

The BJA Executive Session on

# Police Leadership

2013

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The principals are supported in their work by a team that includes project co-directors Darrel W. Stephens and Bill Geller, project strategist Nancy McKeon, and BJA Senior Policy Advisor Steve Edwards.

## Five Police Departments Building Trust and Collaboration

Innovations in Policing Clinic  
Yale Law School  
Seattle, Washington

Short Version of the Case

by

Jeremy Kaplan-Lyman



## Short Version of the Case

### Trust and Collaboration in Seattle, Washington

Jeremy Kaplan-Lyman, in collaboration with members of Yale Law School's Innovations in Policing Clinic

#### Introduction

In the 1980s and 1990s, Seattle, Washington, experienced a rise in drug use and sales. The Seattle Police Department (SPD) responded by focusing on the most significant drug threats to the community: heroin, cocaine, crystal meth, and ecstasy. The SPD attempted to rely on arrest, prosecution, and incarceration to fight the sale and use of drugs.

However, through the 1990s and 2000s, the SPD's approach to drug enforcement was controversial. The SPD's strategy had no lasting effect on open-air drug markets and other drug-related activity. Residents complained increasingly about open drug dealing, drug use, and the disorder that resulted from drug activity.

SPD drug enforcement practices simultaneously attracted mounting criticism from civil rights organizations for being unnecessarily punitive and racially discriminatory. Despite the general dissatisfaction with SPD's approach to drug enforcement, there was little dialogue between SPD and community critics about how to improve drug policing in Seattle.

By the late 2000s, Seattle's criminal justice stakeholders were aligned against the city's drug enforcement policies. A lawsuit by the Racial Disparity Project against SPD sparked dialogue between SPD and its critics. The SPD met with community groups to reach common ground and determine if they could collaborate on a better approach to drug law enforcement.

Collaboration between SPD and a coalition of community groups—from the Racial Disparity Project and the American Civil Liberties Union (ACLU) of Washington to the SPD and the King County Prosecutor's Office—yielded the Law Enforcement Assisted Diversion (LEAD). After several years in development, LEAD launched in October 2011.

LEAD is a non-punitive policing strategy that diverts eligible low-level drug and prostitution offenders to community-based treatment and support services rather than arrest and prosecution. Its principles are non-displacement, ensuring LEAD participants do not "skip" in line for social services; a strategy of harm reduction, acknowledging that rehabilitation is a long process and focusing first on the greatest threats to personal and community wellbeing; and peer-to-peer counseling, reinforcing the program's rehabilitative efforts.

As of the writing of this report, LEAD has been in operation for fewer than six months. While it is not yet possible to formally analyze LEAD's outcomes, LEAD offers police leaders and reformers several significant lessons.

The creation of LEAD demonstrates how collaboration that includes the community can generate innovative policing strategies that benefit all stakeholders. In this case, collaborative efforts produced unique innovations that neither actor could have developed separately. Moreover, collaboration granted SPD's reform increasing credibility and political capital. LEAD has also pioneered a new non-punitive approach that may be more effective and less costly than both the SPD's historic policing strategy and non-punitive alternatives.

## Background on Seattle

Seattle is a mid-sized city of about 600,000 residents.<sup>1</sup> Despite pockets of diversity,<sup>2</sup> the city is predominantly white.<sup>3</sup> The population is 66% non-Latino and white, 14% Asian, 8% black, 7% Latino, 5% multi-racial, and nearly 1% American Indian.<sup>4</sup>

Seattle is a relatively affluent city, with a median household income significantly above the national average and poverty rate significantly below the national average.<sup>5</sup> However, poverty rates vary widely by race.<sup>6</sup> Seattle also has a large and highly visible homeless population. About 9,000 people are estimated to be homeless in Seattle's King County.<sup>7</sup>

The rate of violent crime in Seattle is significantly lower than the national average.<sup>8</sup> As in many other American cities, crime in Seattle has been on the decline for well over a decade. The rate of homicide in 2010 dropped to its lowest level since 1956.<sup>9</sup>

SPD has more than 1,200 full-time officers<sup>10</sup> and an annual budget of more than \$240 million.<sup>11</sup> In 2008, 76% of sworn personnel were white, 9% were black, 8% were Asian, 5% were Latino, and 2% were American Indian.<sup>12</sup> Chief John Diaz has led SPD since 2009.

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<sup>1</sup> United States Census Bureau, City and County QuickFacts, Seattle, Washington (hereinafter QuickFacts Seattle).

<sup>2</sup> G. Willow Wilson, *America's Most Diverse Zip Code Shows the Way*, AOL News, Mar. 25, 2010.

<sup>3</sup> Lornet Turnbull & Justin Mayo, *Census Ranks Seattle Among Whitest Big Cities*, The Seattle Times, Apr. 23, 2011.

<sup>4</sup> QuickFacts Seattle, *supra* note **Error! Bookmark not defined.**

<sup>5</sup> *Compare* QuickFacts Seattle, *supra* note **Error! Bookmark not defined.** with United States Census Bureau, State and County QuickFacts, USA.

<sup>6</sup> *Seattle Poverty Rates Vary Widely*, Demographic Snapshots, Dec. 2003, at 1.

<sup>7</sup> Scope of Homelessness in King County, Committee to End Homelessness King County (last visited Dec. 15, 2011).

<sup>8</sup> In 2010, the national violent crime rate for mid-sized cities was 806.6 reported incidents per 100,000 people. FBI, Table 16, Rate: Number of Crimes per 100,000 Inhabitants by Population Group, 2010 (last visited Dec. 15, 2011) (hereinafter FBI, Table 16). FBI, Table 8, Washington, Rate: Number of Crimes per 100,000 Inhabitants by Population Group, 2010 (last visited Dec. 15, 2011) (hereinafter FBI, Table 8).

<sup>9</sup> Telephone interview with Chief John Diaz, Chief, Seattle Police Department (Dec. 15, 2011).

<sup>10</sup> The rank of officer does not include detectives, sergeants, lieutenants, captains, or command staff. Seattle Police Department, 2009 Annual Report 14 (2010).

<sup>11</sup> *Id.* at 13.

<sup>12</sup> Seattle Police Department, 2008 Annual Report 17 (2009).

In the 1980s and 1990s, Seattle experienced a significant rise in drug sales and use. In the early 1990s, heroin emerged as the dominant drug concern.<sup>13</sup> Crack cocaine, powder cocaine, crystal meth, and ecstasy also became pervasive over this time period.<sup>14</sup> As drug use increased, so did the broader social impacts associated with drug use and sales—for example, open-air drug markets dotted the city.<sup>15</sup> Rising drug use and sales increased drug-related violence.

Throughout the 1990s and 2000s, SPD approached low-level drug offenses with a punitive strategy based on arrest, prosecution, and incarceration. While some services were available for drug-dependent individuals,<sup>16</sup> social services were not connected to policing efforts. Their enforcement efforts were reactive—driven by responses to civilian complaints. As a result, they focused on open-air drug dealing and use, which create public disorder.<sup>17</sup>

The SPD relied on buy-and-bust operations as a tactic.<sup>18</sup> Officers purchased drugs from dealers and police arrested the dealer for selling drugs. The SPD used buy-and-bust operations to target localized drug markets on a particular street corner or block. The SPD only occasionally used other tactics, including “see-pop,” in which officers observe and then arrest drug dealers on the street; reverse buy-busts; and Drug Market Intervention (DMI).<sup>19</sup>

The SPD’s approach to low-level drug enforcement in the 1990s-2000s drew criticism from civil rights organizations and community groups. The SPD was arresting blacks for drug-related offenses at rates vastly disproportionate to their percentage of the population—and disproportionate to the rate at which blacks were using and selling drugs.<sup>20</sup> These racial disparities were among the worst in the nation.<sup>21</sup>

Public defenders in Seattle used evidence of racial disparities to fight drug prosecutions. The Racial Disparity Project brought a selective enforcement challenge on behalf of 19 clients facing drug charges.<sup>22</sup> Other critics targeted harsh sentencing for low-level drug offenses, blaming them for rising rates of incarceration and increased racial disparities in

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<sup>13</sup> Amy Jennings, *Shithole*, *The Stranger*, Oct. 23, 2012.

<sup>14</sup> Telephone interview with Steve Brown, Captain, Seattle Police Department (Dec. 28, 2012).

<sup>15</sup> Jennings, *supra* note 14.

<sup>16</sup> Interview with caseworkers at Evergreen Treatment Services (Feb. 09, 2012).

<sup>17</sup> Tal Klement and Elizabeth Siggins, *A Window of Opportunity: Addressing the Complexities of the Relationship Between Drug Enforcement and Racial Disparity in Seattle*, 1 *Seattle Journal for Social Justice* 165, 206 (2002); Telephone interview with Steve Brown, *supra* note 15.

<sup>18</sup> Klement and Siggins, *supra* note 18, at 198; Interview with Thomas Yoon, Sergeant, Seattle Police Department (Feb. 06, 2012).

<sup>19</sup> Telephone interview with Steve Brown, *supra* note 15; Interview with Thomas Yoon, *supra* note 19; Interview with Brian Kraus, Sergeant, Seattle Police Department (Feb. 06, 2012).

<sup>20</sup> See Sam Skolnik, *Drug Arrests Target Blacks Most Often: Study Finds Racial Disparity; Chief Pledges to Review Issue*, *Seattle Post-Intelligencer*, May 14, 2001 (reporting on 2000 Harvard Kennedy School study finding racial disparities in drug enforcement in Seattle); Katherine Beckett, *Race and Drug Law Enforcement in Seattle*, 2008.

<sup>21</sup> *Id.* at 55.

<sup>22</sup> The Racial Disparity Project, *Helping the Client and Changing the System* 3.

incarceration.<sup>23</sup> They contended that using arrests, prosecution, and incarceration to deal with low-level drug offenses were expensive and ineffective.<sup>24</sup>

Externally, the SPD denied claims of racial bias in drug law enforcement; internally, SPD harbored concerns about its drug enforcement practices. Department leaders stated that they wanted to address racial disparities but emphasized that their policing tactics were responsive to civilian complaints and not race-based.

Police officers recognized that a handful of repeat offenders made up a significant part of their workload. SPD found that in one neighborhood, 54 individuals had been collectively arrested more than 2,700 times.<sup>25</sup> Despite a decade of drug enforcement focused on drug hotspots, open-air drug markets throughout the city persisted unabated. Officers realized their efforts were not in any way reducing levels of drug use or permanently eliminating drug markets.

Police and prosecutors were also increasingly concerned about the cost of arresting and incarcerating low-level drug offenders.<sup>26</sup> The city and county prosecuted fewer and fewer low-level drug crimes because of budget concerns.<sup>27</sup> The low-level drug offenders they were arresting would be back on the street a few days later; many would not be prosecuted at all.<sup>28</sup> As a result, police officers stopped arresting individuals using drugs or those carrying only paraphernalia and small amounts of controlled substances.

## Seattle's Strategy

What sets Seattle apart is how leaders from a broad array of institutions with conflicting missions collaborated to create a new approach to low-level drug policing. Although the former adversaries did not agree on everything about drug enforcement, they did agree on some fundamental principles.

A working group representing a broad coalition of legal and political organizations contributed to the creation of LEAD. Participants included the Racial Disparity Project, the ACLU of Washington, the King County Prosecutor's office, the Seattle City Attorney's office, the Seattle Mayor's office, and the SPD.<sup>29</sup> By incorporating so many different organizations into the design of the new program, LEAD organizers ensured that the program had broad political support.

The collaborators acknowledged that (1) arresting, prosecuting, and incarcerating low-level drug offenders had limited effectiveness in improving public safety and order; and

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<sup>23</sup> Le Roi Brashears, *Same Crime, More Time*, Seattle Post-Intelligencer, May 29, 2007.

<sup>24</sup> See Jane Hadley, *A Unified Call to End the War on Drugs: Doctors, Pharmacists, Lawyers Say it Doesn't Work*, Seattle Post-Intelligencer, Dec. 13, 2001 (interviewing critics of the war on drugs).

<sup>25</sup> Sara Jean Green, *Seattle Program Aims to Break the Habit of Incarceration*, The Seattle Times, Oct. 13, 2011.

<sup>26</sup> *Id.*

<sup>27</sup> Interview with Thomas Yoon, Sergeant, Seattle Police Department (Feb. 06, 2012).

<sup>28</sup> *Id.*; Interview with Brian Kraus, Sergeant, Seattle Police Department (Feb. 06, 2012).

<sup>29</sup> Interview with Anita Khandelwal, former Staff Attorney, Racial Disparity Project (Feb. 08, 2012).



(2) interventions that connect low-level drug offenders with services may be less expensive and more successful at reducing future criminal behavior.<sup>30</sup>

The result of this working group was called Law Enforcement Assisted Diversion, or LEAD, a pre-booking program that diverted low-level drug offenders into intensive, community-based social services. The program is being funded by grants from private foundations for four years, at which point its leaders hope they can point to positive results to justify a permanent funding stream from either the city or the state government.<sup>31</sup>

LEAD offers a rehabilitation-based intervention and averts contact with the criminal justice system. Through this approach, LEAD seeks to limit impacts on offenders' criminal records, reduce the amount of time they spend behind bars, and prevent the criminogenic effects of incarceration. Social services offer forms of assistance and alternative paths. Ultimately, LEAD also aims to reduce spending on processing offenders in the criminal justice system.

LEAD relies on several operating principles to guide its provision of social services. First, LEAD adheres to a non-displacement principle, which means that LEAD never jumps the line for access to social services.<sup>32</sup> Second, LEAD follows a harm reduction approach, which assumes that overcoming drug addiction is a long process.<sup>33</sup> Finally, LEAD requires its participants to participate in peer counseling, first as a client and later as counselor.<sup>34</sup>

LEAD was implemented in the West Precinct by a select group of officers that make up the Anti-Crime Team. Instead of arresting low-level offenders, these officers refer eligible offenders to a social service provider. Other officers can also refer individuals to LEAD after booking<sup>35</sup> or make "social contact" referrals for individuals not currently facing charges but with prior documented involvement in drugs or prostitution.<sup>36</sup>

When a detained or arrested individual is recommended for LEAD, an officer sends the individual's files to the Seattle City Attorney's office or the King County Prosecutor.<sup>37</sup> He or she notifies a LEAD case manager, who goes to the station immediately.<sup>38</sup> The caseworker completes an initial assessment of the causes behind the client's participation

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<sup>30</sup> Memorandum of Understanding Regarding Law Enforcement Assisted Diversion Program Coordinating Group: Formation, Governance, and Responsibilities (2010) (on file with author) (hereinafter "Memorandum of Understanding"), at 1.

<sup>31</sup> Law Enforcement Assisted Diversion (LEAD): Briefing Memo (on file with author).

<sup>32</sup> *Id.* at 8.

<sup>33</sup> Interview with Ron Jackson, Executive Director, Evergreen Treatment Services (Feb. 09, 2012).

<sup>34</sup> Interview with John Page, Program Director, Racial Disparity Project (Feb. 07, 2012).

<sup>35</sup> *Id.*

<sup>36</sup> *Id.* at 4. While LEAD was originally designed as a pre-arrest diversion program for low-level drug offenses, its organizers expanded the potential client population to include prostitution offenders. Organizers of the program were concerned that an exclusive focus on low-level drug offenders would lead to the disproportionate inclusion of men in the program.

<sup>37</sup> *Id.* at 3.

<sup>38</sup> *Id.* at 5.

in drugs or prostitution then ensures the client’s immediate access to services to address acute needs.<sup>39</sup>

The caseworker works with the client to create an individual intervention plan. Each individual intervention plan is suited to the client’s particular needs and may include “assistance with housing, treatment, education, job training, job placement, licensing assistance, small business counseling, child care or other services.”<sup>40</sup>

Not every low-level drug offender is eligible for LEAD. Individuals are ineligible if they are caught with a significant amount of a controlled substance with an intention other than delivery; appear not to be amenable to diversion; are dealing or delivering drugs for profit in excess of a subsistence income; exploit minors or others; promote prostitution; or have a prior record of serious offenses.<sup>41</sup>

There are no formal punitive sanctions built into LEAD’s program design. By participating in the program, the King County Prosecutor’s office and the Seattle Attorney’s office do not relinquish their jurisdiction over or power to bring charges against LEAD participants for past crimes or crimes they commit while in LEAD.<sup>42</sup> However, prosecutors have committed to working in conjunction with LEAD, which means exercising their discretion not to bring charges against LEAD participants if this route can be avoided.<sup>43</sup>

### **Lessons from Seattle**

LEAD is still in its infancy. A more robust and scientific evaluation of the program’s outcomes will be possible down the line.<sup>44</sup> The success of LEAD will be measured by its effect on recidivism amongst its participants and its cost-effectiveness. That said, there are certain lessons that can already be drawn from the experience of creating LEAD through collaboration and implementing a new non-punitive policing strategy. The SPD’s collaborative approach has several unique features and results.

Non-punitive alternatives to incarceration for low-level drug and prostitution offenders frequently prove politically controversial. Moreover, elements of non-punitive approaches can be criticized for allowing law enforcement officers and other actors in the criminal justice system too much discretion—and creating openings for racial profiling and uneven enforcement of the law. In Seattle, the participation of a diverse coalition of organizations from across the criminal justice spectrum gave LEAD greater credibility, helping LEAD to surmount these obstacles.

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<sup>39</sup> *Id.* at 6.

<sup>40</sup> *Id.* at 6.

<sup>41</sup> *Id.* at 3-4.

<sup>42</sup> Interview with Dan Satterberg.

<sup>43</sup> *Id.*

<sup>44</sup> LEAD has a comprehensive evaluation plan. LEAD’s organizers recognize that the long-term sustainability of the program depends on their ability to demonstrate that the program produces outcomes. They plan to conduct a scientific evaluation of the program in three to four years. That study will compare the outcomes of LEAD participants on a number of metrics to a control population that did not receive LEAD services.

LEAD's broad coalition will be critical in the event of a public-relations crisis. As a program that diverts individuals from incarceration, the possibility exists that a LEAD participant will go on to commit a serious crime. But LEAD's connections with the police department, the prosecutor's office, public defenders, and civil liberty organizations well position it to withstand a potential public-relations crisis.

Further, LEAD's non-punitive strategy to fight low-level drug crime and prostitution is distinct even from similar initiatives like DMI tactics and reliance on drug courts that are used throughout the country and in Seattle. Three features distinguish LEAD from DMI and drug courts:

- **Pre-arrest diversion.** LEAD is distinct from drug courts in that it diverts individuals before arrest. Referral to LEAD occurs before participants are formally arrested, booked, processed, jailed, and charged. As a pre-arrest diversion, LEAD may save resources. To get access to the social services and treatment programs offered via drug court, individuals must first be arrested and booked and charged. LEAD cuts out many of the intermediate and potentially costly steps between arrest and access to social services. Pre-arrest diversions may also lead to better outcomes for program participants. As LEAD participants are not formally arrested and avoid pre-trial incarceration, they also avoid some of the negative collateral consequences typically associated with incarceration and arrest.
- **Street-level officer discretion.** Unlike DMI and drug courts, the LEAD model invests street-level police officers with substantial discretion in selecting individuals to divert from arrest as opposed to vesting discretion with prosecutors and judges. In drug courts, prosecutors decide whether to charge defendants or to offer them drug court as an option. Once in drug court, the judge wields enormous power to incarcerate participants who do not comply with the conditions of treatment plan. In the DMI model, prosecutors maintain plenary power to revoke their initial non-prosecution offer. In contrast, LEAD vests discretion in specially trained officers who know communities.
- **Harm reduction.** Also unlike both drug courts and DMI, LEAD is unique in its adoption of a non-punitive harm reduction strategy to diverting low-level offenders. A harm reduction model holds that the withholding of social services until an individual is completely clean not only harms the participant in their process of recovery but also costs more public dollars. Harm reduction can be contrasted with the approaches of drug courts and DMIs, which predicate the provision of social services and the withholding of criminal charges on participants' total abstinence from criminal behavior.

LEAD's unique non-punitive strategy has the potential to change the way line officers work with drug-addicted, mentally ill, and homeless populations. LEAD asks line officers to consider whether the individual they are arresting would be amenable to social services—and it asks officers to adopt the harm reduction model. The LEAD model thus requires police officers to develop a more nuanced and multi-dimensional understanding of the offender.



The harm reduction approach may also bring about widespread policing reform. If LEAD is successful and can establish that its approach reduces recidivism and costs, police departments in other cities may also adopt a harm reduction approach. This shift would result in increased attention to street-level disorder linked to homelessness and drug addiction. Police departments may be able to reduce the overall burden on the local public health system and criminal justice system while improving outcomes for the individuals impacted.

### **LEAD’s Ongoing Challenges**

LEAD faces several major challenges going forward. The department continues to have difficulty encouraging officers to adopt the harm reduction model. LEAD’s harm reduction approach asks officers and prosecutors to consider an offender’s behavior as part of a continuum—and not to pursue punitive measures if he or she is otherwise making progress. Many police officers find it difficult not to arrest individuals who are committing crimes, especially in public. Others have expressed concern that the harm reduction approach facilitates drug use and criminality. Some law enforcement officials cite the potential cost, in funds and time, to increase training needed to get officers to fully embrace the harm reduction model.

SPD’s second major challenge is to define the role of the community more clearly. LEAD’s organizational structure calls for a Community Advisory Board (CAB) in each neighborhood to help oversee the implementation of the program. In theory, the CABs provide community members with a mechanism for providing feedback about the program and making suggestions for program improvements. Yet, in practice, the CABs’ role within the larger governance structure of LEAD is ill defined. CABs have expressed support for the program but have been unable to articulate their goals. SPD must find ways to integrate CABs into LEAD to ensure the program will be shaped by and accountable to the communities in which it is operating.

### **Lessons Learned in Brief**

1. Focus groups are an effective tool to use before training officers in a new program.
  - Increasing mechanisms for officer feedback both improves the program strategy and tactics and increases officer “buy-in.”
2. Make the intervention easy for line officers to implement.
  - Create a protocol that does not require line officers to do extra work.
3. Sometimes finding common ground enables advocates to achieve other goals indirectly.
  - Although reducing racial disparities in drug arrests, prosecutions, and incarcerations and building community trust are not the explicit goals, LEAD may positively affect these outcomes.

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