

LEAD SANTA FE INTERVENTION PROTOCOL

Version 6.0

Introduction and Purpose

Booking, prosecuting, and jailing individuals addicted to opiates, who commit low-level non-violent offenses has had limited effectiveness in improving public safety and public order in the City of Santa Fe. Elected officials, law enforcement officers, and residents of Santa Fe want to improve public safety and public order, and want to reduce future criminal behavior by low-level drug offenders in their community. Law Enforcement Assisted Diversion, (LEAD) is a new approach that seeks to accomplish the goals of reduced criminal behavior and improved public safety and order by connecting low-level drug offenders with treatment and social services. This approach will cost less and be more successful at reducing future criminal behavior than processing low-level drug offenders through the criminal justice system.

Process for Diverting Individuals to LEAD in Lieu of Jail & Prosecution

In order to divert an individual to LEAD, the primary decision maker initially will be Santa Fe Police Department officers on the street, pursuant to clear criteria on which officers have been trained by command staff. Officers will make a series of decisions about the individuals they contact to determine whether or not those individuals are appropriate to go to jail, or to the community-based program. The determinations include:

- Is this person disqualified from the LEAD program due to particular criminal history, exploitation of others, or dealing for profit (not subsistence income)? (Exclusion criteria are detailed below.)
- Is the offense the person is alleged to have committed, an eligible offense for LEAD referral (defined below)?
- Does the person have any medical conditions at the time of arrest that require immediate medical treatment, detoxification or referral to a hospital?
- Is the person unable to provide informed consent and/or does the person pose a risk to self or others due to mental illness?
- Does the person display any interest in being offered services through LEAD rather than being taken to and booked into jail, or do the person's words and actions indicate it would be futile to attempt a diversion strategy?

In the context of LEAD, diversion means that a person who could have been booked into jail and referred for prosecution will instead be engaged by LEAD case management staff working for a social services provider. The case manager will provide an immediate individual assessment to determine what factors lead the individual to engage in street-level opiate activity, and then provide comprehensive services to address those factors and reduce the harm the individual is causing to her/himself and the community. LEAD officers and LEAD treatment provider staff must be available to respond immediately during designated periods when they are open for referrals.

LEAD SANTA FE INTERVENTION PROTOCOL

A. Intervention Protocol

Arrest Referrals:

1. Upon arrest, arresting officer determines whether the individual is eligible for LEAD.
 - The arresting officer will access electronically through the Santa Fe Police Department Records Management System (AS400 Triple or I Index) information about the individuals criminal history and prior LEAD referrals. A prior referral does not preclude a second referral, but is a factor the officer can consider with respect to the individual's amenability to the intervention model.
 - The arresting officer shall determine based upon the stated eligibility criteria, including his/her own assessment of the individual's amenability to the intervention model, whether an individual under arrest will be referred to LEAD.
2. Arresting officer reads LEAD participant criteria to individual.
3. Individual either accepts or declines the offer to participate in the LEAD program. If individual declines, they are formally booked and the process ends here. If the individual accepts, move onto #4.
4. Arresting officer contacts the on-call LEAD officer, and transports the individual to the police station for a LEAD intake.
5. LEAD officer meets the arresting officer & individual at the police station and the arresting officer transfers custody of the individual to the LEAD officer. Arresting officer may return to the streets.
 - Arresting officer must draft the incident narrative and forward it to the LEAD officer within 24 hours of the arrest. The incident narrative must clearly state that the individual has been diverted to LEAD.
6. LEAD officer fills out "LEAD Participant Screening Form" with the individual and (again) determines whether or not the individual is eligible for LEAD. If the LEAD officer determines the individual is eligible, he/she will call the LEAD case manager to inform him/her of the new participant.
 - LEAD Officer sends name, date of birth and social security number of LEAD client referral to DA by email ASAP for background check.
 - Upon receipt of the incident narrative from the arresting officer, the LEAD officer will forward the incident narrative and the LEAD Participant Screening Form to the First Judicial District Attorney.
 - The First Judicial District Attorney will receive copies of the incident narrative and the LEAD Participate Screening Form for review.
7. LEAD officer transports the LEAD participant to the case manager at the service provider's location.
8. Upon arrival, the LEAD officer releases the LEAD participant to the case manager, and provides them with a copy of the Participant Screening Form. Participant is released from custody.
9. LEAD officer documents the time at which he/she passed off the participant to the case manager, and the name of the case manager, on the "LEAD Participant Screening Form."

LEAD SANTA FE INTERVENTION PROTOCOL

10. The LEAD officer will then leave the case manager to engage with the LEAD participant.
11. Case manager completes LEAD Intake Assessment within 14 working days of referral date.
 - LEAD Case Manager will explain to LEAD referral that they are not officially a client until they are cleared by the DA; however, basic needs for the potential client can be addressed using LEAD program funds as needed (i.e. food, clothing, hotel).
 - The individual will have 14 working days to return to the case manager's office to complete the LEAD Intake Assessment. If the individual does not return, the LEAD officer may refer the case to the prosecutor.
 - The case manager may also determine at the point of referral or intake that the individual is unlikely to make good use of the program's resources, and refer the case back to the SFPD for a filing decision.
12. Case manager addresses immediate acute needs.
 - Based on the intake assessment, the case manager will first work to meet any immediate needs that must be addressed, such as shelter for the night, medication assisted treatment, detox, food, etc (even if the person has not yet cleared a background check by the DA - See #11 above). She/he will also thoroughly explain the LEAD process and the assistance that might be available through the LEAD program.
13. Over the next few meetings, the case manager, with the help of the LEAD participant, will develop an Individual Intervention Plan (IIP).
 - Once any acute needs have been addressed, the case manager will work with each participant in one or more meetings to design an IIP, which will form the action plan for the individual. IIP discussed in greater detail below, under "Case Management and Individual Intervention Plans."
14. LEAD participant works with the case manager on goals set out in the IIP.
15. Participant cases are monitored through regular staffing sessions with LEAD partners (members of the Case Coordinating Group). Discussed in greater detail below, under "Program Oversight".

*If the participant is intoxicated or incapacitated and unable to engage effectively in the intake process, the participant should not be referred to LEAD at that time. The participant can be referred to LEAD at a later time according to the same process used for participants initially ineligible due to criminal history exclusions. If, in the officer and/or case manager's judgment, a participant is unable to provide informed consent and/or poses a risk to self or others due to severe mental illness, the participant will not be referred to LEAD.

Social Referral

1. If an individual meets the stated "social contact" criteria on page 6 of this document and is willing to participate in the program, an officer may refer them to LEAD.
2. In such a case, the referring officer must contact the LEAD officer to confirm eligibility and capacity.
3. The referring officer will then transfer the individual to the LEAD officer.

LEAD SANTA FE INTERVENTION PROTOCOL

4. LEAD officer must: 1) fill out a screening form, 2) send name, date of birth and social security number of LEAD client referral to DA by email ASAP for background check, and 3) transport the individual to the case manager for the LEAD Intake Assessment.
5. As with arrest referrals, social contact referrals will have 14 working days to complete their initial LEAD Intake Assessment in order to continue with the program

B. Case Management and Individual Intervention Plans

As mentioned above, once any acute needs have been addressed, the case manager will work with each participant in one or more meetings to design an Individual Intervention Plan (IIP), which will form the action plan for the individual. The plan may include assistance with housing, treatment, education, job training, job placement, licensing assistance, small business counseling, child care, or other services. The outreach worker/case manager will follow up with the participant to implement the intervention plan.

Although many elements of the intervention plan will be participant-identified and driven, and though participation is voluntary, the IIP will draw on the professional expertise of the case manager. If the case manager identifies needs for treatment or other services, she/he will either provide referrals to appropriate programs with available capacity or procure needed services using project funding. In cases where chemical dependency or mental health services are needed, project participants will be asked to sign release of information forms allowing the case manager to consult with other professionals and with LEAD partners.

IIPs will be designed to maximize the odds of a participant being able to achieve self-sufficiency independent of program funding at some point in the relatively near term. For some, this may entail a plan for vocational or higher education or achieving a GED; for some, it may involve job placement; for those who are not likely to be able to support themselves through work, it may entail applications for SSI or other public benefits.

LEAD funding and staffing may be used to address any factor or set of factors driving the participant to engage in problematic drug activity at the street level.

Time Frame. Since the objective is actually securing changes in individual behavior, there will be no limit on the time period in which an individual can receive services. The test, rather, is simply whether, in the judgment of LEAD case management staff, the participant is continuing to make good use of the resources LEAD is dedicating to him/her.

Peer counseling requirement. In order to sustain behavioral changes that may be accomplished through LEAD participation, each LEAD participant who receives funding or services in some way will be required to participate in regular peer counseling sessions. Experienced participants will assist in leading those sessions after receiving training. The role of peer counseling is to create a support system for behavioral change that can continue after the individual no longer needs other direct services, and to create a pool

LEAD SANTA FE INTERVENTION PROTOCOL

of peers who can credibly engage others engaged in problematic drug activity and report positively about LEAD.

C. Eligibility

Adults suspected of a criminal offense and addicted to opiates may be eligible for LEAD and may be referred to LEAD, except when:

- The amount of drugs involved exceeds 6 grams (except where an individual has been arrested for possession, delivery, or possession with intent to deliver prescription controlled opiates (pills), officers will consider the other criteria listed here without reference to the amount limitation);
- The individual does not appear amenable to the program (i.e. violent upon initial contact; psychotic, threat to self or others);
- The suspected drug activity involves delivery or possession with intent to deliver, AND there is reason to believe the suspect is dealing for profit above a subsistence income¹;
- The individual is under the age of 18;
- The individual appears to exploit minors;
- The individual is suspected of promoting prostitution; and/or
- The individual has disqualifying criminal history as follows:
 - In the last 10 years: Any conviction for homicide, vehicular homicide, aggravated arson, aggravated burglary, all robbery, all kidnapping, all sex offenses, and any conviction involving firearms or deadly weapons (or attempt of any crime listed here).

LEAD eligibility is not a substantive right, subject to litigation.

Special circumstances. Individuals are eligible for LEAD, regardless of their immigration status or gender.

Individuals who do not meet the threshold criteria above, may be referred to LEAD on the recommendation of SFPD or the First Judicial District Attorney.

Subsequent Charges. LEAD participants, who incur additional criminal charges while participating in LEAD, are not necessarily discharged out of the program. Their involvement and progress in LEAD may be considered by the prosecutor or the court in subsequent charging, plea offer or sentencing decisions.

D. Capacity

Currently, there is a lack of adequate resources to appropriately serve all individuals who might be eligible in Santa Fe. In order to allocate resources in a transparent and fair manner, the days and times

¹ “Subsistence dealing” is the sale of opiates that **does not** entail dealing for profit, but rather dealing to support ones drug habit and survival.

LEAD SANTA FE INTERVENTION PROTOCOL

for LEAD to take place will be determined according to treatment provider availability. On the appropriate day the service provider will notify the LEAD officer at the SFPD that they are accepting new LEAD participants and how many slots are open. The service provider will make ongoing determinations of program capacity.

For purposes of program evaluation, names, date of birth and incident number of all those arrested who are otherwise LEAD-eligible and who would have been diverted if not for resource limitations will be recorded by the arresting officer or supervising sergeant in an ongoing log.

E. Warrants

Warrants will be served according to applicable policies and protocols, and individuals will not be immediately referred to LEAD in lieu of booking if they would otherwise be booked on a warrant. However, if an individual is eligible for LEAD, warrant notwithstanding, the arresting officer should contact the LEAD officer.

F. Referral of social contacts to LEAD

To the extent that the program has capacity, LEAD may also accept “social contact referrals” from SFPD. Social contact referrals are those, in which, officers perceive the individual as at high risk of arrest in the future for low level drug activity.

All social contact referrals to LEAD must meet the following pre-requisites:

- Prior documented involvement with opiates (possession or delivery)
 - “documented involvement” means:
 - Police reports indicating that individual to be referred was engaged in relevant criminal activity and the subject of a bona fide criminal investigation (the incident need not be referred to the prosecutor for filing), or
 - Arrest, or
 - Jail booking, or
 - Opiate related violation, or drug-traffic loitering charges filed, or
 - Conviction.
- Documented involvement with opiates must have occurred within Santa Fe County.
- Documented involvement with opiates must have occurred within the 24 months of the date of referral.

G. Program Oversight

Case Coordinating Group. Twice monthly, the LEAD Case Coordinating Group (case managers, SFPD, the First Judicial District Attorney’s Office, LEAD coordinators at the Public Defender’s Office, the Drug Policy Alliance, and the New Mexico Criminal Defense Lawyers Association, and any party to the LEAD Memorandum of Understanding) will hold staffing sessions in which referral decisions and program participant progress will be reviewed. LEAD partners will use the staffing meetings to share information

LEAD SANTA FE INTERVENTION PROTOCOL

about program participant's situation 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 SFPD in particular cases. Individual cases may be staffed more frequently via phone conference as needed.

To permit such discussions, LEAD participants will be required to sign waivers authorizing LEAD case management staff to discuss their cases and progress with the Case Coordinating Group. These consent authorizations are a condition of participating in LEAD, and if not completed or rescinded, the individual will be deemed not to be participating in LEAD.

*The First Judicial District Attorney's Office retains the authority to make filing decisions in all cases.

Criteria for Removal/Withdrawal of Services. Receipt of ongoing services is conditioned on the participant making, in the judgment of the LEAD Case Coordinating Group, good use of the resources provided, and good progress toward reducing the harm his/her drug-involved behavior has brought to the community and himself. The possibility that services might be withdrawn should not be invoked lightly, but does act as a powerful motivator for participants to take the opportunity seriously and make good use of LEAD resources.

Policy Coordinating Group. Twice monthly, the Policy Coordinating Group (SFPD, the First Judicial District Attorney's Office, the City of Santa Fe, LEAD coordinators at the Public Defender's Office, the Drug Policy Alliance, the New Mexico Criminal Defense Lawyer's Association, the LEAD treatment provider, and any party to the LEAD Memorandum of Understanding) will hold staffing sessions to discuss major policy changes, program evaluation, funding, and service capacity.

Core Principals

- **Peer outreach and counseling.** There is substantial evidence that highly marginalized populations can be engaged by peers whom the potential participants view as knowledgeable about their situation and as credible reports about the value of a program. Ongoing peer counseling provides support for behavioral changes that are achieved initially through investment of money and program staff time.
- **Intensive case management.** Participants engaged in problematic drug use require a more holistic approach to case management. They not only need access to MAT and other drug treatment options, they need access to food, housing, legal advocacy, job training, etc. Overall they need increased support in accessing these services. Intensive case management provides increased support and assistance in all aspects of the participant's life.
- **A harm reduction philosophy.** Participants will be engaged where they are; they 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. Again, some or all services may be withdrawn from participants who LEAD case management staff feels are not making progress toward reducing the harm caused by their behavior.

LEAD SANTA FE INTERVENTION PROTOCOL

- **A non-displacement principle.** Because the objective is to increase safety and order for the community as a whole, it is unhelpful to achieve success for an individual program participant by bumping her up a wait list of scarce services, while necessarily bumping another community member who needs the same services further down the list. Where existing programs have unused capacity, and where they are appropriate fits for participant's identified needs, LEAD case management staff will know about and use those resources. However, LEAD program funding will be used to purchase or access additional resources that would not otherwise be available to this population.
- **Community transparency and accountability.** It is essential that public safety leaders be able to participate in regular staffing meetings, have access to program performance reports, and have excellent access to case management staff to suggest areas where outreach could usefully be concentrated.