Physicians for Human Rights

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 offenses – 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.
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