

SAN FRANCISCO  
LAW ENFORCEMENT ASSISTED DIVERSION (LEAD)  
MEMORANDUM OF UNDERSTANDING  
Among

San Francisco Police Department  
Bay Area Rapid Transit Police  
San Francisco Department of Public Health  
San Francisco District Attorney's Office  
San Francisco Public Defender's Office  
San Francisco Adult Probation Department  
San Francisco Sheriff  
Glide Foundation  
Felton Institute and  
Drug Policy Alliance

WHEREAS, San Francisco residents want to improve public safety and public health in their neighborhoods; and

WHEREAS, the City & County of San Francisco and community members want to reduce future criminal justice engagement and associated costs related to mental illness, drug use, homelessness, and other health and wellness issues; and

WHEREAS, interventions that connect people who have been charged with low-level drug offenses with health and social services have been shown to cost less and be more successful at reducing recidivism and improving health outcomes than the traditional criminal justice process; and

WHEREAS, harm reduction is a proven public health philosophy and intervention that seeks to reduce the harms associated with drug use; and

WHEREAS, Seattle's LEAD project and its collaborative, harm reduction approach to addressing drug-related crime and disorder in Seattle has shown significant results in reducing recidivism, improving health and housing outcomes for participants, saving money over usual criminal justice approaches, and earned the support of diverse stakeholders including business, law enforcement, and community members; and

WHEREAS, the Jail Alternatives Work Group and the San Francisco Sentencing Commission separately recommended beginning a LEAD pilot in San Francisco; and

WHEREAS, San Francisco currently operates several innovative strategies for substance dependent individuals who come into contact with the criminal justice system, but despite those exemplary programs San Francisco has no formalized pre-booking diversion; and

WHEREAS, the California legislature has invested \$15 million in three LEAD pilot programs in California, distributed through a competitive process by the Board of State & Community Corrections, and creating the opportunity for a robust LEAD implementation;

NOW, THEREFORE, THE PARTIES STATE THEIR INTENT AS FOLLOWS:

## I. PARTIES

This Agreement is among the San Francisco Police Department (SFPD), Bay Area Rapid Transit Police (BART PD), San Francisco Department of Public Health (DPH), San Francisco District Attorney's Office (SFDA), San Francisco Public Defender's Office, San Francisco Adult Probation Department (APD), San Francisco Sheriff (SFSD), Glide Foundation, Felton Institute, and Drug Policy Alliance (DPA) ("the Parties").

The Parties listed agree to each identify a central point of contact for the other with respect to this AGREEMENT:

- Barbara Garcia, Director, Department of Public Health, DPH
- Bill Scott, Chief, San Francisco Police Department, SFPD
- Jeffrey Jennings, Acting Chief, Bay Area Rapid Transit Police Department, BART PD
- George Gascón, District Attorney, City & County of San Francisco District Attorney's Office, SFDA
- Jeff Adachi, Public Defender, City & County of San Francisco Public Defender's Office,
- Vicki Hennessy, Sheriff, City & County of San Francisco
- Karen Fletcher, Chief, Adult Probation Department, APD
- Kyriell Noon, Glide Foundation
- Al Gilbert, Felton Institute
- Laura Thomas, Deputy State Director, Drug Policy Alliance, DPA

Additional Parties may be added to the Agreement upon unanimous consent of the existing members.

## II. PURPOSE

Law Enforcement Assisted Diversion (LEAD) is a new approach that seeks to accomplish the goals of reduced criminal involvement and improved public safety by connecting individuals with substance use issues to services. This approach to diversion has been proven to cost less and to be more successful at reducing future criminal behavior than processing low-level drug offenders through the traditional criminal justice system. LEAD will incorporate San Francisco's standards for harm reduction practice into program planning and implementation.

The purpose of this AGREEMENT is to promote collaboration among the Parties to develop and implement a LEAD pilot program in San Francisco. Each of the parties will participate in the Key Stakeholder Policy Committee for the LEAD program. The Key Stakeholder Policy Committee will develop and refine the eligibility criteria and referral and diversion protocols for LEAD participants, review and provide feedback on periodic

reports about pilot program implementation, make criminal justice and service data available for comparison and evaluative purposes, and provide policy guidance and administrative oversight LEAD operation and evaluation. Eligibility criteria and program protocols will be in the form of a separate document(s), subject to the approval process of all of the relevant agencies containing duties or responsibilities, therein.

### III. BACKGROUND

Seattle's Law Enforcement Assisted Diversion Program (LEAD) is a proven example of a pre-booking diversion program that identifies individuals for whom probable cause exists for an arrest for low-level drug charges, and redirects them from jail and prosecution by providing linkages to community-based treatment and support services.

Over the last four years the San Francisco Sentencing Commission has heard expert testimony on LEAD program design, implementation and the feasibility of replicating this model program in San Francisco. Two recently released University of Washington studies on the LEAD Program found statistically significant reductions in recidivism, mostly notably LEAD participants showed significant reductions in new felony cases. The evaluation team also found that the program resulted in reduced participant jail bookings, on average 39 fewer jail bed days per participant, an 87% decrease in subsequent state prison incarceration and overall substantial reductions in criminal justice costs. In addition a 2014 UC Berkeley analysis completed for the San Francisco Sentencing Commission explored the feasibility, benefits, and cost of replicating the LEAD program in San Francisco. The researchers concluded that, "San Francisco has the necessary tools and systems to meet the challenge of successfully implementing such a program." Ultimately the research team recommended that San Francisco pursue the adoption of a pre-booking diversion program.

In 2015, the San Francisco Board of Supervisors asked the San Francisco Department of Public Health and the Sheriff's Department to convene a work group to develop alternatives to building a new jail. The work group represented a broad diversity of stakeholders, from law enforcement to mental health providers to formerly incarcerated people. The Jail Alternatives Work Group strongly recommended LEAD and pre-booking diversion as one of the strategies to reduce the jail population.

### IV. GOVERNANCE

Participation in the LEAD Key Stakeholder Policy Committee is voluntary, and any member may withdraw at any time for any reason. This AGREEMENT does not amend any law or ordinance; nor does it create any binding obligation on the part of any signatory. This AGREEMENT simply memorializes the intent of the Key Stakeholder Policy Committee's members in participating in this program and describes the responsibilities they understand to be accepting through participation.

All decisions will be made by modified consensus. For the purpose of this AGREEMENT modified consensus means a resolution that is acceptable to all participants even if not ideal to one or more. However, the SFPD and BART Police retain discretionary authority over diverting potential LEAD participants and, in

instances where a case is filed, the District Attorney retains the ultimate and exclusive authority to make filing decisions.

Each party to the AGREEMENT shall designate one representative for purposes of determining consensus in Key Stakeholder Policy Committee Decisions, but multiple representatives from each organization may attend and participate in discussions.

## V. RESPONSIBILITIES

The role of the Key Stakeholder Policy Committee is to make policy-level decisions regarding the LEAD Pilot Program and to provide periodic administrative oversight of the program. Specific responsibilities include but are not limited to, the following:

- A. Develop and Refine LEAD Eligibility Criteria, Referral and Diversion Protocols;
- B. Oversight, advisement, and direction of program;
- C. Making available criminal justice and services system data for comparison and evaluative proposes;
- D. Oversight of LEAD pilot implementation, including but not limited to regular review of reports from services providers, maintaining the commitment to a harm reduction philosophy and the core principles of the pre-booking diversion program as originally implemented in Seattle, collaborative problem-solving, and solicitation and review of community feedback; and
- E. Modification of service provision, or evaluation criteria and process, as needed.

## VI. INFORMATION SHARING

All Parties agree to share program and participant information as needed, within legal constraints. Parties will work with the contracted independent evaluator to collect and share requested data.

## VII. MISCELLANEOUS

This AGREEMENT is effective upon signature by each Party.

This AGREEMENT may be terminated upon 30 days' notice by any Party. This AGREEMENT may be amended by mutual agreement of the Parties. An amendment or termination must be made in writing and must be signed by the Party's designated representative(s) with authority to enter into this AGREEMENT.

This AGREEMENT may be executed in counterparts.

Each Party agrees to act in good faith to observe the terms of this AGREEMENT; however, nothing in this AGREEMENT is intended to require any unlawful or

unauthorized act by any Party. Nothing in this AGREEMENT shall be interpreted to limit or restrict each of the Parties' legal, jurisdictional or other rights or obligations with respect to the subject matter of this AGREEMENT.

No provision of this AGREEMENT shall form the basis of a cause of action at law or equity by any Party against any other Party, nor shall any provision of this AGREEMENT form the basis of a cause of action at law or equity by any third party.

#### VIII. STATEMENTS OF INTENT

The parties signing this AGREEMENT specifically state their respective intents and commitments to adhere to the attached core principles of the pre-booking model that was first implemented in Seattle and as follows:

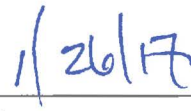
A. **San Francisco Department of Public Health (DPH)** is committed to participate in the LEAD pilot on both an operational and policy level. DPH promotes a wellness, recovery, and restorative approach to providing care, treatment, and supportive services to individuals charged with low-level drug offenses where the intervention is based on the principles of harm reduction rather than on punishment. The LEAD Program embraces this approach with the ultimate goal of reducing criminal behavior and improving community safety. DPH agrees to

- participate in LEAD Key Stakeholder Policy Committee
- be an active leader and contributor in ongoing discussions and planning,
- facilitate connections to services offered by the DPH system of care.
- serve as the provider of funded health and social services for LEAD participants through a mix of DPH providers and contracts with community-based organizations.
- serve as the grant proposal respondent for the BSCC grant for San Francisco.



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Barbara Garcia, Director  
San Francisco Department of Public Health



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Date

**B. San Francisco Police Department (SFPD)** is committed to participate in the LEAD pilot on both an operational and policy level. The SFPD will provide the following staffing to the program:

- Participation in the Key Stakeholder Policy Committee
- designated SFPD personnel working in the LEAD pilot program at designated police district stations that are determined at the discretion of SFPD will be trained in the principles of harm reduction and LEAD operations.
- SFPD officers will use LEAD as a pre-booking diversion program for individuals who meet the LEAD Eligibility Requirements.
- SFPD will have the authority to direct and transport individuals that are eligible for the LEAD pilot program to preauthorized facilities.

*William Scott*

William Scott, Chief  
San Francisco Police Department

*1/30/17*

Date

C. **BART Police Department (BART PD)** is committed to participate in the LEAD pilot on both an operational and policy level. The BART Police will provide the following Staffing to the program:

- The BART Police is dedicated to training all project personnel in the LEAD Pilot and process. Personnel will be knowledgeable in California's drug laws, search and seizure case law, local state and federal criminal history records, warrant records, and principles of harm reduction and will have the authority to make street level decisions on where to direct those individuals that are eligible for the LEAD pilot program. BART Police will use the LEAD Pilot Program as a pre-arrest diversion program.
- The BART Police will designate the Deputy Chief and the Community Outreach Specialist who will support the day to day operations of the program. The Deputy Chief or a designee will serve on the Key Stakeholder Policy Committee and Operational Work Group
- Furthermore, BART Police is dedicated to training all personnel on the principles of harm reduction and applying these principles across the spectrum of police related contacts in the BART system when dealing with addiction, mental illness, and homelessness.

  
Jeffrey Jennings, Acting Chief  
Bay Area Rapid Transit Police Department

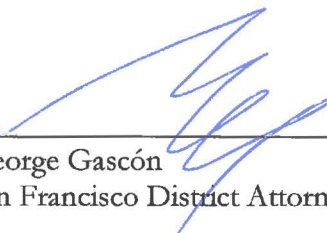
1/26/17  
Date



D. **San Francisco District Attorney's Office** believes that the success of this program will allow for better outcomes for those living with substance use disorder, mental illness, and homelessness while allowing for less of a burden on our costly criminal justice system. The District Attorney's Office will

- participate in the Key Stakeholder Policy Committee
- be an active leader and contributor in ongoing discussions and planning,
- communicate with other LEAD stakeholders to ensure that the program accomplishes the goals set forth in the Memorandum of Understanding,
- assist in data collection and sharing, and
- the District Attorney's Office will designate the Chief Assistant District Attorney to serve on the Key Stakeholder Policy Committee and Collaborative Court Managing Attorney to serve on the Operational Work Group. For consistency both staff will be supported by the Director of Policy, who can also serve as a designee.

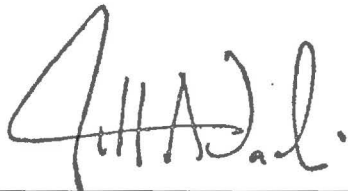
Though the District Attorney's Office will be informed by the Key Stakeholder Policy Committee and Operational Work Group, the District Attorney retains the ultimate and exclusive authority to make filing decisions in all criminal cases.

  
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George Gascón  
San Francisco District Attorney

1-27-17  
Date

**E. San Francisco Public Defender's Office** is committed to reversing longtime criminal justice trends that have resulted in the unnecessary and over incarceration of people of color and individuals with substance use disorder and mental illness. The Public Defender pledges its support for the LEAD Program and will:

- participate in the Key Stakeholder Policy Committee
- participate in the development of the program
- be an active leader and contributor in ongoing discussions and planning,
- have an attorney assigned to all meetings to represent the interests of participants, advocate for individuals who seek to become a part of the LEAD Program, advise potential participants of legal ramifications of the program and
- communicate with other LEAD stakeholders to ensure that the program accomplishes the goals set forth in the Memorandum of Understanding.



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Jeff Adachi  
San Francisco Public Defender

1/26/17  
Date

F. **Adult Probation Department** is committed to protecting the community, service justice, and changing lives. APD operates the Community Assessment Service Center (CASC), a one-stop reentry center that bridges APD probation supervision services with comprehensive case management, barrier removal, and income benefits acquisition assistance. The CASC co-locates services that build self-sufficiency, including a charter high school, vocational and employment readiness training, mental health, and substance abuse prevention services, batterers' intervention programs, cognitive behavioral interventions, and meeting space for community partners. The goals of the CASC are to reduce recidivism, build self-sufficiency skills, and increase public safety. APD will:

- participate in the Key Stakeholder Policy Committee
- participate in the development of the program
- host LEAD intake and case management services at the CASC, and
- coordinate service delivery and staffing at the CASC as needed

*Karen Bell for Karen Fletcher*

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Karen Fletcher, Chief  
San Francisco Adult Probation Department

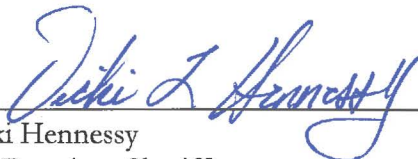
*1/27/17*

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Date

**G. Sheriff's Department** is committed to participate in the LEAD pilot on both an operational and policy level. The SFSD will provide the following staffing to the program:

- Participate in the Key Stakeholder Policy Committee
- Participate in the development of the program
- Be an active leader and contributor in ongoing discussions and planning
- Participation in the Key Stakeholder Policy Committee
- Designated SFSD personnel working in the LEAD pilot program at locations under the jurisdiction of the Sheriff that are determined at the discretion of SFSD will be trained in the principles of harm reduction and LEAD operations.
- Designated SFSD deputies will use LEAD as a post-arrest, pre-arrest diversion program for individuals who meet the LEAD Eligibility Requirements.
- SFSD will have the authority to direct and transport individuals that are eligible for the LEAD pilot program to preauthorized facilities.

  
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Vicki Hennessy  
San Francisco Sheriff

27 January 2017  
Date

H. **Glide Harm Reduction Services** is a program of Glide Foundation, which has been providing compassionate health care in the Tenderloin district since the 1960s. Glide serves a diverse cross-section of homeless, low-income and marginalized populations with a suite of programs, including daily free meals, rental assistance and shelter bed reservations, domestic violence counseling and abatement, substance use recovery, childcare, afterschool and summer programs for K-5, a family resource center, harm reduction services, including HIV/Hep-C outreach and prevention, a drop-in legal clinic, on-site access to primary and mental health care, and remedial education. For LEAD SF, Glide Harm Reduction Services will

- provide outreach, transportation, and case management to at least 50 LEAD participants in the Tenderloin district.
- participate in the Key Stakeholder Policy Committee
- maintain fidelity to the harm reduction principles of LEAD and ensure staff are trained in harm reduction principles



Rita Shimmin, Executive Director  
Glide Foundation

1/27/17  
Date

- I. **Felton Institute** (formerly Family Services Agency of San Francisco) is a 126 year old social services organization that delivers evidence-based social and mental health services to clients of all ages, including intensive case management, outpatient services, and home visits. They currently operate five locations, including one in the Mission district. For LEAD SF, the Felton Institute will
- provide outreach, transportation, and case management to LEAD participants in the Mission district
  - participate in the Key Stakeholder Policy Committee
  - maintain fidelity to the harm reduction principles of LEAD and ensure staff are trained in harm reduction principles



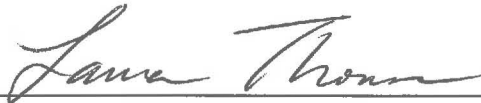
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Al Gilbert, President and Chief Executive Officer  
Felton Institute

1/26/2017

\_\_\_\_\_  
Date

**J. Drug Policy Alliance (DPA)** is committed to implementing approaches that address drug misuse as a public health concern rather than a criminal justice issue. DPA maintains a Bay Area Office whose professional staff possess significant relevant experience. DPA will serve in an advisory and pilot program management capacity. DPA's staff and approved consultants will:

- assist the Key Policy Stakeholder Committee and LEAD pilot with program planning, policy development, stakeholder consultation, accessing technical assistance, fundraising, and advocacy.
- support the contracted program manager as liaison and advocate between potential funders and the Key Stakeholder Policy Committee.
- advocate for fidelity to the agreed protocols and core principles of LEAD.
- in conjunction with other LEAD partners, be responsible for communicating with interested policy makers and community leaders in other jurisdictions regarding LEAD implementation process.



Laura Thomas  
Drug Policy Alliance

1/26/17  
Date