



THE CASE FOR PRE-ARREST DIVERSION

Diversion programs work to address the core circumstances that underpin criminal activity. By doing so, they promote alternatives to arrest and involvement in the criminal justice system and make our communities safer.

Well-designed diversion programs can conserve resources, reduce recidivism, and minimize the collateral consequences of justice system involvement. When diversion precedes charging, participants avoid the stigma and collateral consequences of a criminal record entirely.

In addition to diversion programs, law enforcement officers have other discretionary tools to avoid criminal justice involvement for possession of small quantities of drugs. That includes devoting fewer resources to investigating offenses involving the simple possession of marijuana or trace amounts of more serious drugs and/or issuing on-the-spot warnings for those offenses. For more information about the case for these changes, please see recommendations 12 and 71 of the [Task Force for Racial Equity in Criminal Justice \(TREC\) Report](#).

These policy changes work best when law enforcement agencies partner with public health groups to respond to substance misuse. TREC recognizes that as we attempt to divert entry into the criminal justice system or remove criminal justice responses to certain issues, we must consider access to alternatives to criminal justice responses. Adequate, long-term funding is critical to support organizations addressing substance use disorder and mental health treatment. Nonetheless, we cannot afford to continue to use law enforcement and the criminal justice system to solve public health problems.

North Carolina has seen success with diversion programs such as [Law Enforcement Assisted Diversion](#) (LEAD) and the Coordinated Opioid Overdose Reduction Effort (COORE) program. The diversion programs outlined in this information sheet offer local communities proven methods to improve outcomes for people who could become engaged with the criminal justice system and enhance public safety by reducing recidivism. Public health professionals, current and retired police chiefs and sheriffs, policy experts, researchers, and related organizations helped draft this document, resulting in an information sheet informed by years of expertise in the field.

STEPS TO GET STARTED

1. Assess current pre-arrest diversion efforts for effectiveness and identify areas of improvement such as program management, resourcing, treatment capacity, etc.
2. Learn from other jurisdictions and identify model programs that work for your community and stakeholders.
3. Identify community and local government partners, and potential challenges to success.
4. Address any deficiencies such as lack of treatment, recovery, or mental health services.



5. Make a plan to track data (demographics of referrals and participants, costs, program outcomes).
6. Establish a written policy/governing documents, MOUs. Administrative Office of the Court's Office of General Counsel can assist with this process.
7. Train law enforcement and other system stakeholders.

NORTH CAROLINA MODEL PROGRAMS

ORANGE COUNTY PRE-ARREST DIVERSION PROGRAM ([OC-PAD](#))

Overview: OC-PAD allows law enforcement officers to divert individuals who commit certain low-level misdemeanor offenses by issuing a referral in lieu of arrest. Referrals make offenders eligible for 90-day diversion plans which include community service, mental health and substance use treatment, educational classes, restorative justice opportunities, and other programming.

Success: There were 93 total referrals from July 1, 2019 to June 30, 2020, resulting in 93 enrollments. There have been 60 successful completions while 33 individuals remain in compliance, giving OC-PAD a 100 percent program completion rate to date. No 2019-20 FY participant was found to have committed a new offense 6 months after program completion.

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DURHAM MISDEMEANOR DIVERSION PROGRAM ([MDP](#))

Overview: The MDP, in partnership with the Criminal Justice Resource Center, serves 18 to 26-year-olds who have committed an eligible first-time misdemeanor offense. An MDP referral is made in lieu of arrest. If the 90-day, voluntary diversion program is successfully completed, the referred individual's case is closed and his or her criminal record remains clean. MDP is funded by Durham County and donations from community partners.

Success: MDP has had over 750 participants with a 99 percent completion rate and 94 percent rate of no new charges. Misdemeanor arrest rates for 16-17 year-old Black and Hispanic males declined after the MDP's implementation in 2014 until 2016.

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BRUNSWICK COUNTY, [ANCHOR INITIATIVE](#)



Overview: The Anchor Initiative allows addicted individuals to seek substance use treatment following a self-referral, social referral, or an interaction with an officer. Individuals with a social or self-referral avoid charges, while those referred by an officer may be charged but can still receive Anchor assistance.

Success: The Initiative led to reductions in opioid use and related calls, reduction in property crime, and strengthened partnerships between the community and law enforcement.

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FAYETTEVILLE AND HICKORY LEAD

Overview: Fayetteville and Hickory's LEAD programs offer treatment, rather than arrest, to individuals involved in substance use and sex work. Participants may also be referred via social referral. Similar LEAD programs exist in Wilmington/New Hanover, Burke County, Statesville, Waynesville, and Watauga County. These programs are all based on the national LEAD model. Cost savings are also a benefit. The city of Fayetteville sees cost savings in keeping participants in the LEAD program rather than incarceration. There is an approximate cost of \$65 per day of incarceration compared to \$17.50 per day of LEAD continuing participation cost ([City of Fayetteville](#)).

Success: As of early 2021, Hickory's LEAD program helps prevent about 60% of participants from reoffending. An individual participating in Hickory LEAD requires less than 25% of the cost of taking them to jail and have a non-reoffending rate of 80%. ([Hickory Daily Record](#)).

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FUNDING AND COLLABORATION OPPORTUNITIES

Stakeholders often identify an absence of places to divert to as a barrier to the creation of diversion programs, especially in rural areas. Developing partnerships and funding, even for pilot programs, can help a program get started. The NC DHHS Jail Diversion program offers technical assistance to communities starting and operating pre-arrest diversion programs: contactdmh@dhhs.nc.gov, 1-800-662-7030.

1. Government and Foundation Grants

SUCCESS STORY

"The [Fayetteville LEAD] program attracted a lot of opportunities with helpful resources and support. Because of the program, I feel I'm able to live my life, and I believe I'm in the highest and happiest state of mind I've been in since a very long time. **The program gave me a chance to prove myself and believed in me**, so I am grateful and God knows."

-- Successful participant in Fayetteville LEAD



2. Funding from city or county budget for individual community programs (American Rescue Plan Funds, opioid settlement funds)
3. Community partners/sponsors

IMPORTANT DATA TO TRACK

- Demographics of diversion program referrals and participants
- Cost per participant
- Program outcomes

ABOUT THE TASK FORCE FOR RACIAL EQUITY IN CRIMINAL JUSTICE

The North Carolina Task Force for Racial Equity in Criminal Justice, which is co-chaired by Supreme Court Associate Justice Anita Earls and Attorney General Josh Stein, was established in June 2020 and made a recommendation to establish and expand access to diversion programs. For more information about the Task Force, please visit <http://ncdoj.gov/trec> or email criminaljustice@ncdoj.gov.