

Law Enforcement Assisted Diversion (LEAD) Policy

436.1 PURPOSE AND SCOPE

The purpose of this directive is to establish procedures to implement the Law Enforcement Assisted Diversion (LEAD) initiative where low-level criminal offenders can be diverted from the criminal justice system to harm reduction-based services. The LEAD initiative allows deputy sheriffs discretion to divert low-level, non-violent offenders, whose offense is driven by problematic substance use, mental-illness, homelessness, or poverty away from the criminal justice system.

436.1.1 DEFINITIONS

Definitions related to this policy include:

Harm Reduction - is a range of public health policies designed to lessen the social and/or physical consequences associated with various human behaviors, both legal and illegal.

Lead Care Coordinator - works under the supervision of the St. Mary's County Health Department to provide care coordination services.

Opioid Senior Policy Group (SPG) - refers to the signatories of the Memorandum of Understanding, including the St. Mary's County Sheriff's Office, St. Mary's County Health Department, the State's Attorney's Office, and the Public Defender's Office. The SPG is the governing body of the LEAD initiative and is responsible for:

- reviewing and approving referral and diversion protocols;
- reviewing and approving Requests for Proposals (RFP) for securing service providers;
- planning expansion or contraction of the geographic area of operations;
- reviewing and providing guidance on reports from the OWG;
- overseeing the hiring process;
- and providing guidance to the Project Manager.

Operational Workgroup (OWG) - includes personnel from the agencies who are involved in the day-to-day operations of LEAD. The OWG is staffed by operational level personnel from the St. Mary's County Sheriff's Office, State's Attorney's Office, Public Defender's Office, LEAD Care Coordinator, peer recovery specialists, and any necessary service providers. The OWG is charged by the SPG to:

- develop and amend referral and diversion protocols;
- review active diversion/referral cases;
- provide operational support to the LEAD Care Coordinator and peer recovery specialists;
- and provide periodic operational level reports to the SPG.

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Social Contact Referral - is the process of referring an individual who has not committed a criminal offense to a LEAD Care Coordinator for services. Social contact referrals enable deputy sheriffs to refer an individual who is involved and is afflicted by problematic substance use, mental illness, poverty, or homelessness to services without having to wait for them to commit a criminal offense.

- To the extent that LEAD has the capacity for additional participants, an individual who fits the outlined criteria, but has not committed a new crime, may be referred to the LEAD Care Coordinator.
- Any social contact referral from an agency outside of St. Mary's County outside of SMCSO or SMCDRC will be discussed and approved at the operational workgroup meeting.

Stop Referral - is the process of referring adults suspected of minor violations related to controlled dangerous substance (CDS) or prostitution-related offenses to the LEAD program by a LEAD-trained deputy sheriff.

436.2 POLICY

The St. Mary's County Sheriff's Office recognizes that community-based care for people who commit law violations related to behavioral health issues or extreme poverty can be a beneficial alternative to punitive enforcement-based responses. Therefore, it is the policy of the St. Mary's County Sheriff's Office to implement and maintain a LEAD initiative.

436.3 GUIDING PRINCIPLES

- (a) Harm Reduction Philosophy -Participants will be engaged where they are in their lives and recovery; they will not be penalized or denied services if they do not achieve abstinence.
- (b) Community Transparency and Accountability - Community stakeholders and public safety leaders shall participate in regular staff meetings and have access to program performance reports and program staff.
- (c) Participant Confidentiality - The confidentiality of LEAD Participants and a respect for their privacy are crucial components to their success and to ethical service delivery. LEAD stakeholders and operational partners recognize that participant data security is always a priority and that participant safety and reputation depend on a commitment to confidentiality and privacy.

436.4 LEAD TRAINED MEMBER SELECTION

- (a) LEAD trained members will normally be comprised of First Line Supervisors and Rank and File officers assigned to the Patrol and Special Operations Division. LEAD trained members must have successfully completed Field Training prior to selection. The Patrol and Special Operations Division Commanders will determine selection based upon the employee's performance, current job assignment, and collateral duties to determine whether the employee should attend the initial training.

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- (b) LEAD trained members must successfully complete an initial training course prior to initiating LEAD referrals.

436.5 ELIGIBILITY

- (a) Persons who have a known history of alcohol, drug, poverty, homelessness, or mental health related needs will be eligible for diversion into LEAD when probable cause exists that the individual committed any of the following offense(s):
 1. Non-violent misdemeanor(s)/violations(s);
 2. Non-violent St. Mary's County Ordinance violation(s) and the individual committed the offense(s) in relation to an alcohol, drug, poverty, homelessness, or mental health need. In cases where a victim exists, they must be willing to decline prosecution to allow the individual access to LEAD.
- (b) Deputy sheriffs and their supervisors will be the primary decision makers for LEAD Referrals based on LEAD training and officer discretion.
- (c) LEAD-trained deputy sheriffs will utilize LEAD Law Enforcement Referral and Screening Forms, SMCSO Forms #411 and 411A, when making referrals.
- (d) Exceptions – Individuals will not be referred to the LEAD program when:
 1. the individual does not appear amenable to diversion;
 2. the individual is unable to give consent;
 3. the suspected drug activity includes the sale of drugs or an amount consistent with distribution;
 4. the individual exploits minors or other individuals;
 5. there is probable cause to believe the individual committed a violent offense;
 6. there is probable cause to believe the individual violated an order of protection;
 7. there is probable cause to believe the individual committed a domestic violence related offense;
 8. the individual is suspected of promoting prostitution;
 9. the individual is a registered sex offender;
 10. the individual needs acute emergency care due to being a danger to themselves or others;
 11. the individual has outstanding warrant(s);
 12. the individual is on any type of court-imposed supervision in any jurisdiction;
 13. without time limitation, the individual has been convicted of any of the following offenses (including attempts): Murder (any degree), Arson 1st or 2nd, Robbery, Assault 1st, or any sex crime.
 14. within the last 10 years, the individual has been convicted of any of the following offenses (including attempts): Robbery, Assault 2nd, Weapons Violations, or Burglary 1st or 2nd.

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- (e) If the individual meets one or more of the non-eligible exceptions listed above and the deputy sheriff feels they may be a viable candidate for the LEAD program, the deputy sheriff may complete a referral form. This referral will be reviewed at the Operational Work Group to determine if the individual will be accepted in to the program.

See attachments: [411 SMC Diversion Victim Consent Form](#) and [411A LEAD Referral and Screening Form \(R11-22\)](#)

436.6 PROCEDURES

- (a) Upon either making a warrantless arrest (based upon probable cause under Maryland law) or an Investigative Stop (based upon reasonable articulable suspicion), a LEAD trained deputy sheriff will make an immediate assessment whether the suspect is eligible for the LEAD program.
- (b) If the individual is eligible to participate in the LEAD program, advise the individual about the LEAD program and ask if they would like to participate in the program.
 - 1. Explain and answer any questions about eligibility.
 - 2. Stress that participation is voluntary.
 - 3. Note that further screening will take place and they may still be charged if deemed ineligible upon further screening.
- (c) If the individual does not want to participate in the LEAD program, the deputy sheriff may transport the individual for arrest processing or release the individual with a request for a criminal summons if there is probable cause to arrest.
- (d) If their offense involved a victim, consent must be given through a completed Diversion Consent Form.
- (e) Stop Referral Process – If the individual does wish to participate in the LEAD program:
 - 1. Contact the LEAD Care Coordinator to provide a brief overview of the incident and determine where they will meet. If the individual is to be released to their residence, the LEAD Care Coordinator will follow up within 24 business hours. During business hours, the location will be mutually agreed upon by the deputy sheriff and LEAD Care Coordinator.
 - 2. Complete the LEAD Law Enforcement Referral and Screening Forms, SMCSO Forms#411 and 411A, and provide a photocopy to the LEAD Care Coordinator.
 - 3. Evidence and property collected will be packaged, marked, and submitted in accordance with the Property Policy.
 - 4. The incident and referral status will be documented in the original report and forwarded for supervisory review.
- (f) Social Contact Referral Process
 - 1. When a LEAD trained deputy encounters an individual with a known history of alcohol, drug, poverty, homelessness, or mental health related needs who may be well served by LEAD, they may make a referral utilizing the LEAD Law

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Enforcement Referral and Screening Forms, SMCSO Form #411 and 411A, which will be photocopied and provided to the LEAD Care Coordinator.

2. The Social Contact referral is a tool to prevent future harm caused by drug abuse. The eligibility requirements for Stop Referrals also apply to Social Contact Referrals.
3. The incident and referral status will be documented in the original report and forwarded for supervisory review.

Attachments

411 SMC Diversion Victim Consent Form.pdf

St. Mary's County Victim Consent Form LEAD

DATE: _____

CASE NUMBER: _____

Dear _____,

To provide the highest level of law enforcement service to the victim of crime, while providing the highest probability of successful outcomes for offenders, St. Mary's County Sheriff's Office actively participates in a Diversion Program. As part of that program, the Sheriff's Office is working with the St. Mary's County Health Department to divert certain offenders from the criminal justice system. The diversion program is designed to address the underlying causes of the offense and provide services that will reduce recidivism.

Before an offender can be evaluated for referral to the diversion program, the victim of the alleged crime must give consent. **Restitution can be part of the diversion process.** A positive response on this consent request does not guarantee involvement in the program. It only allows for the individual to be considered. If, after evaluation, the individual is deemed to be ineligible for diversion, the individual will be booked, charged, and prosecuted. As the victim, you will be notified via mail as to the decision that was made.

Please indicate your wishes below:

I have read and considered the above stated notification and give my consent for the offender in this case to be considered for the Diversion Program.

I have read and considered the above stated notification and DECLINE to give my consent for the offender in this case to be considered for the Diversion Program. I understand that this individual will be charged and will face possible criminal prosecution.

VICTIM'S SIGNATURE

DATE

411A LEAD Referral and Screening Form (R11-22).pdf

St. Mary's County LEAD Law Enforcement Referral and Screening Form

Referring Officer Name/ID#		CCN #	
Date & Time			
Location		Dist/Sec/Beat	

Client Information

Name		DOB		Gender	
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<u>Address</u>		<u>Homeless (Y/N)</u>		Phone #	
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Referral Recommendation:

- Individual meets eligible criteria and is referred to LEAD via an Arrest Diversion.
- Social Contact referral because individual is perceived to be at high risk of arrest in the future for low level criminal activity and meets eligible criteria.
- Individual is a viable candidate **BUT** does not meet the LEAD eligibility criteria.
 - **This type of referral will be reviewed at the Operational Work Group to determine if they will be accepted into the program.**
- Individual is **NOT** a viable candidate currently due to: (CHECK ALL THAT APPLY)
 - Individual declines services or referral opportunity.
 - Individuals DOES NOT meet LEAD eligibility criteria.
 - Medical conditions at the time of arrest that require immediate medical treatment, detoxification or referral to hospital.
 - Unable to provide informed consent or cooperate with intake due to medical or mental condition.
 - Risk to self or others due to mental illness or current drug/alcohol effects.
 - The individual has existing no contact order, temporary restraining order, or anti- harassment order prohibiting contact with a current LEAD participant, justice system employee, or social services facility or employee.
 - Other: (Please explain) _____

Referring Officer: _____

If Client is referred to LEAD

Was a warm handoff to the LEAD Coordinator completed? Yes No

If Yes, complete the following:

Hand off location	
Hand off time	
LEAD Peer Recovery Specialist	

Release of Information

Client Name: _____ DOB: _____

I give permission for the St. Mary's County Sheriff's Office to share information relating to my diversion and previous police contacts with the St. Mary's County Health Department to access services and secure resources on my behalf. I understand that information will only be shared when necessary to meet the requirements of my established service plan.

Signature of LEAD Program Client

Date/Time

Release of Liability

I, _____, hereby release and forever discharge the St. Mary's County Sheriff's Office and all of its officers, agents, and employees, and any and all other persons from any and all claims which I may have for wrongful conduct by reason of my arrest, detention, or confinement on or about _____. This General Waiver and Release is conditioned on my participation in the Law Enforcement Assisted Diversion Program and shall be void if the conditions of the program are not met.

Signature of LEAD Program Client

Officer Signature