's Office, Defender's Association and First Judicial District are continually looking to build upon our foundation and expand the reach of services that the AMP program can provide. Thank you for an opportunity to highlight this important program.