



Moving Beyond Drug Arrests: Law Enforcement-Assisted Diversion (LEAD) Programs

Drug Courts Fact Sheet Series

Background

For almost three decades, drug courts have been touted as a panacea to the over-incarceration produced by the 1980s crackdown on drug users and sellers. They grew out of the idea that people who are driven to crime because of addiction should not end up in the criminal justice system, but rather in treatment. Yet drug courts are very much a part of the criminal justice system: participants have to plead guilty to the crime they are accused of, and potentially face jail-time, extended parole, and other criminal justice measures if they fail the treatment program mandated by the court. Repeated relapses can lead to a participant being “terminated” from the program and directly incarcerated as a result of their initial guilty plea.

LEAD: Prioritizing Social Support

Law Enforcement-Assisted Diversion (LEAD) programs – an alternative solution put forward by law enforcement officials and harm reduction activists – more directly divert participants away from the criminal justice system. They allow police officers to connect a person arrested for low-level offences – such as drug possession, loitering, petit larceny, or using drugs in a public place – to a case manager. Once the person is connected with the case manager, their case is considered a “non-arrest,” meaning that police do not file charges against them.

All LEAD programs are locally led and so slightly different, but most follow the same basic template: they aim to lessen the harms associated with drug use by providing services such as housing, optional counseling, and job training in lieu of incarceration.

A LEAD case manager may connect a person with social services like housing, transportation, or healthcare, depending upon their needs, but will not require the individual to complete any defined treatment or demonstrate abstinence from drugs and alcohol. “The expectation is not that you stop using, it’s that you engage with your case manager,” says Keith Brown, director of the LEAD program in Albany, New York. “We are not telling you what to do. We’re asking what you *want* to do, and helping you with that.”

LEAD programs are rooted in the recognition that case management is paramount to moving someone towards successful recovery, and in the acknowledgment that not all people who use drugs need or want treatment. “Abstinence is not the goal,” said Albany’s chief of police, Brendan Cox. “We need the public to grasp the concept that people might still be using while we’re getting them the help they need.”

These programs are relatively new, but have already proved extremely effective at reducing re-arrests. Seattle, Washington piloted this type of program in 2011, and similar approaches have since been implemented in Albany; Santa Fe, New Mexico; and several other municipalities across the United States after evaluations showed a nearly 60 percent reduction in recidivism for people diverted to LEAD compared to arrestees who were not. The notion that case management is critical to successful recovery was echoed in a 2011 evaluation of New York State’s 86 drug courts conducted by the Center for Court Evaluation, which found that higher levels of case management was key to reducing criminal behavior and drug use.

“Abstinence is not the goal... We need the public to grasp the concept that people might still be using while we’re getting them the help they need.”

- Brendan Cox, Albany chief of police

LEAD: Prioritizing Social Support

continued

From a human rights perspective, the LEAD approach is preferable to court-mandated treatment. By making treatment voluntary, LEAD allows participants to retain their rights to autonomy and confidentiality in treatment, which are key tenets of harm reduction and which drug court participants waive when entering court-supervised programs. LEAD participants are also freed from the more stringent requirements of abstinence-based treatment provided through drug courts and, indeed, the criminal justice system at large.

Recently, some states and counties have also begun to implement and expand other harm reduction approaches like needle exchanges and trainings in the use of the anti-overdose drug naloxone to curb overdose death and HIV infection. However, in general, most U.S. jurisdictions still primarily rely on drug courts and incarceration to address problem drug use, regardless of the person’s treatment needs and desires, severity of addiction, nature of criminal offence, and risk of re-offending.

Although no studies have yet been conducted comparing recidivism rates in LEAD programs to those of drug courts, LEAD is overall a more rights-respecting approach than the current drug court model, and has the potential to allow more people to access the support and treatment they need without entering the criminal justice system.

Recommendations

States and cities can play a role in supporting a harm reduction model to reduce recidivism in their communities, effectively address problem drug use, and reduce the overall harm to the individual and society as a whole, often at little or no additional cost.

- **To City Mayors**

- Consider implementation of Law Enforcement-Assisted Diversion (LEAD) programs as a response to problem drug use, including in the context of the opioid crisis, to increase access to voluntary, evidence-based treatment for substance use disorders.
- In implementing LEAD, ensure access to adequate case management, including housing, transportation, education, and healthcare unrelated to problem drug use. This should also include access to voluntary evidence-based treatment for substance use disorders as well as co-occurring disorders.

- **To City Police Departments**

- Police departments play a key role in implementing pre-booking diversion programs such as LEAD. If implementing LEAD, police departments should ensure adequate training for law enforcement officers, understanding that police discretion makes LEAD possible, but that standards and training are necessary to ensure that all persons arrested who are eligible for LEAD are diverted to LEAD.

- **To the Department of Justice**

- Provide increased funding for state and local pre-booking diversion programs such as LEAD. These initiatives have been shown to dramatically decrease recidivism and avoid re-arrest of people with addiction-related criminal behavior.
- Provide sufficient funding to ensure case management support in all drug courts, including, specifically, facilitating access to housing and public transportation.



Physicians for
Human Rights

phr.org

For more than 30 years, Physicians for Human Rights (PHR) has used science and the uniquely credible voices of medical professionals to document and call attention to severe human rights violations around the world. A Nobel Peace Prize co-laureate, PHR employs its investigations and expertise to advocate for persecuted health workers and facilities under attack, prevent torture, document mass atrocities, and hold those who violate human rights accountable.