

# Law Enforcement Assisted Diversion (LEAD): A Pre-Booking Diversion Model for Low-Level Drug Offenses

Processing low-level drug offenders through the criminal justice system is a costly and generally ineffective way to change problematic behavior and impact public safety. As current economic realities force regional criminal justice stakeholders to re-examine spending, pre-booking diversion programs offer a viable, cost-effective alternative to the status quo that can positively impact troubled individuals and neighborhoods.

## I. PROBLEM: OUR CURRENT APPROACH TO LOW-LEVEL DRUG OFFENSES IS INEFFECTIVE AND UNSUSTAINABLE

- ❑ **Reliance on traditional criminal sanctions for low-level drug offenses is an ineffective strategy for improving public safety and addressing quality of life concerns.** The current approach to low-level drug offenses only moves a relatively small fraction of offenders off the streets, for brief periods of time, and at a significantly higher cost than non-criminal justice system interventions. It diverts increasingly limited law enforcement resources from more serious crimes, with little to no improvement in neighborhood quality of life. Absent other interventions, it does not reposition offenders to make positive life changes. Instead, it creates or reinforces connections to other offenders in custody, and burdens individuals with court records that become barriers to housing, employment, and education. Moreover, traditional drug law enforcement has a well-documented disparate racial impact.
- ❑ **With public coffers shrinking and demand for services growing, Seattle-King County can no longer afford to rely exclusively on criminal sanctions to address problematic, drug-related behavior.** The direct costs of the traditional approach to drug enforcement are not limited to policing, but also include all other components of the criminal justice system – prosecutors and public defenders, courts, pre-trial and post-conviction jail stays, and even jail-based health care associated with incarcerating addicted and mentally ill offenders. A growing body of behavioral health and public policy research suggests that alternative interventions may provide less costly ways to intervene without compromising public safety, and

may also be more successful in changing behavior.<sup>1</sup> By diverting low-level drug offenders from booking and prosecution into an intensive, community-based intervention, Seattle-King County policymakers can ensure that problematic, street-based drug activity is being addressed in a cost-effective way, that offenders are being held accountable for behavior change, and that law enforcement is able to dedicate its resources to addressing serious and violent crime.

- ❑ **Current drug law enforcement strategies have a tremendously disparate impact on communities of color, particularly African-Americans.** The War on Drugs has resulted in a massive expansion of the U.S. criminal justice system – from the budgets, size, and authority of local law enforcement agencies to the number of prisons and jails. While this growth has not resulted in any meaningful progress in improving public safety or decreasing drug use and addiction, it has had the well-documented impact of enhancing racial disparities within the criminal justice system. According to the Sentencing Project, “three-fourths of all persons in prison for drug offenses are people of color.”<sup>2</sup> In Seattle, Blacks were more than 21 times more likely to be arrested for selling serious drugs than whites in 2005-2006, despite the fact that multiple data sources suggest that whites are the majority of sellers and users of serious drugs in Seattle. The reasons behind this profound racial disparity in drug arrests are complex. Pre-booking diversion interrupts the cycle which currently perpetuates racial inequality, allowing officers instead to help individuals access meaningful interventions that will interrupt their problematic behavior.

<sup>1</sup> Steve Aos, Marna Miller, and Elizabeth Drake. (2006). *Evidence-Based Adult Corrections Programs: What Works and What Does Not*. Olympia: Washington State Institute for Public Policy.

<sup>2</sup> “Racial Disparity.” The Sentencing Project. Accessed online at <http://www.sentencingproject.org/template/page.cfm?id=122>.

### II. SOLUTION: PRE-BOOKING DIVERSION OF LOW-LEVEL DRUG OFFENDERS TO A HIGH QUALITY, COMMUNITY-BASED INTERVENTION

#### What is Pre-Booking Diversion?

A pre-booking diversion program is one that identifies low-level drug offenders for whom probable cause exists for an arrest, and redirects them from jail and prosecution by providing linkages to community-based treatment and support services. Pre-booking diversion programs consist of both a law enforcement and social services component. The integrity of both components is critical to any successful pre-booking diversion initiative. Pre-booking programs involve specialized training for police officers, and a crisis drop-off center with a no-refusal policy for persons brought in by the police.<sup>3</sup>

In Seattle-King County, Harborview's Crisis Triage Center already functions as a pre-booking diversion alternative for individuals suspected of having co-occurring substance abuse and mental health disorders, by providing law enforcement officers with a 24/7 drop-off location where people can be taken for assessment, acute care, and referrals to services in lieu of booking. The CTC is a national model for pre-booking diversion programs for the mentally ill.<sup>4</sup>

Similar pre-booking mechanisms could also be used to address low-level drug offenses, using a less intensive, community-based intervention aimed at long-term behavior change. To highlight the important role that law enforcement officers play as "first responders" to street-level drug activity, we are referring to this Seattle-King County model as Law Enforcement Assisted Diversion (LEAD).

#### LEAD Goals

- Reduce number of low-level drug offenders entering criminal justice system.
- Redirect public safety resources to more pressing priorities, such as serious and violent crime.
- Improve individual and community quality of life through research-based, public health-oriented interventions.
- Sustain funding for alternative interventions by capturing and reinvesting criminal justice system savings.

#### Local Community-Based Programs Provide Promising Results

Seattle already has two promising, community-based, pilot intervention programs that are working to prevent individuals with a history of street-based drug-related activity from continuing their illegal behavior – Get Off the Streets (GOTS) and Communities Uniting Rainier Beach (CURB). A September 2009 evaluation found that the programs demonstrated reductions in criminal justice involvement and improvement in quality of life for participants in line with similar programs across the country. Importantly, many CURB and GOTS participants also reported an increase in the difficult to measure, but critical, areas of personal dignity, a restored connection with family, and a commitment to self-improvement. The Seattle City Council has expressed a commitment to continued funding of these programs, and working to improve their success rates.

Herbert, Steve, et al. Assessment of Three Public Safety/Human Services Projects: Court Specialized Treatment and Access to Recovery Services (CO-STARs), Get Off the Streets (GOTS), and Communities Uniting Rainier Beach (CURB), (Seattle: University of Washington, September 2009).

<sup>3</sup>"Jail Diversion." Center for Mental Health Services' National GAINS Center. Substance Abuse and Mental Health Services Administration. Accessed online at [http://www.gainscenter.samhsa.gov/html/jail\\_diversion](http://www.gainscenter.samhsa.gov/html/jail_diversion).

<sup>4</sup> National GAINS Center for People with Co-Occurring Disorders in the Justice System (1999). *Blending funds to pay for criminal justice diversion for people with co-occurring disorders*. Fact Sheet Series. Delmar, NY: David Wertheimer.

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## Essential Principles for Making LEAD A Success

- ❑ **Adequate training and clear administrative policies and diversion protocols for law enforcement officers.** Law enforcement officers' role and responsibility are integral to pre-booking diversion. In order to maximize positive results, clear direction from the command staff is necessary.
- ❑ **Immediate access to needed services for program participants,** rather than referral to a waiting list, in order to maximize the likelihood of participant success.
- ❑ **Service-dedicated funding,** meaning approximately 50% of program funding will be directed toward acquiring direct services for program participants, rather than toward program overhead, administration or staffing.
- ❑ **Commitment to a harm reduction approach,** meaning a focus on individual and community wellness, rather than an exclusive focus on sobriety, by immediately addressing the participant's drug activity and any other factors driving his/her problematic behavior, even if complete abstinence from drug use is not immediately achieved.
- ❑ **Use of peer outreach workers and case managers to enhance the program's effectiveness with potential participants.** Decades of research demonstrate that peer-based interventions are a highly successful way to intervene with marginalized populations. Moreover, case studies in an analogous context clearly suggest that peer-based interventions are a promising, cost effective practice for engaging individuals with mental illness and a history of criminal justice involvement in the community. Peer outreach workers and case managers serve as community guides, coaches, and/or advocates, who work to link diverted individuals to housing, vocational and educational opportunities and community services, while also providing credible role models of success.<sup>5</sup>
- ❑ **Involvement of neighborhood public safety leaders.** Concerned community members will have the opportunity to engage with the program as it develops, through an advisory board structure. This will help ensure community public safety leaders' comfort with a new approach. Ideally, community members will also be able to refer individuals for program participation and suggest areas of focus for outreach workers.
- ❑ **Specially-tailored interventions to address individual and community needs.** Each drug activity "hot spot" has its own unique character. Rather than attempting a "one size fits all" approach, community-based interventions should be specifically designed for the population in that particular neighborhood.
- ❑ **Clearly delineated evaluation criteria and procedures** to ensure accountability to the public and facilitate review of programmatic effectiveness by policymakers, including an independent evaluation of the program by outside experts.
- ❑ **Cultural competency** in all aspects of the program, including outreach, case management, and service provision.
- ❑ **Commitment to capturing and reinvesting criminal justice savings** to sustain pre-booking diversion programs, and support improvement and expansion of other "upstream" human services and education efforts.

## LEAD Protocols

Final eligibility criteria, program details, and administrative oversight procedures will be determined via agreement of all relevant stakeholders. At a minimum, these stakeholders would include the involved community public safety leaders, advocacy groups, government and criminal justice agencies, service providers, and contract administrators. Development of program details will be informed by the protocols developed for the diversion of jail-bound mentally-ill offenders to King County's planned Crisis Diversion Facility. The final eligibility criteria, program details, and administrative oversight procedures will be memorialized in a Memorandum of Understanding (MOU) among all participants.

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<sup>5</sup> Davidson, L., & Rowe, M. (2008). *Peer support within criminal justice settings*. Delmar, NY: CMHS National GAINS Center.

### III. CONCLUSION: A CALL TO ACTION

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Unless the region takes action to interrupt the flow of low-level drug offenses into the criminal justice system, it will be forced to expand its secure confinement options, and reduction of criminal justice expenditures will not be possible without compromising other serious public safety goals, such as prevention and deterrence of violent crime. Given the state of the national and regional economy, it is fair to say that there is little to no public support for expanding local incarceration capacity. However, economic crisis also brings with it the opportunity to revisit our current approach, so that jail and justice system expansion can be avoided without sacrificing public safety.

A majority of regional criminal justice system stakeholders have expressed a commitment to trying something new. The time for Seattle-King County to develop an innovative, pragmatic solution to addressing low-level drug offenses is now. We invite you to join us in exploring how a pre-booking diversion program for low-level drug offenders can reduce criminal justice costs and offer a meaningful response to community concerns about the problem of street-based drug activity.

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*It is common knowledge that the Belltown neighborhood has suffered over the years from an intractable open-air drug market. The Belltown community would like to see a Law Enforcement Assisted Diversion (LEAD) program implemented to meaningfully address the causes of drug crime and associated public safety issues. We strongly believe that this model is an important and necessary component of an overall public safety strategy.*

— Richard Nordstrom,  
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