



NEW ORLEANS POLICE DEPARTMENT OPERATIONS MANUAL

CHAPTER: 1.2.6

TITLE: ALTERNATIVES TO ARREST - DIVERSION

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PURPOSE

This Chapter establishes a Law Enforcement Assisted Diversion (LEAD) initiative in which people who could be arrested for or with a history of arrests for non-violent criminal offenses associated with addiction, homelessness, and mental health issues can be diverted out of the criminal justice system into community case management based on harm reduction principles.

POLICY STATEMENT

1. NOPD will employ LEAD to divert individuals from custodial arrest and prosecution who are suspected of having committed some low-level offenses, provided the individuals meet LEAD selection criteria, the individuals willingly participate in such diversion, sufficient resources exist to provide individual case management and services, and LEAD staff determine that such diversion is likely to reduce recidivism more successfully than arrest and detention.
2. The LEAD initiative authorizes police officers to utilize discretion, within the guidelines of the Chapter, to divert people custodially arrested for eligible offenses (listed in Appendix A of this Chapter) whose unlawful or problematic behavior is driven by unmanaged substance use, mental illness, or homelessness.
3. The LEAD team, starting with the arresting officer, will provide an immediate and brief assessment to determine what factors led the individual to engage in criminal activity and offer immediate crisis-related assistance, as needed and available.
4. Over time, and utilizing a harm-reduction framework, LEAD case managers will connect participants to comprehensive services designed to identify and address the causal factors to reduce the overall harm the individual is causing to themselves and the community.
5. Individuals referred to LEAD should be residents of New Orleans, with prioritization to the police districts to where LEAD is currently operational. LEAD New Orleans is not designed for individuals traveling through the city.
6. The referred individual is considered to be in LEAD if after two Operations Working Group (OWG) meetings, they have participated with a more comprehensive intake and assessment process and continue to stay involved in the LEAD programs. This may be evidenced by their participation level with the program and their cooperation regarding

the sharing of information on an as-needed basis among the OWG.

7. The LEAD Program Coordinator will make ongoing, real-time determinations of program capacity during the day/shift when the program is capable of accepting referrals (i.e., if three people have been referred in the previous two hours, it is possible that LEAD staff will not be available to conduct another intake, and LEAD referrals may cease until a staff member is available again).
8. The LEAD Program Coordinator, or their designee, shall update the Orleans Parish Communications District on changes in program working hours and capacity to accept diversions.
9. The officer, approving supervisor, or LEAD staff may, at any time in the process, reconsider the suitability of an individual for LEAD and **stop the diversion process** for any reason and make a recommendation to the OWG that the case be referred for prosecution. A final decision will be made by members of the OWG, including the individual's case manager, regarding appropriate course of action and immediate next steps.

DEFINITIONS

Biopsychosocial Model - a method positing that biological, psychological (thoughts, emotions, and behaviors), and social (socio-economic, socio-environmental, and cultural) factors all play a significant role in human functioning in the context of disease or illness or injury that may exhibit as criminal / legal problems.

Diversion—In the context of the LEAD-community-based-diversion approach, diversion means that a suspect who could have been charged with a non-violent crime, booked into jail, or issued a summons, and referred for prosecution, will instead be engaged by LEAD program staff (a program coordinator and case management team) working with the City's Health Department and a local service provider.

LEAD Packet – The LEAD Packet includes all necessary information for proper documentation of a case. This may include an offense/incident report, supplemental reports, and any attachments that would be required for a successful case outcome.

LEAD Program Coordinator —The LEAD Case Management Supervisor, the Outreach and Intake Coordinator, or a team lead who holds authority as authorized by the Case Management Supervisor. The individual in this role is a senior member of the case management team, and they will serve as a liaison amongst officers, case managers, community members, and individuals referred to LEAD. The LEAD Program Coordinator also assists with organizing the Policy Working Group (PCG) and the Operations Working Group (OWG), ensuring open communication among LEAD stakeholders.

LEAD Service Provider—An outreach and case-management team working for a behavioral health service provider designated by the City of New Orleans to provide immediate individual assessment of a suspect or individual referred by a New Orleans Police officer for diversion.

LEAD Staff—The behavioral health service provider personnel involved in the LEAD program, including an external LEAD Program Coordinator, Case Managers, and/or Outreach Staff who work with the Case Managers.

NOPD LEAD Coordinators (or District/Division Coordinators)—A member of the NOPD designated to assist with the coordination and communication between NOPD, and the behavioral health service providers selected to provide services for NOPD LEAD referrals. The

NOPD LEAD Coordinators will assist with training officers regarding the LEAD program and act as liaisons between officers and others involved in LEAD to ensure the program meets NOPD partner needs. Each NOPD LEAD Coordinator should be designated by the District/Division Commander and report LEAD cases and statuses to the District/Division Systems Administrator or their designee. Because the NOPD LEAD Coordinator responsibilities will often be in addition to an officer's regular duties, District/Division Commanders may designate more than one NOPD LEAD Coordinator to assist with LEAD efforts.

Operations Working Group (OWG) - A group of stakeholders, including NOPD's Subcommittee and LEAD staff, responsible for developing and amending the referral and diversion protocols, staffing program participants' cases per the Protocols, and providing periodic reports on resource utilization and participants' progress to the Policy Coordinating Committee. The OWG shall be comprised of and include personnel from the agencies involved in LEAD's daily operations.

Pre-Arrest Diversion – The process of diverting an individual who has allegedly committed a LEAD eligible offense out of the criminal justice system and into community-based case management. Pre-arrest diversion case files are held by the police agency responsible for initiating the diversion.

Policy Coordinating Group (PCG)—The individuals designated by participating agencies who are responsible for reviewing and providing feedback on the referral and diversion protocols for LEAD candidates, reviewing and providing feedback on periodic reports from the OWG, making criminal justice and human services system data available for comparison and evaluative purposes, and providing policy and media guidance and administrative oversight for the LEAD program's operation and evaluation.

Social Contact Referral –The process of referring eligible people into LEAD without having to wait for individuals to be arrested for a LEAD-eligible criminal offense. Social contact referrals enable police officers to refer an individual whose criminal justice involvement stem from problematic substance use, mental illness, poverty, or homelessness to services.

LEAD ELIGIBILITY

10. The LEAD program may be used to assist individuals who are known to or may perpetrate the crimes listed in Appendix A of this chapter and meet the criteria outlined in the following paragraphs.
11. The initial primary decision maker will be LEAD-trained law enforcement officers on the street and their supervisors.
12. There is no exception to the requirements for use of Body Worn Camera (BWC) or In-Car Camera (ICC) during any stop, arrest, screening, and diversion under this Chapter. BWC and ICC, if applicable, shall remain in use from moment of contact through the final mark-up of the incident/item (see: **Chapter 41.3.10 – Body Worn Camera** and **Chapter 41.3.8 – In-Car Camera**).
13. Officers and supervisors will make a series of decisions (field screening criteria) about the suspects they contact to determine whether or not those suspects should be diverted to the LEAD service provider or processed as an in-custody physical arrest and booked.
14. All field screening of suspects for LEAD suitability shall begin with a complete record check of the suspect by the arresting officer. Attempts at concealment of true identity or total lack of available data in the records system are examples of criteria the arresting officer can use to assess suitability for diversion.

15. The officer shall utilize the following screening criteria when determining the offense or suspect's eligibility for LEAD:
 - (a) Only **adults** at the age of 18 or older are suitable for LEAD.
 - (b) Only **non-violent** criminal offenses are suitable for LEAD.
 - (c) The individual cannot have been physically combative with the officer at any time during the entire process from the initial stop to the turnover to LEAD service provider.
 - (d) If there is a **victim present who objects** to the diversion, once explained by the officer, it will not take place.
 - (e) If the suspect requires immediate medical treatment, including but not limited to detoxification, LEAD cannot take place. Instead, the suspect will be brought to the appropriate facility for medical treatment. The enforcement action will be processed as a non-diversion action.
 - (f) If the suspect is unable to provide **informed consent** (impaired due to drugs or alcohol, as well as mental incapacity) to participate in LEAD, diversion will not take place, and the suspect will be brought to the appropriate facility for medical treatment. The enforcement action will be processed as a non-diversion action.
 - (g) If the suspect is gravely disabled due to mental crisis, LEAD referrals will not take place (see **Chapter 41.25 – Crisis Intervention**).
 - (h) The suspect displays no interest in being offered services through a community-based diversion program rather than being issued a summons, or taken to and booked into jail, or the suspect's words and actions about diversion indicate it would be futile to attempt a diversion strategy.
 - (i) Otherwise, eligible offenses that are associated with domestic violence incidents are NOT eligible for LEAD referral.

LEAD PRE-ARREST REFERRAL PROCESS

16. When a LEAD-eligible person is identified, and prior to the conclusion of any enforcement action, the officer or supervisor will contact the LEAD service provider/LEAD staff on duty at the designated LEAD phone number, or through OPCD, and provide them with pertinent information: the officer's name, the suspect's name, and a hand-off location.
17. The updated dedicated LEAD contact phone numbers will be disseminated by NOPD's Professional Standards and Accountability Bureau and updated accordingly and will be provided to OPCD by the LEAD Program Coordinator.
18. A determination will be made with the officer, the supervisor, and the LEAD contact if the subject will be accepted into the LEAD program based on availability in and criteria of the program.
19. The officer or supervisor shall inform the LEAD-eligible person that they must complete the LEAD intake assessment and establish their participation with the program or a warrant may be issued for the original offense.
20. The officer will document the time the service provider arrived at the hand-off location and agreed to accept the individual into the program in their report. The service provider will gather any necessary additional information from the officer, will conduct a brief assessment of the suspect, and secure the suspect's signature on the consent form.
21. All pre-arrest LEAD referrals require an offense/incident report to document the probable cause for arrest and the LEAD referral. The report, at a minimum, shall include:

- (a) the officer's name,
 - (b) the district of occurrence,
 - (c) the suspect's name and identifying information
 - (d) the hand-off location,
 - (e) the underlying offense that led to the LEAD referral, and
 - (f) a brief probable cause statement.
 - (g) A clear statement in the narrative that the suspect has been referred to LEAD.
22. The officer or supervisor making the referral and completing the paperwork will notify, by email, the designated NOPD LEAD Coordinator for the district of occurrence and the referring officer's district/division commander and assistant commander. The coordinator will ensure a copy of the report is provided to the LEAD service provider for the district of referral.
23. In all instances where FIC documentation would otherwise be necessary, the offense/incident report is sufficient, and no FIC is necessary.
24. The service provider or LEAD staff may determine, at the point of referral, that the person is unable or unwilling to follow through with an intake or assessment within the allowed timeframe and refer the individual/case back to the arresting officer for issuance of an arrest warrant for the original offense.
25. If the diversion is accepted on scene, the officer may clear the scene, contact OPCD and provide the appropriate disposition to close the incident after taking appropriate action. OPCD should note the time of contact by the officer so an evaluation of the efficiency of the program can be made (If the contact resulted in a LEAD pre-arrest referral the appropriate mark-up would be "RTF one LEAD Referral").
26. The officer or supervisor who made the referral (field screening) to LEAD will:
- (a) Complete the necessary paperwork as appropriate for the charge and signal that would be needed to refer the case to the appropriate prosecutorial body.
 - (b) Forward the LEAD packet for review to the officer's supervisor.
 - (c) The supervisor shall forward the LEAD packet to their District/Division LEAD Coordinator, who will track it and ensure the proper follow-up documentation is taken, if necessary.
27. After the subject has been referred to LEAD, the officer, supervisor, or LEAD may recommend the OWG stop the diversion process if the individual demonstrates continued criminal conduct. A final decision will be made by the OWG, including the individual's case manager, regarding the appropriate course of action and immediate next steps.
28. If the suspect has not meaningfully participate in the LEAD program after two meetings of the OWG, the NOPD may pursue an arrest warrant for the original offense. NOPD LEAD Coordinators are responsible for ensuring arrest warrants are issued and follow-up documentation is completed in the event a LEAD Participant is referred for prosecution.

SOCIAL CONTACT REFERRALS

29. A social contact referral is a tool to prevent future harm caused by potentially avoidable engagement in the criminal legal system through an offer of LEAD. Social contact referrals should be made by law enforcement and criminal justice system partners prior to an individual committing a LEAD-eligible offense. Officers are reminded that individuals eligible for referral to LEAD must participate voluntarily.
30. Participants who are enrolled through a social contact referral follow the same processes as pre-arrest diversions, including signing a release of information, completing a biopsychosocial intake, and working with a case manager. The only difference is that there is no potential charge that can be filed if they don't complete the psychosocial intake.
31. Individuals who enter LEAD through social contact referrals should be consistent with the target population who enter through pre-arrest diversion. Specifically, this person should be thought to be struggling with mental illness, substance use, trauma, poverty, or homelessness and may have an arrest history related to such conditions or, due to such conditions, be engaging in behaviors that may lead to arrest in the future. Individuals who do not have the resources or support likely to reduce such behaviors may be appropriate for case management.
32. Social contact referrals, like pre-arrest diversions, are completely voluntary and are not to be used by any criminal legal system actor to further system efforts. Any information shared about clients should not be used against the client in any pending cases or supervision. Information should only be used to collaborate, coordinate care, and to advocate for the client's own goals.

SOCIAL CONTACT REFERRAL PROCESS

33. To the extent that LEAD has the capacity for additional participants an individual who fits the outlined criteria, but who is not subject to arrest for a new crime, may be referred into case management through LEAD.
34. Officers encountering or becoming aware of an individual who meets the criteria for LEAD, may contact the LEAD service provider/LEAD staff by phone or email to provide them with the information regarding the referral. The officer will provide the following information:
 - a. Whether the subject has indicated they are willing to voluntarily commit to participating in the program
 - b. The subject's name, identifying information, contact information, and residence (or location where they may be contacted in person), any arranged meeting dates and location, if the LEAD intake staff has been contacted and determined one will take place.
35. When making a social contact referral, the officer making the referral shall contact OPCD and obtain an NOPD signal 21 item to document the contact took place in OPCD records. The disposition of the interaction should be provided to OPCD as "REF" (Referred to other agency) with the comment indicating one or more LEAD social contact referrals. No other documentation needs to be completed by NOPD for social contact referrals.
36. Any new social contact referral will be discussed and approved at the next OWG meeting.

37. If a participant is approved, the referring member of the OWG will work with the case manager to determine the best plan of action to reach out to the participant.
38. NOPD will assist in tracking LEAD referrals made under pre-arrest diversion and may assist the LEAD Program Coordinator with tracking social contact referrals through OPCD.

APPENDIX A – LEAD ELIGIBLE OFFENSES

The following municipal code offenses and their state misdemeanor equivalents will be eligible for referral to the LEAD Program:

Municipal Code	Offense	State Equivalent
54-401	Obstructing a Public Place	14:100.1
30-661	Failure to Appear	N/A
54-412	Aggressive Panhandling	N/A
54-419	Aggressive Solicitation	N/A
54-403	Disturbing the Peace	14:103
54-505	Simple Possession of Marijuana	40:966(C)
54-254	Lewd Conduct	14:106
54-153	Criminal Trespass	14:63
54-186	Theft (Non-Felony)	14:67
54-405	Public Drunkenness	N/A
150-953	New Business; License Required	N/A
54-441	Resisting / Obstructing an Officer (non-violent)	14:108
54-151	Criminal Damage to Property	14:56
154-304	Lawful use of License	32:414.1
102-113	Drug Paraphernalia	40:1033
154-307	Valid License Plate	47:505, 47:507
54-450	Interfering with Lawful Investigation	14:329
154-383	Careless Driving	32:58
54-188	Possession of Stolen Things (Non-Felony)	14:69
54-152	Tampering	14:59
154-240	Driving on Roadway Laned for Traffic	32:79
154-236	Meaning of Signals	32:232
154-308	Registration Required	47:501
N/A	No Proof of Auto Liability Insurance	32:863.1
54-487	Misrepresentation of Name/Age/Address	14:133
154-234	Obedience to traffic-control devices	32:231(A)
154-301	Driver's License required	32:52
54-251	Prostitution	14:82
54-407	Alcoholic Beverages in Motor Vehicle	32:300
54-376	Cruelty to Animals	14:102
110-46	Mayoralty Permits Required	N/A
54-411	Begging	N/A
N/A	Simple Possession of a CDS	40:966(C), 40:967(C), 40:968(C), 40:969(C), 40:970(C)