A Pre-booking Diversion model in New Mexico: Treatment Instead of Incarceration

We are the Drug Policy Alliance.

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Pre-booking Diversion Model

A pre-booking diversion program is one that identifies low-level drug offenders for whom probable cause exists for an arrest, and redirects them from jail and prosecution by providing linkages to community-based treatment and support services.

Pre-booking diversion programs consist of both a law enforcement and social services component.

The apprehending officer makes the initial determination of eligibility for diversion based on established eligibility criteria and transports the subject.

An offense report is filed, in the event the case is referred for prosecution at a later date.

The prosecutors retain the ultimate and exclusive authority to make filing decisions in all cases.

Law enforcement completes the records that would be needed to refer to the prosecutor and forward the arrest packet for review to the pre-booking team.

Following a decision to refer to diversion there is an interaction with an outreach worker/case manager. The case manager conducts an intake assessment and addresses immediate/acute needs followed by the development of an individualized care plan to address chemical dependency, mental health problems, lack of housing, prior legal involvement and/or gang activity, lack of previous employment, and lack of education.

Funding may be used to address any social service/health need or set of needs.

Role of Law Enforcement

- Is a core member of the planning team to develop the model and associated eligibility criteria.
- Are trained to identify what individuals are eligible and suited for diversion.
- Conducts an "arrest" but transfers the individual to the program's clinical team for assessment instead of to jail personnel for booking.
- Participates as a member of the staffing/oversight team –
    - reviews individual cases
    - reviews performance of the program

Role of the Prosecutor

- Is a core member of the planning team to develop the model and associated eligibility criteria.
- Has the ultimate and exclusive authority to make filing decisions in all cases and will receive copies of the investigation packets on diverted cases, for review for compliance with the agreed upon diversion criteria.
- Participates as a member of the staffing/oversight team –
    - reviews individual cases
    - reviews performance of the program

Benefits

- Increases safety and order for the community by reducing future criminal behavior.
- Reduces the burden on the county jail, prosecution, and court system.
- Reduces the burden on New Mexico District Attorneys by diverting the burdensome number of misdemeanor cases associated with low level drug use including associated crimes such as burglary, theft, and trespassing.
- Reduces number of low-level drug offenders entering criminal justice system.
- Redirects public safety resources to more pressing priorities, such as serious and violent crime.
- Improves individual and community quality of life through research-based, public health-oriented interventions.
- Sustains funding for alternative interventions by capturing and reinvesting criminal justice system savings.
- Allows person to remain in the community with limited disruption to family life and employment.

Handling low-level non-violent drug offenders in the local and state criminal justice system is not only costly but evidence suggests that this is not a way to break the cycle of addiction or enhance public safety. Instead, many people often go through the system without any impact on their behavior and end up costing the system far more than they would if they were treated using evidence-based treatment programs. With the economic strain on our local counties, pre-booking diversion programs offer a viable, cost effective alternative to the status quo that can positively impact New Mexico's counties.

Successful Applications of the Pre-booking Diversion Model

Pre-booking diversion programs targeting persons with mental illness have been used for years in several jurisdictions. The foremost example in the U.S. is the LEAD (Law Enforcement Assisted Diversion) Project in Seattle. Launched in 2011 as a joint effort of the Seattle Police Department, the District Attorney and City Attorney, and the Defender Association, with strong support from impacted local businesses, LEAD offers a full range of individually tailored services from health care and job training to substance abuse treatment in order to get – and keep – targeted persons out of an overburdened criminal justice system.[i] A similar diversion model targeting persons with mental illness has

been employed in several U.S. cities, including San Antonio, Texas and Memphis, Tennessee for years.

Associated Data

Average cost of incarceration per inmate at NMDOC facilities: over $111 per day, or approximately $41,000 per year.[ii]

Average cost of substance misuse treatment per person is $5,000-$10,000 per year.

A study by the RAND Corporation found that every additional dollar invested in substance misuse treatment saves taxpayers $7.46 in societal costs (crime, violence, loss of productivity, etc.).

The same RAND Corporation study also found that additional law enforcement efforts cost 15 times as much as treatment to achieve the same reduction in societal costs.

A one-year review of all NMDOC prisoner intake screens in 2002 estimated that ~87% come in with substance misuse disorders. It was not possible to distinguish between misuse and dependence.[iii]

New Mexico has the highest drug-induced death rate in the nation, and the consequences of drug use continue to burden New Mexico communities.[iv]

71% of New Mexicans support allowing a person caught with small amounts of drugs to be offered drug treatment instead of being sentenced to jail or prison.[v]

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[i] Defender Association – Racial Disparity Project, *Law Enforcement Assisted Diversion (LEAD): A Pre-Booking Diversion Model for Low-level Drug Offenses* http://www.law.seattleu.edu/Documents/cle/archive/2010/032610%20Restorative%20Justice/215pm%20LEAD%20concept%20paper.pdf

[ii] Shannon McReynolds , NMDOC PIO

[iii] NMDOC – prepared for the NM Behavioral Health Collaborative

[iv] NM Substance Abuse Epidemiology Profile, DOH, 2011

[v] Survey of New Mexico Voter Attitudes, SJC Research, January 29 – February 1, 2007.