

From: [Debbie Tarry](#)
To: [Jesse Salomon](#)
Subject: FW: SODA Amendments etc
Date: Thursday, May 29, 2014 6:08:26 PM
Attachments: [LEAD-Skyway operational protocol v5 10.1.12.doc](#)

Jesse -

Below is a response from Shawn regarding the LEAD program and the operational protocols are attached. You will see from Shawn's response and in the staff report, that we are supportive of diversion programs, but participation will require additional personnel to manage the program or a contract with an existing provider. This would mean additional budget to pay for either of those. We can continue to look for grant programs to fund such programs, but at this time it is my recommendation that Council adopt the SODA ordinance.

Debbie Tarry
City Manager
City of Shoreline
17500 Midvale Ave N.
Shoreline, WA 98133

-----Original Message-----

From: Ledford, Shawn [<mailto:Shawn.Ledford@kingcounty.gov>]
Sent: Thursday, May 29, 2014 4:20 PM
To: Shawn Ledford - Contact; Debbie Tarry; Julie Ainsworth-Taylor; Shawn Ledford
Cc: John Norris; Carolyn Wurdeman
Subject: RE: SODA Amendments etc

This time with the attachment.

Shawn V. Ledford
Chief of Police
City of Shoreline
(206) 801-2711

-----Original Message-----

From: Ledford, Shawn
Sent: Thursday, May 29, 2014 4:18 PM
To: Tarry, Debbie; Julie Ainsworth-Taylor; Shawn Ledford
Cc: Norris, John; Wurdeman, Carolyn
Subject: RE: SODA Amendments etc

Debbie,

I checked with the commanders at the Southwest Precinct (covers Skyway) regarding LEAD (Law Enforcement Assisted Diversion). They advised the program has had limited success, a handful of people are in the program. Attached is the 9 page protocol. There is discussion to expand the program to White Center. The Southwest Major thinks the LEAD program may have more success in White Center. LEAD has regularly scheduled meetings with the Seattle Mayor, Sheriff, Prosecutor, ACLU and other high level participants.

In my opinion diversion programs sound good and are a good option for some, but in reality most people arrested don't qualify. Another thing to note is those who do qualify for a diversion program, there will be a lower recidivism rate than the statewide average. You're taking first time offenders, low level offenders without an extensive criminal history and offering this treatment program. The career criminals, hard core criminals that don't qualify, there is a high likelihood that they will re-offend.

I would not object to Shoreline participating in LEAD or an existing program, however it will require resources, a commitment and can be labor intensive. The major didn't have data, or a timeline when that will be available. It looks as if the funding for these programs are from grants, private foundations, City of Seattle and soon King County. I still think SODA will be the most effective tool for us at this point to address our public safety issues in the business district, parks and trails.

Thanks, Shawn

Shawn V. Ledford
Chief of Police
City of Shoreline
(206) 801-2711

-----Original Message-----

From: Tarry, Debbie
Sent: Thursday, May 29, 2014 2:23 PM
To: Julie Ainsworth-Taylor; Shawn Ledford
Cc: Norris, John; Wurdeman, Carolyn
Subject: FW: SODA Amendments etc

Julie -

Can you work with Shawn to put together these requested amendments from Jesse? I would like to review and make sure I understand once put together.

Shawn - can you respond to the first paragraph?

Debbie Tarry
City Manager
City of Shoreline
17500 Midvale Ave N.
Shoreline, WA 98133

-----Original Message-----

From: Jesse Salomon
Sent: Thursday, May 29, 2014 1:44 PM
To: Debbie Tarry
Subject: SODA Amendments etc

Can we find out more about clean dreams? If it helps reduce recidivism from 62 percent to 18 percent this is definitely something we need to look at. When will the LEAD program be reviewed? I would like to see the review when it's available.

Please prepare an amendment that uses contempt of court powers but disallows the charging of a new crime for violation of a pre-trial release SODA order. It's axiomatic that a pre-trial SODA order can be enforced by the court without our ordinance speaking to it, but I think there is no harm if we state that it's a violation of a release condition that allows the judge to raise bail and jail the defendant if the bail is not met.

RE section D. Notice of SODA Order states:

A person is deemed to have notice of the SODA order when:

...

2. The order otherwise indicates that either the person or the person's attorney received a copy of the order.

I ask staff also prepare an amendment removing "either" and "or the person's attorney."

As a public defender my clients often do not have phones or addresses. It sets up a public defender for a malpractice suit to hold him or her responsible for such notification. That is the Court's responsibility. I wish to avoid a situation where an attorney can't contact the client yet since the attorney received notice the defendant gets charged with a new SODA violation crime when the defendant didn't know about the orders existence.

Jesse Salomon, Councilmember
City of Shoreline
Jsalomon@Shorelinewa.gov
(206) 396-5807

Sent from my iPad

LAW ENFORCEMENT ASSISTED DIVERSION (LEAD) – SKYWAY
REFERRAL AND DIVERSION PROTOCOL--DRAFT

Mission & Purpose

Elected officials, law enforcement officers, and residents and business owners in the Skyway community of unincorporated King County (“Skyway”) want to improve public safety and public order in Skyway and want to reduce future criminal behavior by low-level drug and prostitution offenders contacted in Skyway. Booking, prosecuting, and jailing individuals committing low-level drug offenses in Skyway has had limited effectiveness in improving either public safety or public order in the neighborhoods. 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 services. This approach may 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 King County Sheriff’s Office (KCSO) deputies on the street, pursuant to clear criteria on which deputies have been trained by command staff. Deputies 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 community-based diversion 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 (low-level VUCSA, as defined below, or prostitution)?
- 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 a community-based diversion program 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?

A. Diversion process

In the context of the LEAD community-based diversion approach, diversion means that a person who could have been booked into jail and referred for prosecution will instead be engaged by LEAD program staff (an outreach and case management team) working for a social services provider. The LEAD team will provide an immediate individual assessment to determine what factors lead the individual to engage in street-level drug activity, and then provide comprehensive services to address those factors and reduce the harm the individual is causing to herself and the community.

Meanwhile, the deputy who made the referral to LEAD will complete the records that would be needed to refer the case to the King County Prosecutor or Seattle City Attorney, and forward the arrest packet for review to the arresting deputy's supervisor. The narrative in the incident report will clearly state that the person has been referred to LEAD. If the arresting deputy determines that the suspect does not meet the threshold criteria for LEAD referral, and therefore books the suspect into jail and refers the case to the Prosecutor, she may nonetheless refer the case to the supervising sergeant for review by the LEAD team.

Based on recent arrest data in Skyway, it is anticipated that there will be a minimal number of LEAD-eligible arrests in Skyway each year. In order to maximize the possibility that eligible arrests are diverted to LEAD, the service provider will be open for arrest diversions from Skyway during the service provider's normal business hours: Monday-Friday from 8:30am to 4:30pm. Additionally, the service provider will be open for arrest diversions from Skyway during "Green Light" shifts, which are designated hours when the service provider is open for arrest diversions from the Belltown neighborhood of downtown Seattle—the other geographic area where LEAD is operating. These Green Light shifts are set on a monthly basis by the service provider and the West Precinct squads of the Seattle Police Department, which are making referrals to LEAD. In advance of each month, the service provider will provide the Green Light calendar to KCSO Zone 4 command staff.

On the appropriate day, the service provider will notify the Special Emphasis Team Sergeant at KCSO that they are accepting diversions. The service provider will make ongoing determinations of program capacity during the day/shift when they are accepting diversions (i.e., if three people have been referred in the previous two hours, it is possible that staff will not be available to conduct another intake, and LEAD referrals may cease until a staff member is available again).

After a LEAD-eligible client is arrested, and prior to booking, the supervising sergeant will inform the arresting deputy that that individual can be diverted. The arresting deputy will call the LEAD service provider and the individual will then be turned over to the case management team for intake. The case management team and the arresting deputy will decide on a location approximately halfway between the arresting deputy's location in Skyway and the service provider's office in Belltown to arrange for the diverted individual to meet with the case manager as soon as possible after arrest. If the service provider is unable to meet the diverted individual immediately after arrest, the arresting deputy has the discretion to book the individual into jail and then refer him or her to the LEAD program on a post-booking basis.

The arresting deputy will determine based on the stated eligibility criteria, including her own assessment of the individual's amenability to the intervention model, whether an individual under arrest will be referred to LEAD. A prior referral does not preclude a second referral, but is a factor the deputy can consider with respect to the individual's amenability to the intervention model. For purposes of tracking LEAD participants' cases, KCSO deputies will complete and attach a "Zone 4 LEAD Program Eligibility" arrest cover sheet to the arrest report for *all* arrests that result in diversion to LEAD.

Staff of the LEAD social service provider(s) may also determine at the point of referral or subsequently that the individual is unlikely to make good use of the program's resources, and refer the case back to the zone commander for a filing decision.

Monthly, the LEAD team (LEAD program staff, zone deputies and commanders, the King County Prosecutor's Office, the Seattle City Attorney's Office if appropriate, Community Advisory Board representatives and the LEAD coordinators at The Defender Association) will hold staffing sessions in which referral decisions and program participant progress will be reviewed. To permit such discussions, LEAD participants who accept diversion will be required to sign waivers authorizing program staff to discuss their cases and progress with the other institutional partners at LEAD staffing sessions. 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.

Though they will be informed by the LEAD team staffing discussions, the King County Prosecutor's Office and the Seattle City Attorney's Office retain ultimate and exclusive authority to make filing decisions in all cases. Individual cases may be staffed more frequently via phone conference or other means as needed.

The King County Prosecutor will receive copies of the investigation packets on diverted cases, for review within 72 hours for compliance with the agreed diversion criteria, and for comparison with those cases in which suspects were jailed and referred for prosecution.

B. Eligibility Criteria for diversion to LEAD

Adults suspected of VUCSA and prostitution offenses will be eligible for diversion to LEAD and presumptively should be referred to LEAD, except when:

- The amount of drugs involved exceeds 3 grams (except that where an individual has been arrested for delivery of or possession with intent to deliver marijuana, or possession, delivery or possession with intent to deliver prescription controlled substances (pills), deputies will consider the other criteria listed here without reference to the amount limitation);
- The individual does not appear amenable to diversion;
- The suspected drug activity involves delivery or possession with intent to deliver (PWI), and there is reason to believe the suspect is dealing for profit above a subsistence income;
- The individual appears to exploit minors or others in a drug dealing enterprise;
- The individual is suspected of promoting prostitution;
- The individual has an existing no contact order, temporary restraining order, or anti-harassment order prohibiting contact with a current LEAD participant;
- The individual has an open case in Drug Diversion Court or Mental Health Court; and/or
- The individual has disqualifying criminal history as follows:

Without time limitation: Any conviction for murder 1 or 2 , arson 1 or 2, Robbery 1, Assault 1, kidnapping, VUFA 1, or any sex offense (or attempt of any crime listed here).

Within the past 10 years: Any conviction for a domestic violence offense, Robbery 2, Assault 2 or 3, Burglary 1 or 2, or VUFA 2.

Individuals who are arrested on a DOC warrant and/or for a DOC violation may be referred to LEAD. The arresting deputy (unless she is a DOC officer) should contact DOC personnel. DOC may determine that the DOC warrant should be quashed/withdrawn and the individual should be referred to LEAD.

Individuals for whom the LEAD program could reduce the harm of their activity to themselves and to the Skyway community, but who are not diverted on the current charge under this protocol (e.g., due to specific criminal history), may still be referred to LEAD services by law enforcement. It is possible that their involvement and progress in the LEAD program might be considered by the prosecutor or the court in subsequent charging, plea offer or sentencing decisions.

An individual who does not meet the threshold eligibility criteria (above) but whom the arresting deputy believes would be a good candidate for LEAD diversion may be accepted (post-booking) for diversion by the LEAD team on the recommendation of the arresting deputy. There is no substantive right to be offered LEAD diversion. LEAD eligibility is not intended to be a substantive right to be litigated.

C. 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.

Notwithstanding the above, if a suspect who would otherwise qualify for LEAD has an outstanding DOC warrant, the arresting deputy should contact NCI personnel. DOC/NCI may determine that the DOC warrant should be quashed/withdrawn and the individual should be referred to LEAD. Otherwise, the individual shall be booked into jail according to regularly applicable protocols and policies.

D. Referral of “social contacts” to LEAD; DOC CCO referrals

LEAD will also accept referrals from law enforcement of “social contacts,” that is, individuals perceived by deputies as at high risk of arrest in the future for low-level drug activity. Unlike its counterpart program operating in Belltown, it is anticipated that social contact referrals will be the primary mechanism of referral into LEAD for the Skyway community. Nonetheless, there is a lack of adequate resources to appropriately serve all individuals who might be eligible for social contact referral in Skwyay. In order to allocate

resources properly, the LEAD staff will set priorities and a maximum volume for social contact referrals, as well as monitor the program's capacity for such referrals.

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

- Prior documented involvement with narcotics (possession or delivery) or prostitution
 - “documented involvement” means:
 - A. Police reports indicating that the 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
 - B. arrest, or
 - C. jail booking, or
 - D. VUCSA/drug-traffic loitering or prostitution charges filed, or
 - E. conviction.
- Documented involvement with narcotics or prostitution **must** have occurred within the LEAD catchment area.
- Documented involvement with narcotics or prostitution must have occurred within 24 months of the date of referral.
- No existing case in Drug Diversion Court or Mental Health Court.

The Department of Corrections Community Corrections Officers (CCOs) may also refer individuals on community supervision for whom LEAD services are likely to provide assistance in preventing future law violations.

Community members may also notify KCSO deputies of individuals that they believe to meet the above social contact criteria. It is up to the KCSO deputies to determine whether such individuals actually meet the social contact criteria and to actually refer that individual to LEAD as a social contact. If a referral is determined to be ineligible for LEAD, a KCSO deputy or sergeant should provide a brief explanation of ineligibility to the community member who made the referral.

E. Intervention Protocol

Initial contact and referral by deputies. Following the decision to refer an individual to LEAD, the referring deputy will contact the LEAD program staff. The LEAD staff will come to an agreed-upon location that is approximately halfway between the Skyway community and the service provider office in Belltown. LEAD staff will be available to respond as soon as possible during designated periods when they are open for referrals.

When the outreach worker/case manager arrives, the referring deputy will provide her with basic information about the individual, including known criminal conviction history. The referring deputy will document in his report that the outreach worker/case manager was called, arrived, and provided with this information and the referring deputy will then release the suspect from custody. The deputy will then leave the outreach worker/case manager to engage the individual.

If a suspect is intoxicated or incapacitated and unable to engage effectively in the intake process, the suspect should not be referred to LEAD at that time. The suspect can be referred to LEAD at a later time according to the same process used for suspects initially ineligible due to criminal history exclusions. If, in the deputy and/or case manager's judgment, a suspect is unable to provide informed consent and/or poses a risk to self or others due to severe mental illness, the suspect will not be referred to LEAD. For non-intoxicated suspects, after the deputy leaves, the outreach worker/case manager will complete an initial screening and schedule a follow-up appointment to conduct a detailed intake assessment.

Arrest Cover Sheets. KCSO deputies and DOC officers who are making diversions to LEAD should complete and attach the "Zone 4 LEAD Program Eligibility" arrest cover sheet to the arrest report for every VUCSA arrest made. This cover sheet should be completed for all arrests resulting in diversion to LEAD.

Social Contacts. A deputy making a social contact referral should contact the individual he/she seeks to refer. If the individual contacted is willing to be referred to LEAD, the deputy can contact ETS REACH staff anytime on Mondays to Fridays, from 8:30am to 4:30pm, by calling the LEAD program coordinator at 206.588.9731. If the deputy contacts the LEAD program coordinator after hours, he or she can expect a return call the next business day. However, if the deputy is making a social contact referral during a Green Light Shift, the deputy should contact ETS REACH staff via the LEAD Green Light phone number at 206.588.9731.

For evaluation purposes, KCSO deputies will be asked to develop a list containing the names, dates of birth, and incident numbers of individuals who: (i) were encountered in a comparable neighborhood to Skyway, (ii) otherwise meet the LEAD social contact criteria, and (iii) would have been referred to LEAD if they had been encountered in the Skyway neighborhood.

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 case manager will first work to meet any immediate needs that must be addressed, such as shelter for the night. She will also thoroughly explain the diversion process and the assistance that might be available through the LEAD program for a willing participant.

During the initial screening, LEAD staff should instruct participants who are arrested in a

public place as part of a buy-bust operation that they cannot return to the location where they were arrested for their LEAD-referred offense for the next 24 hours. If participants are arrested during a buy-bust, and shortly thereafter, return to the scene of a buy-bust, they may possibly be arrested for compromising the safety of the undercover deputies who are working the buy-bust. This general restriction does not apply if the participant has good reason to return to the location of arrest—for example, if the location is the same as the participant’s arrest.

If an individual does not remain to complete the initial screening that immediately follows diversion, LEAD program staff will contact the supervising sergeant, and either the King County Prosecuting Attorney’s Office and/or the Seattle City Attorney’s Office by phone or email. KCSO may decide to re-arrest the individual or to refer the case to the prosecutor without arrest.

At the end of the initial screening for an arrest diversion, 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. If the participant is referred as a social contact, the LEAD staff will generally conduct both the initial screening and the in-depth intake assessment in the first meeting.

When completing the in-depth intake, the first task of LEAD staff is to determine the immediate cause of the individual’s drug or prostitution activity on the street. In addition, the case worker will survey a wide range of factors that might contribute to ongoing encounters with law enforcement. Such factors include, but are not limited to: chemical dependency (alcohol and other drugs), mental health problems, lack of housing, prior legal involvement and/or gang involvement, lack of previous employment, 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 problematic drug activity at the street level.

If an individual completes the initial screening, but affirmatively refuses or fails, within a reasonable time period, to complete the follow-up intake assessment, the LEAD social service provider will notify the King County Prosecuting Attorney’s office and/or the Seattle City Attorney’s Office. That office may then decide to file a criminal charge in, and prosecute, the offense that was initially diverted to LEAD.

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 Individual Intervention Plan, which will form both the action plan for the individual and a key element of program evaluation. As noted above, 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 individual to implement the intervention plan.

Although many elements of the intervention plan will be client-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 will either provide referrals to appropriate programs with available capacity (see discussion below of non-displacement principle) 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.

Withdrawal of services. Receipt of ongoing services is conditioned on the participant making, in the judgment of LEAD program staff, good use of the resources provided, and good progress toward reducing the harm his 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.

Regular staffing sessions with partners. Monthly, LEAD program staff will conduct a staffing meeting that includes the key partners in LEAD-Skyway: community advisory representatives, the King County Prosecutor's Office, the Seattle City Attorney's Office if appropriate, and at least during the demonstration period, the LEAD coordinators housed at The Defender Association. LEAD partners will use the staffing meetings to share information about program participants' 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 SPD in particular areas viewed with concern by community representatives.

Community report back. The LEAD team will periodically reach out to Skyway residents, businesses and community leaders to provide informational updates about LEAD operations and to receive feedback on areas of focus.

Goal of self-sufficiency; no time limit. 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 and/or GAU.

Since the objective is actually 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, rather, is simply whether, in the judgment of LEAD staff, the participant is continuing to make good use of the resources LEAD is dedicating to him.

Core principles. Core principles of the intervention approach include:

- **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 participants whom LEAD staff feel are not making progress toward reducing the harm caused by their behavior.

- **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 for 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 participants' identified needs, LEAD 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 community stakeholders and public safety leaders be able to participate in regular staffing meetings, have access to program performance reports, and have excellent access to program staff to suggest areas where outreach could usefully be concentrated. 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.
- **Resources allocated primarily to client services.** Approximately half of all program funding should be allocated to purchase services for clients.