



The Washington Association of Drug Courts (WADC), and its sister organization, the Washington State Association of Drug Court Professionals (WSADCP) support effective off-ramps from the criminal legal system for people with substance use disorders. Drug Courts and other therapeutic courts are important off-ramps and they are evidence-based.

We are writing to correct some inaccurate and misleading statements about drug courts in a recent report submitted to the Washington State Substance Use Recovery Services Advisory Committee (SURSAC) by the LEAD Support Bureau on June 28, 2022, "UNLAWFUL DRUG-RELATED BEHAVIOR & CRIMINAL-LEGAL INTERVENTIONAL FRAMEWORKS: A RESEARCH SUMMARY".

WADC / WSADCP do not see ourselves as being in opposition or in competition with LEAD. We support the important work LEAD is doing with lower risk individuals at an earlier intercept on the continuum of community responses to substance use disorder. We believe Drug Courts and LEAD are both effective interventions, serving different populations but working towards the same goals of decreased incarceration and recidivism, healthy and happy individuals and families, and safe communities.

So, we were disappointed and frustrated by the inaccurate portrayal of our Washington State drug courts and our effectiveness as contained in LEAD's recent report to SURSAC and we are compelled to set the record straight.

1. Drug courts demonstrate clear beneficial effects including significant reductions in recidivism over the long-term:

- Contrary to LEAD assertions that drug courts are not effective in addressing substance use disorder, the Washington State Institute for Public Policy (WSIPP) has conducted a meta-analysis, citing 55 separate studies to conclude drug courts are effective.ⁱ Per WSIPP, drug courts have a statistically significant effect in reducing recidivism and produce a return on investment 100% of the time.ⁱⁱ The same WSIPP meta-analysis concludes that drug courts have a net benefit of \$9,438 while diversion for low-severity offenses (including LEAD) has a net benefit of \$4,698.ⁱⁱⁱ
 - Washington State drug courts are data driven and we are continuously evolving as more information and resources become available. There is more than two decades of research about what makes an effective drug court that the National Association of Drug Court Professionals (NADCP) and National Drug Court Institute (NDCI) have made accessible through the publication of drug court best practice standards.^{iv}
 - LEAD suggests studies of drug courts are flawed. This is a gross overgeneralization: while there are poor quality studies of drug courts, there are also many high-quality studies. The WSIPP meta-analysis cited above only includes studies that meet rigorous standards of quality (e.g. employing statistically equivalent comparison groups and intent-to-treat approaches) and do not suffer from the methodological missteps that LEAD outlines.
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- LEAD includes in its bibliography the WSIPP metanalysis concluding drug courts' reduce recidivism over the long-term.^v LEAD's own 2017 evaluation acknowledges there is evidence supporting drug courts and other therapeutic courts as "superior to mainstream criminal justice processing across various outcomes" including recidivism (Brown, 2010; Perry, Coulton, & Glanville, 2006; Scott, McGilloway, Dempster, Browne, & Donnelly, 2013 as cited in Collins et. al).^{vi} However, LEAD is ignoring this positive data and reporting the opposite. It is hard not to conclude that these and other omissions are a deliberate attempt at political spin rather than a realistic summary of the available drug court research.

2. Washington drug courts significantly enhance public safety and reduce the use of incarceration:

- A Department of Social and Health Services (DSHS) study of Washington drug courts that employed a statistically equivalent comparison group and an intent-to-treat analytic approach determined a \$4 return on every \$1 spent, due to savings that result from crime reductions.^{vii}
- It is well known that drug and alcohol use contribute to domestic violence, suicide, assaults and other violent crime, accidental deaths and injuries, driving related incidents, child abuse and neglect, and property crimes (vehicle theft, identity theft, residential burglary, etc.). So, it is no wonder there are significant crime reductions and impacts to public safety when individuals are able to stop using through the support and accountability of a well-run drug court.
- LEAD suggests drug courts cater to those who are least likely to be imprisoned and that many participants do not have a clinically significant substance use disorder. Again, this is simply not accurate in Washington State. DSHS reports 80% of Washington drug court participants have prior felonies (an average of 4 prior felonies per participant).^{viii} Washington drug courts support success for individuals with the most significant challenges including homelessness, unemployment and severe substance use disorder.

3. Washington drug courts provide primarily pre-plea and community-based care:

- LEAD reports community-based care offers the best results. Community-based outpatient care is what most participants receive for the majority of their time in Washington drug courts. However, treatment responses are tailored to individual needs, including inpatient care as needed.
 - Washington drug courts receive ongoing education and technical support from the National Association of Drug Court Professionals (NADCP) who advises regarding the latest research and best practice standards. Sanctions and incentives are a key part of what makes drug courts effective. While jail is sometimes appropriate as a short-term sanction, it should be used sparingly and in accordance with research regarding best practices. Drug courts have many effective options in our sanctions' toolkits.
 - The majority of Washington drug courts are pre-adjudication programs. When participants successfully complete, their felony charge(s) are dismissed and prison/jail sentences are avoided.
 - In addition to substance use disorder treatment, drug courts provide comprehensive case management services to help participants achieve milestones that support long-term recovery – stable housing, employment, college enrollment or GED completion, reunification with
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children/family, driver's license reinstatement, primary healthcare, and meaningful connections with support in the broader community.

4. LEAD's claim that "pre-booking diversion achieves the same or greater recidivism reductions as for drug court graduates" is not supported by the available evidence:

- There is no research that specifically compares LEAD participants to drug court participants or graduates. LEAD's statement appears to be a misread of their own evaluation that compares recidivism for LEAD participants to those in a "system as usual" control group. The researcher points out that in King County where the evaluation occurred, the system as usual may include therapeutic court participants.^{ix} Having a handful of therapeutic court participants in a larger control group is vastly different than specifically comparing LEAD outcomes to drug court outcomes. Further, King County Drug Court participants could not be included in the control group because it allowed only individuals possessing less than 3 grams whereas King County Drug Court only accepted individuals possessing more than 3 grams at the time of the study.
- If LEAD is interested in a comparison to drug court recidivism rates, our rates are published annually by Department of Social and Health Services (DSHS) Research and Analysis Division (RDA). However, it is important to note drug court recidivism rates include all participants who attended treatment in drug court even for one day whether they decided to formally opt in or take their case to the mainstream system instead. DSHS data shows 75% of Washington drug court participants have no new felonies at 36-month follow-up.^x This recidivism rate encompasses all participants (not just graduates as LEAD suggests). If it included only graduates, the impact on recidivism would undoubtedly be even greater.
- WADC / WSADCP is not suggesting a LEAD / Drug Court comparison should be done as it would be comparing apples to oranges. (There are differences in the existing data sets and in the populations served.) However, we want to make it clear that no such comparison currently exists.

In conclusion, Washington drug courts and other therapeutic courts work. Drug courts must remain a key part of the solution for responding to crimes driven by addiction – crimes such as vehicle theft, identity theft, theft from a person, residential burglary, organized retail theft, drug delivery, and in some instances, assaults and domestic violence crimes. These are crimes with victims and examples of an individual's substance use disorder progressing to the point it is impacting the entire community. In these instances, resources and case management support alone are not enough.

The accountability and structure provided by a therapeutic court is often needed not only for community safety but in order to provide the individual participant with the best chance of success. King county data shows the majority of drug court participants have had prior unsuccessful attempts at treatment – they have tried to stop using without the structure and supervision of a drug court and have not been able to do so.

Significant research exists regarding which individuals are best served by drug courts and participants are screened to determine the appropriate level of treatment and supervision. Individuals who are "high risk" to re-offend (including those with more prior felony convictions, those with antisocial personality disorder, and those who have previously failed in less intensive interventions) will "typically perform poorly on low intensity dispositions, such as pre-trial diversion or standard probation, and apparently require the additional structure and accountability offered by drug courts in order to succeed."^{xi} For those of us who work in therapeutic courts, this is something drug court participants have explained again and again – the importance of expectations and consequences in supporting their ability to stop using and achieve their goals. When

individuals are not offered a timely opportunity at the appropriate level of intervention they need, many harms may result - from overdose death to more serious charges and incarceration.

Washington drug courts and other therapeutic courts are supported not only by decades of research but by the compelling stories of thousands of individuals with substance use disorders and other behavioral health disorders whose lives and whose children's lives have been transformed. The individuals who have been through our therapeutic courts and their family members are some of our most outspoken advocates and it is important not to lose sight of their voices. [Here are just a few of their stories.](#)

ⁱ [Washington State Institute for Public Policy \(2019 December\). "Drug Courts: Adult Criminal Justice."](#)

ⁱⁱ [Washington State Institute for Public Policy \(2018 February\). Inventory of Evidence-Based, Research-Based, and Promising Programs for Adult Corrections.](#) p. 12

ⁱⁱⁱ [Washington State Institute for Public Policy \(WSIPP\): Benefit-Cost Results.](#)

^{iv} [National Association of Drug Court Professionals \(NADCP\): Adult Drug Court Best Practice Standards Vol. I and Vol. II.](#)

^v [Washington State Institute for Public Policy \(2019 December\). "Drug Courts: Adult Criminal Justice."](#)

^{vi} [Collins, Susan E. et al., "Seattle's Law Enforcement Assisted Diversion \(LEAD\): Program Effects on Recidivism Outcomes," *Evaluation and Program Planning* 2017 October.](#) p. 54

^{vii} [Mayfield, J., Estee, S., Black, C., Felver, B. \(2013 July\). Drug Court Outcomes: Outcomes of Adult Defendants Admitted to Drug Courts Funded by the Washington State Criminal Justice Treatment Account. Washington State Department of Social and Health Services: Research and Data Analysis Division.](#)

^{viii} [DSHS Research and Data Analysis Division \(2021 May\). "Drug Court Participants: Recidivism and Key Outcome Measures".](#) p. 9

^{ix} [Collins, Susan E. et al., "Seattle's Law Enforcement Assisted Diversion \(LEAD\): Program Effects on Recidivism Outcomes," *Evaluation and Program Planning* 2017 October.](#) p.55

^x [DSHS Research and Data Analysis Division \(2021 May\). "Drug Court Participants: Recidivism and Key Outcome Measures".](#) p. 9

^{xi} [Marlowe, Douglas B. \(2011 February\). "The Verdict on Drug Courts and Other Problem-Solving Courts". Chapman Journal of Criminal Justice.](#) p. 69-70
