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MULTNOMAH LAW ENFORCEMENT ASSISTED DIVERSION (LEAD®)

MISSION & PURPOSE

Elected officials and law enforcement officers, along with residents, business owners, and service providers in downtown Portland and other Multnomah County communities want to improve public safety and public order in their neighborhoods. We endeavor to reduce future criminal behavior by individuals engaged in low-level drug offenses while also reducing the disproportionate number of persons of color being arrested and referred to the criminal justice system for these offenses. In Seattle, Washington a non-randomized controlled trial has demonstrated that LAW ENFORCEMENT ASSISTED DIVERSION (LEAD®), which provides intensive case management and diverts some cases from jail and prosecution, is more successful at reducing recidivism than processing these individuals through the criminal justice system. The following proposed model borrows heavily from Seattle's LEAD® Operating Referral and Diversion Protocol.

The LEAD® model focuses on low-level misdemeanor and felony drug possession crimes and uses two processes for entry into the program. The first process diverts individuals arrested for drug possession to community-based services instead of jail. Participation is voluntary but requires completion of an in-depth assessment within 30 days of arrest otherwise the case is referred for prosecution. The second process, the social contact referral, deflects individuals perceived by officers as at high risk of future arrest for drug possession to community-based services. Participation through the social contact referral process is also voluntary.

CORE PRINCIPLES

Core principles of this intervention include:

A **harm reduction philosophy** which engages participants where they are; participants will not be penalized or denied services if they do not achieve abstinence. The goal is to reduce as much as possible the harm done to themselves and to the surrounding community through problematic drug activity. Some or all services may be withdrawn from participants whom LEAD® staff feel are not making progress toward reducing the harm caused by their behavior.

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A **non-displacement principle** that ensures that individuals waiting for scarce community-based services will not be displaced by moving a LEAD® participant ahead of them on a wait list. Rather, LEAD® participants will wait until it is their turn to receive services. Where existing programs have unused capacity and are an appropriate fit for participants' identified needs, LEAD® staff will refer participants to those resources. LEAD® program funding may be used to purchase or access additional resources that would not otherwise be available to this population.

Transparency and accountability to community stakeholders and public safety leaders who will have access to program performance reports, direct access to program staff and the ability to ask questions and provide feedback. Community confidence that pre-booking diversion is a reasonable way to accomplish the goal of improving public safety is essential to the viability of the program.

WHEN

The goal is to begin the pilot project in February 2017. It is anticipated that the pilot will be reviewed one year following its start date.

WHERE

The pilot project will be implemented in the High Pedestrian Traffic areas of the City of Portland as defined in Portland City Code (PCC) 14A.50.030(F).

DURATION

The pilot project will operate for one year and then be reassessed to determine its effectiveness and, if effective, its efficacy in other areas of the city/county.

ANALYSIS

Program analysis is integral to the LEAD® initiative. All partners are committed to ensuring rigorous evaluation of LEAD® outcomes such as recidivism, cost-benefit (compared to business as usual) and increased participant self-sufficiency. To that end, the program will convene a data group consisting of representatives from each of the interested LEAD® partners. In addition, external academic partners will be contracted to submit their own independent outcome investigation. Together, these internal and external analyses will document the program's effectiveness in meeting its goals.

PROJECT DEVELOPERS

Multnomah County District Attorney's Office	Black Male Achievement Initiative
Portland Police Bureau	Citizens Crime Commission
Multnomah County Chair's Office	Metropolitan Public Defender's Office
City of Portland- Mayor's Office	Joint Office on Homelessness
Multnomah County Sheriff's Office	Gresham Police Department
District 3 County Commissioner's Office	Community Members
Multnomah County Mental Health and Addiction Services Department	
Multnomah County Department of Community Justice	

DIVERSION PROCESS

In the context of LEAD®, diversion means that a person who could have been booked into jail and referred for prosecution is instead referred to a case manager who will conduct an initial screening to address immediate needs and then schedule a more comprehensive psychosocial assessment of client-identified needs and goals.

A. Diversion process

The Portland Police Bureau will train officers to make contact with persons in the High Pedestrian Traffic areas engaging in LEAD®-qualifying offenses to determine their eligibility for the program pursuant to factors set forth below. After a LEAD®-eligible client is arrested, the LEAD®-trained arresting officer will call the LEAD® service provider and the individual will be turned over to the case management team for initial screening. This may take place at a designated LEAD® facility or at a police contact office or precinct.

The LEAD® case management team will provide an initial screening to determine immediate needs and offer crisis-related assistance. Upon enrollment, the participant is eligible for more comprehensive services. A person is enrolled in LEAD® if (i) he/she commits a qualifying offense in a High Pedestrian Traffic Area; (ii) he/she completes an in-depth intake assessment within 30 days of referral, unless the LEAD® prosecuting attorney extends that time on the recommendation of a LEAD® law enforcement partner and/or a member of the LEAD® Operations Team; and (iii) he/she signs a Participant Agreement Form and a Release of Information Form allowing the sharing of information among the service providers and LEAD® operational partners.

The LEAD® officer who makes the referral to LEAD® will write an arrest report and forward it to the Multnomah County District Attorney's Office for review. The assigned Deputy District Attorney (DDA) will review the report as soon as practicable for compliance with the agreed upon diversion criteria. If the assigned LEAD® DDA determines that the potential participant is not an appropriate LEAD® referral, the LEAD® DDA will contact the LEAD® Operations Team and a plan will be developed.

At least monthly, the LEAD® Operations Team will hold staffing sessions in which participants will be reviewed. All referrals will be carefully reviewed for amenability to the program, with particular deference provided to the assessment of the LEAD® officer who made the referral. Subsequent referrals on new charges will be reviewed by the LEAD® DDA in consultation with the LEAD® Operations Team.

No criminal charges will be filed for the referred case once a person is enrolled in LEAD®, unless they are otherwise ineligible.

B. Eligibility Criteria for Diversion into the LEAD® Program:

Individuals are eligible for LEAD® if they are arrested for the following offenses:

- ORS 475 et. seq. Possession of a Controlled substance offenses (except for Commercial Drug Offenses and Substantial Quantities of controlled substances, See 475.900(2)(b))

Basis for Exclusion:

- The individual has 5 grams or more of heroin; 10 grams or more of cocaine; 10 grams or more of methamphetamine;
- The individual has an active extraditable warrant;
- The individual has an existing no contact order, temporary restraining order, or other court order prohibiting contact with a current LEAD® participant;
- The individual is a current or former LEAD® participant, unless continued participation in the LEAD® program is recommended by the LEAD® team and agreed upon by MCDA;
- The individual has a pending case eligible for, or is engaged in, a Multnomah County Specialty Court (including STOP, START, MCJRP, Mental Health, DISP and DV DSP);
- The individual is on Post-Prison Supervision, Parole, formal probation or misdemeanor bench probation for a person offense;
- Denial by LEAD® Operations Team; or
- Any other exceptional circumstance(s).

SOCIAL CONTACT REFERRAL PROCESS

The social contact referral is considered a deflection from potential future interaction with the criminal justice system.

A. Social Contact Referral Process

Depending on program capacity, LEAD® will accept referrals from law enforcement via the social contact referral process. That is, individuals perceived by officers (or individuals referred to officers by community members, social services providers or area security personnel) as at high risk of arrest in the future for LEAD®-eligible offenses. Even in situations where a police officer has probable cause to make an arrest but does not, the officer may still refer the person to a LEAD® case manager. Social contact referrals are entirely voluntary and subject to program availability.

All social contact referral deflections to LEAD® must meet the following pre-requisite:

- Verification by law enforcement that the individual is at high risk of arrest for a LEAD®-eligible offense. Verification by law enforcement means:
 - Police reports, arrests, jail bookings, criminal charges, or convictions indicate that this individual has engaged in relevant criminal activity; or
 - Law enforcement has directly observed the individual's criminal activity; or
 - Law enforcement has a reliable basis of information to believe that the individual is engaged in committing relevant offenses, such as information provided by another first responder, a professional, or credible community members.

Persons referred through this process will meet with the LEAD® Screening and Outreach Coordinator who will provide an initial screening to determine immediate needs. The LEAD® Screening and Outreach Coordinator will offer immediate crisis-related assistance and, over time, more comprehensive services if the person enrolls in LEAD®. A person socially referred is enrolled in LEAD® if (i) he/she completes an in-depth intake assessment within 90 days of referral; and (ii) he/she signs a Participant Agreement Form and a Release of Information form allowing the sharing of information among the LEAD® operational partners.

A LEAD® case manager will determine, based on the eligibility criteria below (and including his/her own opinion of the individual's amenability to the intervention model), whether a socially referred individual will be allowed into the LEAD® Program. A prior social referral does not preclude subsequent referral, but is a factor that the Screening and Outreach Coordinator will consider when determining the individual's amenability to the program.

At least monthly, the LEAD® Operations Team will hold staffing sessions at the Portland Police Bureau during which participants' progress will be reviewed. All social contact referrals should be carefully reviewed for amenability to the program, with particular deference provided to the assessment of the LEAD® Screening and Outreach Coordinator who conducted the initial screening. The LEAD® Operations Team has final approval to socially refer any person into LEAD®. There is no limitation on the number of times an individual may be referred to the program through a social contact referral. However, all referrals will require the approval of the LEAD® Operations Team.

B. Eligibility Criteria for Social Contact Referral to LEAD®

Individuals perceived by officers (or individuals referred to officers by community members, other social services providers, or area security personnel) as at high risk of arrest in the future for LEAD® eligible offenses.

Considerations for Inclusion or Exclusion:

- The individual has an active extraditable warrant;
- The individual has an existing no contact order, temporary restraining order, or other court order prohibiting contact with a current LEAD® participant;
- The individual is a current or former LEAD® participant, unless continued participation in the LEAD® program is recommended by the LEAD® team;
- The individual is engaged in a Multnomah County Specialty Court (including STOP, START, MCJRP, Mental Health, DISP and DV DSP);
- The individual is on Post-Prison Supervision, Parole, formal probation or misdemeanor bench probation for a person offense; **or**
- Denial or acceptance to be determined by the LEAD® Operations Team.

INTERVENTION PROTOCOL

A. Initial contact and referral by officers

The Portland Police Bureau will devise its own procedure for review of referrals by individual officers. Following the decision to refer an individual to LEAD®, the referring officer will contact the LEAD® Screening and Outreach Coordinator who will come to the precinct or other agreed upon location. LEAD® staff will be available to respond immediately during designated periods when they are open for referrals.

When the Screening and Outreach Coordinator arrives, the referring officer will provide basic information about the individual, including known criminal history. If the individual is a Department of Community Justice (DCJ) client, the referring officer will enter a note in the EPR that the individual

was arrested and referred to LEAD®. The DCJ Officer will treat this arrest as a “non-event” and no sanction will be issued for this arrest. The referring officer will document in their report that the Screening and Outreach Coordinator was called, arrived, and provided with the pertinent information. The referring officer will then release the individual from custody. The officer will leave the Screening and Outreach Coordinator to engage the individual.

If a suspect is intoxicated or otherwise lacks capacity to engage effectively in the intake process, the individual should not be referred to LEAD® at that time. If, in the Screening and Outreach Coordinator’s judgment, an individual is unable to provide informed consent and/or poses a risk to self or others due to severe behavioral health issues, the individual will be diverted to appropriate medical services. The arresting officer may refer the individual through a social contact referral once he/she has been released from medical care. For all other diverted referrals, the Screening and Outreach Coordinator will complete an initial screening and schedule a follow-up appointment to conduct a detailed intake assessment.

B. Cover Sheets

LEAD®-trained officers who make diversions to LEAD® should complete and attach the “Multnomah LEAD® Cover Sheet” to the arrest report for *every* PCS arrest made. This cover sheet should be completed for all PCS arrests - those that result in diversion and for those not resulting in diversion.

C. Social Contact Referrals

An officer making a social contact referral will staff the case with the LEAD® Operations Team. If the Operations Team agrees that the potential referral is a good fit for the program, the referring officer will contact the individual he/she seeks to refer. If the individual is willing to be referred to LEAD®, the officer will call the Screening and Outreach Coordinator who will, if possible, provide an immediate screening.

D. Intake assessment

When an individual is diverted to LEAD®, LEAD® staff will immediately conduct an initial screening to gather basic information about the person, identify any acute immediate needs, and assess the person’s appropriateness for diversion. Based on the initial screening, the Screening and Outreach Coordinator will first work to meet any immediate needs that must be addressed, such as shelter for the night. The Screening and Outreach Coordinator will also thoroughly explain the diversion process and the assistance that might be available through the LEAD® program.

If an individual does not remain to complete the initial screening that immediately follows arrest, LEAD® program staff will contact the supervising sergeant and MCDA by email. The Portland Police Bureau may decide to re-arrest the individual or to refer the case to the prosecutor without re-arrest.

At the end of the initial screening, LEAD® staff will schedule a follow-up appointment to perform an in-depth intake assessment which should occur optimally between 24-48 hours after the initial screening, or as soon as otherwise possible. The intake assessment should not occur more than 30 days from the referral date in the case of arrest referrals (90 days for social contact referrals), unless an extension is recommended by the referring officer and/or the Operations Team. The Screening and Outreach Coordinator will send an email to the LEAD® DDA with basic referral information. The LEAD® DDA will enter the referral information on the DDA spreadsheet and, if the individual is a DCJ client, will send an email to the DCJ officer alerting them of the referral to LEAD® and requesting input from the DCJ officer.

When completing the in-depth intake, the first task of LEAD® staff is to determine the immediate cause of the individual's drug activity on the street. In addition, the case manager will survey a wide range of factors that might contribute to ongoing encounters with law enforcement. Such factors include, but are not limited to: behavioral health issues, lack of housing, prior legal involvement and/or gang involvement, lack of employment or income, and lack of education. LEAD® funding and staffing may be used to address any factor or set of factors driving the participant to engage in the program qualifying offenses.

If an individual completes the initial screening, but refuses or fails (within 30 days from referral) to complete the in-depth intake assessment, the LEAD® social service provider will notify the LEAD® DDA who may then decide to file a criminal charge.

E. Self-Directed Action Plan

Once any acute needs have been addressed, the case manager will work with each participant to design a Self-Directed Action Plan (SDAP) which will form both the action plan for the individual and a key element of program evaluation. The SDAP may include assistance with housing, treatment, education, job training, job placement, attainment of government benefits, licensing assistance, child care or other services. The case manager will follow up with the individual to address elements of the SDAP in the order that the participant identifies as being most significant.

Although the needs and goals in the SDAP will be client-identified and client-driven, the SDAP will draw on the professional expertise of the case manager. If the case manager identifies a need for treatment or other services and the participant is amenable, the case manager will either provide referrals to appropriate programs with available capacity (see discussion above of non-displacement principle) or procure needed services using project funding.

F. Withdrawal of services

Receipt of ongoing services is conditioned on the participant making, in the judgment of the LEAD® Operations Team, good use of the resources provided, and sufficient progress toward reducing the harm his/her drug-related criminal behavior has brought to the community and him/herself. Revocation of services should not be invoked lightly, but act as a powerful motivator for participants to take the opportunity seriously and make good use of LEAD® resources.

G. Regular staffing sessions with partners

At least monthly, the LEAD® Operations Team will conduct a staffing at the Portland Police Bureau that includes the key operational partners in LEAD®: the Portland Police Bureau, the identified service provider, the Multnomah County District Attorney's Office, the Metropolitan Public Defender's Office, the Multnomah County Department of Community Justice, the Multnomah County Department of Mental Health and Addiction Services, community advisory representatives, and the Project Manager. LEAD® partners will use the staffings to share information about program participants' situations and progress; to discuss possible withdrawal of program support from participants who are not making effective use of the opportunity; to discuss referral criteria, program capacity and compliance with the protocol; and to focus the attention of LEAD® program staff and Portland Police Bureau officers in particular areas viewed with concern by community representatives.

H. Community report

The LEAD® Policy Team and LEAD® Community Engagement Team will periodically reach out to neighborhood residents, businesses and community leaders to provide informational updates about LEAD® operations and to receive feedback on areas of focus.

I. Goal of self-sufficiency; no time limit

Self-Directed Action Plans will be designed to maximize the chances a participant is able to achieve self-sufficiency independent of program funding at some point in the near term. For some, this may entail a plan for vocational or higher education or achieving a GED; for others, it may involve job placement; for those who are not likely to be able to support themselves through work, it may entail applications for government benefits.

Since the objective is securing changes in individual behavior, there will be no *a priori* limit on the time period in which an individual can receive services. The test is simply whether, in the judgment of the LEAD® Operations Team, the participant continues to make good use of resources.