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Leading Emerging Adults to Develop Success (LEADS) Program Pilot Study Prospectus

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Mission

The mission of the Leading Emerging Adults to Develop Success (LEADS) Pilot Program of the Northern District of California is to enhance public safety and reduce recidivism of criminal participants who are age 18 to 26 by connecting these participants with community resources to promote greater sustainable independence and healthy decision making with an attention to accountability and restorative justice. Restorative justice is a theory of justice that emphasizes a meaningful acceptance of responsibility for a harm caused or crime committed and making amends for that harm¹. The program also seeks to find appropriate dispositions to the criminal charges by considering the participant's age, cognitive development, other factors such as a history of trauma, and the seriousness of the offense.

Duration of Pilot Program

The Pilot LEADS Program will accept new participants for 12 months from the initiation of the program. At the end of this 12-month pilot period, new admissions will be paused for a 3-month period of evaluation, modification, and finalization of the LEADS program. The final program will be memorialized by written agreement completed after commentary and response from the United States Attorney's Office, the court, Pretrial Services, CJA attorneys, and the Federal Defender's Office.

Policy and Background²

Emerging adults, generally defined as individuals age 18 to approximately 26, might benefit from special attention during involvement with the justice system. Research shows that emergent adults are receptive to and may benefit from interventions to deter future criminal conduct.

Although younger adults are generally overrepresented at all phases of the criminal justice system,³ they are uniquely capable of positive behavior change with developmentally appropriate stakeholder interactions. These interactions should provide opportunities for participant development through multi-layered support with an emphasis on building problem solving skills.

¹ District Judge Leo T. Sorokin, District of Massachusetts

² Several parties have also identified additional policy statement and scientific research in support of the program, which not all parties to this prospectus join, but which are attached in an addendum.

³ Jennifer Bronson, Ph.D., and E. Ann Carson, Ph.D., U.S. Department of Justice Office of Justice Programs Bureau of Justice Statistics, *Prisoners in 2017*, (April 2019).

Guidelines for the LEADS Program

- 1) **Voluntary/Non-coercive** — Participation in any emerging adult deferred sentencing program should involve the same level of voluntary choice required of a criminal plea. No one should have to decide whether to accept the terms of a plea agreement until the terms and the nature of the proposed treatment have been fully discussed and documented.
- 2) **Least restrictive alternative** — All persons participating in LEADS should be treated in the least restrictive manner available, with graduated and individualized treatment combining safety concerns with the minimum level of restrictions on personal liberty.
- 3) **Confidentiality** — Networking to find an appropriate treatment setting, without safeguards, could compromise participant confidentiality. Systems must be put in place to ensure confidentiality from the time that a person enters a deferred sentencing track.
- 4) **Community partners** — The development of community partners, including collaboration between criminal justice, mental health, substance abuse treatment, and community resources for life skills training, is essential to successful program outcomes. Partnerships with a participant's family members and support network are also essential to positive program outcomes.
- 5) **Handling program setbacks in the court setting** — Minor program setbacks, such as being late to an appointment or occasionally unprepared, are difficult to prevent wholly during the treatment and skills-building process. As such, there may be some cases in which it may not be appropriate to extend a participant's deferred sentencing period because of minor and isolated setbacks. Such instances will be dealt with through the appropriate incentives and sanctions listed below.
- 6) **Evaluation** — Timely monitoring of court processes and participant outcomes are essential to ensure that courts are responding appropriately to the needs of emerging adults and that providers are held accountable for participant outcomes.

Criteria for Participation

Participation in the LEADS Program is voluntary, however, a participant wishing to participate in the program must enter a guilty plea to criminal charges prior to program acceptance. Pretrial Services works closely with service providers and community partners with emphasis on the person's programmatic needs rather than the criminal charges.

Eligibility for the LEADS Pilot Program requires a participant to be 18 to 26 years old at time of arrest as well as meeting one or more of the following criteria:

- 1) Pending federal criminal charge;
- 2) Released on bail (with or without supervision); and
- 3) Either:

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- a. Low to moderate risk level,⁴ as determined by Pretrial Services;
- b. Or, first time offender, defined as Criminal History Category I;⁵

4) Suitability and amenability to treatment with available providers.

Participants are not allowed in the program who meet any of the following criteria:

- 1) Charged with a sex offense;
- 2) In immigration custody.

All individuals under Pretrial Services supervision between the ages of 18 and 26 will be screened to determine their suitability for the LEADS program. The screening criteria will include the candidate's Pretrial Risk Assessment (PTRA) Category to assess the likelihood of an adverse event during pretrial release, such as a failure to appear, technical violation, or new criminal activity. The PTRA considers the number of felony convictions and FTAs, other pending charges, current offense type, and current offense category, among other factors. PTRA risk categories range from 1 (low) to 5 (high). For the pilot program, only individuals with PTRA Categories 1 to 3 (low to moderate risk) will be considered.

Additionally, Pretrial Services will screen candidates for the presence of deficiencies in three key areas, including skill development, family and financial support, and pro-social attitudes, beliefs, and orientation. The screening questions are based on a validated screening tool that measures the risks and needs of late adolescent and adult offenders. The categories assessed include the following:

- 1) Education/Employment
- 2) Financial Status & Support
- 3) Family or Marital Support
- 4) Accommodations
- 5) Leisure & Recreation
- 6) Companions
- 7) Alcohol and/or Drug Problems
- 8) Emotional & Personal Composition
- 9) Attitude & Orientation

⁴ A restriction of "low to moderate risk level" has been designated for the LEADS Pilot Program for evaluation purposes. The finalized LEADS program may include participants of all risk levels.

⁵ The program does not exclude individuals who only have prior juvenile adjudications from qualifying as a "first time offender" depending on the nature and quality of the prior offenses—regardless of the resultant Criminal History Category.

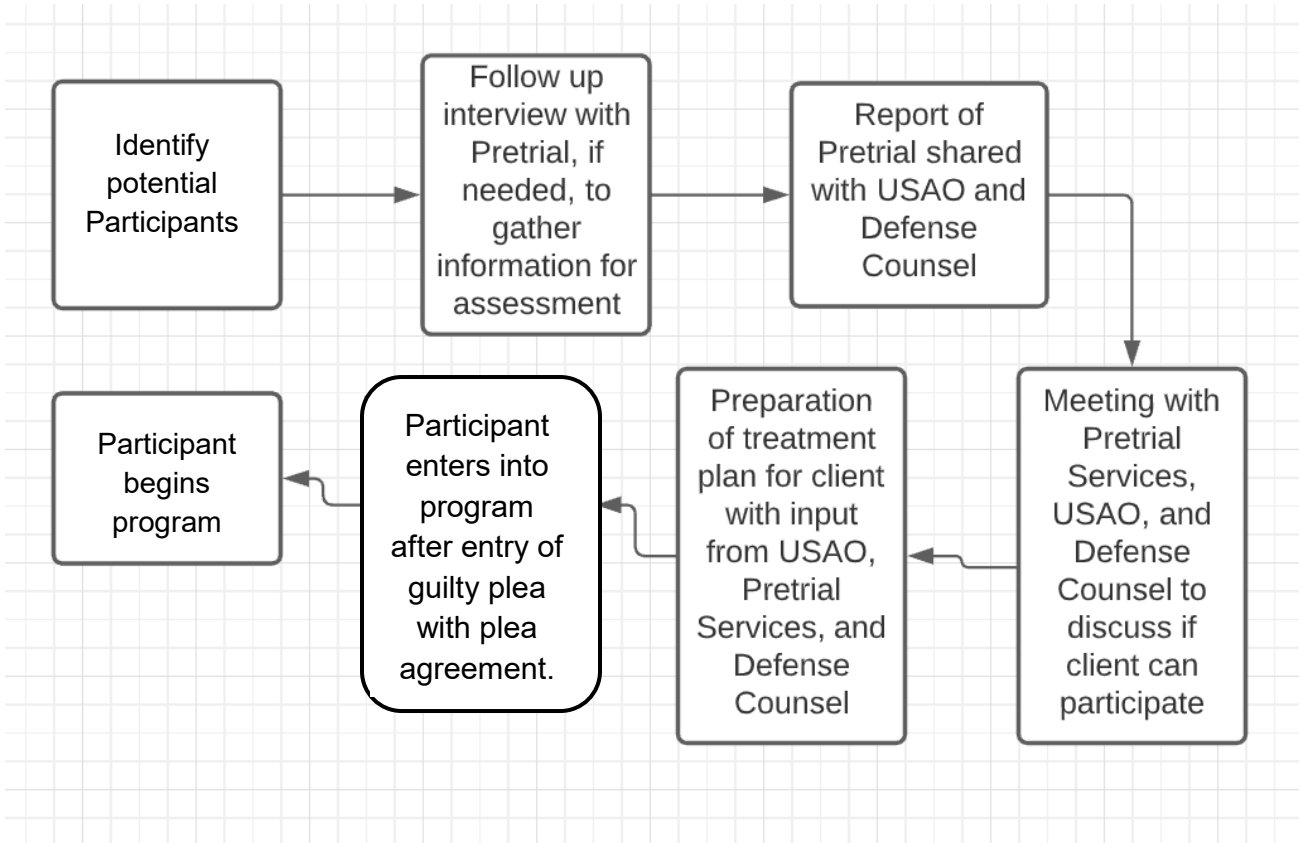
Participant Requirements

- 1) Participants must follow the program Success Plan developed by Pretrial Services, Defense and Government Counsel, and the Court in conjunction with providers and community partners. This means that participants should:
 - a. Follow all program requirements as outlined in the Participant Agreement.
 - b. Attend and participate in all program sessions including counseling, skill development, and group sessions (if assigned).
- 2) Participants must attend all court appearances which will occur at a frequency established by the assigned judge in collaboration with Pretrial Services. The frequency of appearances before the judge may decrease depending on multiple factors including whether a participant is following program requirements and remaining compliant with court orders. If a participant fails to appear in Court, the judge may issue or stay a bench warrant for his or her arrest. The judge, in consultation with the assigned Pretrial Services Officer, defense counsel, and the Assistant United States Attorney, will determine suitability for continuation in the program once the participant is back before the court.
- 3) Participants must follow pretrial release conditions, which include but are not limited to not using alcohol or any illegal drugs (including marijuana) and not committing any new criminal offenses. Pretrial Services Officers must approve a participant's residence. Participants must reside at the established place of residence and are required to obtain approval from the Pretrial Services Officer before changing their residence. They are not allowed to absent themselves from their approved residence for more than 24 hours without the prior approval of the Pretrial Services Officer. Additionally, participants must agree to allow the Pretrial Services Officer to visit their residence without prior notice. Participants must also follow the rules associated with that residence whether it is a landlord, group residence, or family residence, so that they remain in a stable living environment. Maintaining a stable living environment is key to program success.
- 4) Participants must undergo random drug testing, if warranted.
- 5) Participants must be willing to sign a release of information for details pertaining to their program Success Plan, mental health or substance use treatment, employment, educational, and legal status, and history to be shared with Pretrial Services, defense counsel, United States Attorney, and the Court.
- 6) Participants must initiate Social Security Disability/Insurance (SSDI/SSI) application or acquisition of public assistance if appropriate, including Medicaid.
- 7) Participants must exhibit evidence of productive use of time (obtain a job, volunteer community service, education, etc.) if appropriate.
- 8) Participants must complete an individualized program Success Plan and adhere to the goals set in the plan, which may include:

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- a. Accountability and restorative justice reflection essays
 - b. Cognitive Behavioral Group Therapy such as Courage to Change, DBT, or another CBT-based program as prescribed
 - c. If unemployed, attending school or vocational training full-time
 - i. Achieve high school or general equivalency diploma
 - ii. Finding and maintaining gainful employment
 - d. Individual counseling
 - e. Participation in a mentorship program
 - f. Participation in pro-social support group – Courage to Change
 - g. Medication compliance
 - h. Participation in treatment as appropriate
 - i. Mental health
 - ii. Substance-use
 - iii. Life skills
 - iv. Anger management
 - v. Parenting
 - vi. Self-sufficiency program (depending on availability)
 - i. Community service
- 9) Participants must not commit new criminal offenses while participating in LEADS. A participant who commits a new offense is immediately re-evaluated for continued participation in LEADS and will likely be terminated from the program.

Candidate Screening and Selection



Screening would assess the likelihood of a participant's program suitability.

- 1) Typically, Pretrial Services will screen individuals for the presence of criminogenic and other prognostic risk factors within the first 60 days of supervision for any individual who is between 18 and 26 years old and inform the AUSA and the defense attorney if the screening identifies a participant as a potential program candidate. Cases that will not be screened are cases involving sex offenses and participants in custody, including those in immigration custody.
- 2) If defense counsel believes a participant is appropriate for the LEADS Program, and their participant was not screened by Pretrial Services within 60 days of their release, counsel may contact Pretrial Services to request a screening or ask the court to order a participant be screened for the program. An AUSA would have no standing to object.
- 3) The AUSA and defense attorney will be notified if screening indicates a participant may be suitable for the LEADS Program.
- 4) The AUSA and defense attorney will meet and determine whether a participant should be admitted:
 - a. If the parties decide that someone is a candidate for admission after the early evaluation, the parties will notify Pretrial Services in writing if there is mutual support for the potential Participant

to be further assessed for program suitability.

- b. If the USAO needs more information prior to making a decision about admission, the parties will notify Pretrial Services in writing if there is mutual support for the potential Participant to be further assessed for program suitability.
 - c. If the USAO will not agree to admission for the candidate, then defense counsel will have the ability to make a request to a USAO supervisor for reevaluation. In instances where it is possible, the USAO will convey the reasons why a candidate is inadmissible for the program.
- 5) Further assessment by Pretrial Services may include referrals to additional providers for follow up screening and assessments. For the purpose of developing individualized program recommendations to address any habilitation or skill development needs. Information about the participant's 'bio-psychosocial' history is also researched through friends and family, community mental health and medical treatment providers, hospital clinical records, community mental health database, court records, police reports and rap sheets, and jail health and jail psychiatric services records. During the review for placement, the Pretrial Services Officer may recommend a treatment plan.
 - 6) For participant previously screened as appropriate for the LEADS Program, the parties will complete a Progress Plan for the participant. The AUSA can incorporate into the Progress plan considerations for victim input and impact, restitution obligations, and specific rehabilitation goals.
 - 7) A participant would then enter a plea of guilty with a written plea agreement with the government which clearly specifies the outcomes for successful participants, unsuccessful participants, terminated participants. A final decision on whether the participant may enter the program is made by the assigned District Court Judge.

Treatment and Program Success Plans

Treatment and program Success Plans are based on a participant's individual needs and goals. They consider the participant's baseline functioning, individual capabilities, and holistic needs including physical, mental, and social interests. Treatment plans are altered to reflect the participant's progress by being accountable for restorative justice, addressing public safety, and victims while working on personal growth through their individualized program Success Plan.

Risk and Needs Assessments

Participants should be assessed as early as possible and throughout their involvement in the criminal justice system. Risk assessments done at the time of release help determine the appropriate level of supervision in the community. Needs assessments determine and document the participant's medical, psychiatric, psychosocial, and family circumstances, and help identify the appropriate level of treatment.

The LEADS program will refer the participant to community partners to complete a mental health and/ or substance abuse assessment by a contracted vendor. The assessments should examine:

- 1) Treatment Needs—to determine what types of treatment interventions, services, and programs are appropriate;
- 2) Treatment Readiness—to evaluate the extent to which participants are motivated for treatment and whether they are likely to benefit from treatment;
- 3) Treatment Planning—to determine how intensive the treatment should be and on which areas it should focus;
- 4) Treatment Progress—to periodically determine whether participants are responding to treatment and whether treatment should be modified; and,
- 5) Treatment Outcome—to determine the extent of behavioral change, success, or failure.⁶

Status Hearings

Status hearings are a central feature of the LEADS program. Participants appear at agreed-upon intervals (e.g., bi-monthly, quarterly) before the assigned judge or the judge who reviews progress. During the status hearing, the judge is provided with any additional treatment status reports and other information from the Pretrial Services Officer. Participants interact directly with the judge during status hearings.

Incentives and Sanctions

Incentives and sanctions are used by the Court to motivate each participant's compliance with the recommended treatment plan. If treatment compliant, the participant receives incentives for continuing to do well. If the participant is not compliant, sanctions are used by the judge as a consequence of behavior.

Incentives

Incentives are used to assist the participant in achieving treatment goals. The judge determines incentives based upon recommendations from Pretrial Services and counsel. The judge has the discretion to fashion non-traditional incentives tailored to the needs of the participant, including:

- Verbal reinforcement;
- Less-restrictive treatment;
- Reduced frequency of court appearances after the first phase;
- Certificates of achievement;

⁶ Inciardi, 1993.

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- Tangible rewards⁷; and,
- Similar incentives.

Sanctions

Sanctions are used as a consequence for a participant's progress and dedication to their individualized program Success Plan. Participants who show up late, miss, or show a lack of engagement in their program Success Plan may receive an intervention to modify their behavior and accomplish the goals set forth in their program Success Plan. Between status hearings, with or without an intervention, a participant may be assessed for a different level of treatment or supervision by the Pretrial Services Officer. The judge may impose additional sanctions after hearing from the participant, counsel, and Pretrial Services Officer.

Some examples of violations are as follows:

- Unexcused absences from court appearances;
- Unexcused absences from meetings with Pretrial Services or any scheduled treatment;
- Positive or missed alcohol/drug screens;
- Attempt or submission of adulterated urinalysis;
- Failure to complete required progress for a particular phase;
- Failure to maintain employment or education;
- Failure to participate in education or cognitive-behavioral programs or mental health treatment;
- Failure to complete written assignments;
- Failure to complete a sanction;
- New arrest;
- Dishonesty;
- Failure to provide accurate contact information; and,
- Other violations of conditions of supervision or court orders.

Examples of interventions or sanctions (distinguishing between interventions for usage that require a medical response from those for behavior that require a sanction) include:

- Admonishment or reprimand from the court;
- Location restrictions and curfews;
- Volunteer community service;
- Assignments/written essays;
- Increased intensity of treatment;
- Increased frequency of court appearances;
- Extension of time until successful completion;
- Drug testing;
- Observation of criminal duty and/or sentencing calendars;
- Home confinement with electronic monitoring or halfway house placement;
- Flash incarceration;
- Bench warrant; and,
- Termination from LEADS program and adjudication pursuant to the plea agreement.

⁷ Tangible rewards may be offered at situationally dependent events.

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Some sanctions can be given by a Pretrial Services Officer without an appearance before the Court such as:

- Location Restrictions or Curfew
- Assignments/Written Essays

If the treatment plan is inadequate to meet the participant's needs (e.g. violations of conditions of release, new arrest or continues to use drugs), the judge may order for treatment services to intensify. The participant may move from a community setting into a residential treatment program.

The judge may order a psychiatric examination, money management, and additional self-help meetings, drug testing, and intensive monitoring.

Incarceration is not typically used as a sanction in LEADS. Appropriate use of incarceration would be if the participant is engaging in extremely high-risk behaviors and represents a threat to public safety, or as a graduated sanction when less restrictive sanctions have been unsuccessful.

The Pretrial Services Officer's report at the next LEADS program appearance will inform the judge whether a participant properly completed the sanction ordered at the last appearance. Failure to complete ordered sanctions may result in added sanctions, or termination from the LEADS program.

Completion Terms of LEADS

1) Successful Outcome

- To graduate successfully, participants must demonstrate adherence to the program requirements, their pretrial release conditions, and their participant contract and achieve significant progress in the goals set forth in their program Success Plan.
- LEADS participation is at least one year and may be extended to 24 months. The duration of the program is determined by individual need and progress attained in meeting specific goals as specified in the Progress Plan.
- Upon successful program completion, the criminal charges will be resolved pursuant to the promises set forth in the negotiated plea agreement between the participant and the United States Attorney's Office.

2) Unsuccessful Outcome

- Participants will be deemed to have an unsuccessful outcome in the program if they made insufficient progress toward achieving the established program goals set forth in their program Success Plan during the program timeframes or if they are terminated from the program.
- A participant may be terminated from LEADS. This usually occurs when the participant re-offends, fails to participate in LEADS program requirements, fails to timely achieve established program goals set forth in their Program Success Plan during the program timeframes, or

commits a new crime.⁸ If a participant re-offends or is re-arrested, their continued participation in the program is subject to the express consent of all members of the team both as to the new arrest and the pre-existing case.

- c. In the circumstance of an unsuccessful outcome, the case is adjudicated pursuant to the terms of the plea agreement.

Convening Parties

Judge

Every judge in the district is eligible to preside over a LEADS participant.⁹

During regular court appearances, the Judge receives updates on the participant's progress. Also, the judge administers graduated incentives and sanctions as appropriate to increase each participant's accountability and to enhance the likelihood of program compliance. (Note: The Pretrial Services Officer, the AUSA, and defense counsel should meet and confer prior to court appearances regarding the appropriate incentives and sanctions to recommend to the court as a result of the participant achieving program milestones or experiencing setbacks.) At sentencing, the District Judge will choose to accept or reject the parties' plea agreement.

Typically, the District Judge assigned to the cases will be the judge responsible for the status hearings for the participants. However, should a District Judge be unavailable to have regular status appearances, the status appearances may be heard before a Magistrate Judge.

Assistant United States Attorney

The role of the assigned Assistant United States Attorney (AUSA) is to review new cases concerning eligibility pursuant to the guidelines herein. The eligibility assessment includes a review of the participant's criminal history, consultation with victims, legal eligibility, and appropriate dispositions upon the participant's entry into the LEADS Program. Additionally, the assigned AUSA represents the Government's interest in assisting with the participant's successful program completion.

During court hearings, the AUSA monitors participant progress and can make recommendations regarding sanctions and rewards. If a participant is re-arrested, the prosecutor investigates the new case and assesses the appropriateness of continued participation.

Defense Counsel

⁸ The program recognizes that there are different severities of new offenses and that certain offenses (including and not limited to: traffic offenses, driving under the influence, driving without a license, trespassing, shoplifting) will not result in automatic termination from the program. The defense attorney, US Attorney, and Pretrial Services Officer will have the ability to meet and confer to discuss termination after allegations of new offenses.

⁹ The Court will need to determine if a particular judge will be assigned to administer the program or if individual judges will carry out this role.

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The Defense counsel represents and advises the participant in all court proceedings and is mindful of the participant's rights, including constitutional and civil rights. The Defense counsel focuses on protecting participants' rights and their success in the program to promote pro-social behaviors and development of life skills. The Defense counsel advocates for program success to minimize the participant's exposure to incarceration, reduce the risk of re-arrest or new charges, and mitigate the consequence of a criminal conviction.

Community Partners

Community partners provide case management services based on the Community Program needs assessment. Participants receive comprehensive assessments that include individual, family and group therapy, crisis intervention, and medication management, assertive case management, vocational training, and supportive employment services, all of which are tailored to their individual needs. In addition to supervised pretrial release and intensive case management, the services available are designed to assist participants to avoid criminal recidivism, reduce harm from substance use, and recover functioning while managing other needs such as mental illness, substance use, and other developmental changes.

Community partners will provide case management services based on individual needs. Participants receive comprehensive assessments from community providers and treatment plan goals are tailored to individual needs. The services available are designed to assist participants to avoid recidivism, reduce harm, encourage restorative justice with the understanding of psychological and physiological developmental changes.

Pretrial Services Agency

A Pretrial Services Officer will be assigned to each LEADS participant. The Officer supervises the participant based on their conditions of release and LEADS Program requirements. The Officer provides status updates to all parties and the assigned judge regarding treatment plan goals, status on said goals, program compliance and LEADS Program progress. The Officer and community partners are collaborative by nature to ensure participants EADS Program progression, life skills development and overall program success. Furthermore, the Officer works in collaboration with a U.S. Probation Officer during the pre-sentence investigation stage (for those participants expecting to be sentenced) and during the transition to post-conviction supervision, as applicable.

Confidentiality

The LEADS program is governed, where applicable, by HIPAA. Program participants must authorize the disclosure to the Court, defense counsel, USAO, program evaluators, and Pretrial Services of information regarding their diagnosis, attendance, scope of treatment, treatment progress and quality of participation, and termination or completion of medical and psychological treatment. Disclosure of otherwise medically protected

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information received in the course of treatment to non-program stakeholders is strictly prohibited absent court order.

Disclosure of information to non-program stakeholders received in the course of treatment is strictly prohibited unless a court order "for good cause" is issued. Program participants must authorize the disclosure to the Court of information regarding their "diagnosis, attendance, scope of treatment, treatment progress and quality of participation, and termination or completion of treatment." The parties agree to maintain confidentiality of all participant information and discussions.

No court order is required for any party to disclose to the appropriate authorities any information revealed in LEADS which is subject to mandatory reporting by any statute.

On the advice of the defense attorney, participants may be required to sign a release of information with community providers to ensure communication, the dissemination of treatment plan goals and providers treatment plan recommendations.

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Addendum

Policy and Background¹⁰

Emerging adults, generally defined as individuals age 18 to approximately 26, require special attention during involvement with the justice system because neuroscientist research finds that the human brain continues to develop through age 25 and possibly longer for some individuals. During this period, reasoning and impulse control, two functions critical for pro-social behavior, continue to develop. As a result, this developmental phase is often characterized by immaturity, impulsivity, risk taking, sensitivity to peer influence, and instability, leading emerging adults to be more vulnerable to criminal justice involvement. Furthermore, substance abuse and mental health disorders become more prevalent during this period. Developmental psychologists have found that the differences between adult and emergent adult decision-making can translate into differences in sentencing.¹¹

Impulsive Decision Making

A plethora of developmental psychology studies have noted emerging adults deficiency in rational decision making.¹² These studies confirm emergent adults have a strong tendency to over-value rewards and under-value risk when making decisions.¹³ Differences in emergent adult decision-making and risk assessment are partially attributable to discrepancies in the brain itself.¹⁴ Data generated from MRI scans has tracked the growth and eventual pruning of gray matter (cell dense material associated with cognition) in the human brain, as well as the amount of white matter (nerve dense material connecting brain regions).¹⁵ Changes in the ratio of gray and white matter begins at puberty and is used by scientists as a measure for neural maturity.¹⁶ This maturation process is not uniform across the brain, it begins in the parietal region, and ends at the frontal region during early adulthood.¹⁷ Since the prefrontal cortex is the region of the brain most associated with reasoning and decision-making, its late development explains some of the delay between adult cognitive ability

¹⁰ Several parties have also identified additional policy statement and scientific research in support of the program, which not all parties to this prospectus join.

¹¹ Scott & Steinberg, *Blaming Youth* at 839--40.

¹² Elizabeth Cauffman & Laurence Steinberg, *(Im)maturity of Judgment in Adolescents: Why Adolescents May Be Less Culpable Than Adults*, 18 *Behav. Sci. & the L.* 741, 744 (2000); Beatriz Luna & Charles Geier, *The Maturation of Incentive Processing and Cognitive Control* 93 *Pharmacology, Biochemistry & Behavior* 212, 218 (2009); Bernard Finger et. al., *Affective and Deliberative Processes in Risky Choice: Age Differences in Risk Taking in the Columbia Card Task*, 35 *J. of Experimental Psycho: Learning, Memory and Cognition* 709, 728

¹³ Feld, *Adolescent Culpability* at 192.

¹⁴ Feld, *Adolescent Culpability* at 188-194; Laurence Steinberg, *A Behavioral Scientist Looks at the Science of Adolescent Brain Development*, 72 *Brain & Cognition* 160, 160 (2010).

¹⁵ Miya R. Asato et. al., *White Matter Development in Adolescence: A DTI Study*, 20 *Cerebral Cortex* 2122, 2122 (2010); Elizabeth Sowell et. al., *Mapping Changes in the Human Cortex Throughout the Span of Life*, 10 *The Neuroscientist* 372, 374-75 (2004).

¹⁶ *Id.*

¹⁷ Peter R. Hurtenlocher & Arun S. Dabholkar, *Regional Differences in Synaptogenesis in Human Cerebral Cortex*, 387 *J. of Comp. Neurology* 167, 177-78.

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and mature decision-making.¹⁸ The development of the MRI scan allows scientists to map neural activity across the brain's regions and reveal functional differences between adults and emergent adults when making decisions. In both emergent adults and adults, the ventral striatum is strongly associated with considering reward, while the prefrontal cortex has a strong association with the cognitive control associated with decision optimization.¹⁹ Neuroimaging has revealed that when faced with a risky decision, an emergent adult's ventral striatum shows greater activity than an adult's.²⁰ Conversely, emergent adults show a more diffused response in the prefrontal cortex than adults.²¹ Showing that at a neurobiological level emergent adults present a greater response to reward, and a lessened capacity for decision optimization.²²

Increased Risk of Negative Peer Influence

The Supreme Court has noted "that juveniles are more vulnerable or susceptible to negative influences and outside pressures, including peer pressure." *Roper*, 543 U.S. at 569 (citing *Eddings v. Oklahoma*, 455 U.S. 104, 116 (1982)). What the Supreme Court saw as a common-sense notion, is robustly supported by developmental psychology.²³ Emergent adults are much more likely than adults to commit crimes in groups.²⁴ Studies confirm that the mere presence of peers causes emergent adults to engage in riskier behavior.²⁵ Older peers play an especially insidious role in leading adolescents to criminal activity.²⁶

As with risk taking, emergent adults' vulnerability to peer influence has also been confirmed by neuroscience.²⁷ In both adults and emergent adults, the amygdala is involved in deciphering the emotional

¹⁸ Feld, *Adolescent Culpability* at 189-90; Laurence Steinburg, *Risk Taking in Adolescence: New Perspectives from Brain and Behavioral Science*, 16 *Current Directions in Psychol. Sci.* 55, 57-58 (2007).

¹⁹ Feld, *Adolescent Culpability* at 191. Sarah Durston et. al., *A Shift From Diffuse to Focal Cortical Activity With Development*, 9 *Devel. Sci.* 1, 5 (2006); Vinod Venkatraman et. al., *Separate Neural Mechanisms Underlie Choices and Strategic Preferences in Risky Decision Making*, 62 *Neuron* 593, 597-599 (2009).

²⁰ Feld, *Adolescent Culpability* at 191-192; Venkatraman et. al., *supra*, at 599.

²¹ Durston et. al. at 5.

²² Feld, *Adolescent Culpability* at 191-192; Venkatraman et. al., *supra*; Durston et. al., *supra*, at 5.

²³ Laurence Steinburg & Kathryn C. Monahan, *Age Differences in Resistance to Peer Influence*, 43 *Devel. Psychol.* 1531, 1541 (2007); Nat'l Research Council, *Comm. On Assessing Juv. Just. Reform, Reforming Juvenile Justice: A Developmental Approach* 94 (Richard J. Bonnie et. al., eds. 2013) at (hereinafter, *A Developmental Approach*).

²⁴ *A Developmental Approach* at 94.

²⁵ Margo Gardner & Laurence Steinberg, *Peer Influence on Risk Taking, Risk Preference, and Risky Decision Making in Adolescence and Adulthood: An Experimental Study*, 41 *Developmental Psychol.* 626, 626-630 (2005).

²⁶ David J. Harding, *Violence, Older Peers, and the Socialization of Adolescent Boys in Disadvantaged Neighborhoods*, 74 *Am. Sociol. Rev.* 445, 458 (2009); Jonathan Goldner et. al., *Exposure to Community Violence and Protective and Risky Contexts Among Low Income Urban African American Adolescents: A Prospective Study*, 40 *J. Youth and Adolescence* 174, 178 (2011).

²⁷ Feld, *Adolescent Culpability* at 193; Amanda E. Guyer et. al. *Amygdala and Ventrolateral Prefrontal Cortex Function During Anticipated Peer Evaluation in Pediatric Social Anxiety*, 65 *Arch. Gen. Psychiatry* 1303, 1307 (2008).

significance of social cues, while the ventromedial prefrontal cortex is involved in social processing.²⁸ Neural imaging studies have shown that, in comparison to adults, emergent adults have a higher amygdala recruitment and under-recruitment of the ventromedial prefrontal cortex.²⁹ In other words, the emergent adult brain overreacts to social stimuli while it has a reduced mechanism for processing these same stimuli.

Identity

The Supreme Court recognizes that the most important distinction between emergent adults and adults, is the ability to grow; “[t]he relevance of youth as a mitigating factor derives from the fact that the signature qualities of youth are transient; as individuals mature, the impetuosity and recklessness that may dominate in younger years can subside.” *Roper*, 543 U.S. 551, 570 (2005) (quoting *Johnson v. Texas*, 509 U.S. 350, 368 (1993)). Developing one’s own separate identity through experimentation and novelty-seeking behavior is a key feature of being an emergent adult.³⁰ Research shows that the vast majority of emergent adult offenders will not reoffend in adulthood.³¹ This trend holds true with serious and violent emergent adult offenses.³² This demonstrates that emergent adults are both receptive to intervention and may grow out of their criminal careers.

The Supreme Court, developmental psychologists, and increasingly neuroscientists, recognize (1) impulsivity in decision-making, (2) vulnerability to peer pressure, and (3) transience of identity, distinguish emergent adults in terms of sentencing.

Although younger adults are generally overrepresented at all phases of the criminal justice system,³³ they are uniquely capable of positive behavior change with developmentally appropriate stakeholder interactions. These interactions should provide opportunities for participant development through multi-layered support with an emphasis on building problem solving skills.

²⁸ *Id.*

²⁹ Feld, Adolescent Culpability at 193; Todd A. Hare et. al., *Biological Substrates of Emotional Reactivity and Regulation in Adolescence During an Emotional Go-NoGo Task*, 63 *Biological Psychiatry* 927, 932 (2008); Guyer et. al., *supra*.

³⁰ *A Developmental Approach* at 90.

³¹ *A Developmental Approach* at 90; See e.g. Terry E. Moffit, *Adolescence-Limited and Life-Course-Persistent Antisocial Behavior*, 100 *Psych. Rev.* 674 (1993); Howard N. Snyder, *Appendix Serious, Violent and Chronic-An Assessment of the Extent of and Trends in Officially Recognized Serious Criminal Behavior in a Delinquent Population*, in Rolf Loeber & David F. Farrington eds. *Serious & Violent Juvenile Offenders*, (SAGE Publications, Thousand Oaks CA, 1998) at 442-43 (“Snyder, Appendix”).

³² Snyder, *Appendix*, at 442.

³³ Jennifer Bronson, Ph.D., and E. Ann Carson, Ph.D., U.S. Department of Justice Office of Justice Programs Bureau of Justice Statistics, *Prisoners in 2017*, (April 2019).

Last Updated: 2022-05-04

Evaluation Criteria

LSI-R

The Level of Service Inventory-Revised (LSI-R) is a risk/need assessment instrument that was designed to assist agencies in classifying individuals based upon risk of re-offending, thereby allowing agencies to assign appropriate levels of risk/need and develop intervention/case-plans accordingly. The LSI-R is a fifty-four item additive scale that covers ten criminogenic domains (criminal history, education/employment, financial, familial relationships, accommodations, leisure and recreation, companions, alcohol and drug use, emotional health, and attitudes/orientations).

The LSI-R criteria form the foundation for a home grown assessment tool we will develop to identify potential LEADS participants. The LSI-R is validated and is a revised version of the Level of Service/Case Management Index (LS/CMI), which serves as the foundation for Courage to Change.

Below are the primary components of the LSI-R questioning (it is not the actual questionnaire).

PTRA

The federal Pretrial Risk Assessment (PTRA) is a scientifically based instrument developed by the Administrative Office of the U.S. Courts (AO) and used by United States probation and pretrial services officers to assist in determining a participant's risk of failure to appear, new criminal arrests, or technical violations that may lead to revocation while in the pretrial services system.

The PTRA category will provide the tool to assess risk (of pretrial failure or adverse event). For the pilot we will use PTRA categories 1-3. For the normal group we will use the higher PTRA categories.

ACEs

Adverse Childhood Experiences (ACEs) come in many forms, from physical and mental abuse to neglect and household dysfunction. ACEs, are preventable, potentially traumatic events that occur in childhood (0-17 years) such as neglect, experiencing or witnessing violence, and having a family member attempt or die by suicide. Also included are aspects of a child's environment that can undermine their sense of safety, stability, and bonding, such as growing up in a household with substance use; mental health problems; or instability due to parental separation or incarceration of a parent, sibling or other member of the household.

In 1998, CDC-Kaiser Permanente published a groundbreaking study that investigated the impact of ACEs on physical and mental health problems in over 17,000 adults. During the study, the adults were given a survey asking about 10 different types of ACEs and if they had experienced them prior to the age of 18. The study showed a direct correlation between ACEs and future physical and mental health complications.

The presence of trauma (through ACEs) can be assessed once someone is in the program for the purpose of developing a program/supervision plan.

Individualized Program Success Plan

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

Individualized Success Plan³⁴

LEADING EMERGING ADULTS TO DEVELOP SUCCESS (LEADS) PROGRAM

Full Name: _____
Current Address: _____
City/State/Zip: _____
Phone Number: _____ home cell
other
Alt. Phone Number: _____ home cell
other
Email Address: _____

draft version

Supportive Contact Information

Primary Name: _____ Relationship: _____ Phone: _____
Secondary Name: _____ Relationship: _____ Phone: _____

to be updated

Goal for Success: Employment

Current Employment		Goal Employment	
I am presently:	Employed	At the conclusion of the program, I will be:	Employed
	Underemployed (not having enough paid work)		Underemployed (not having enough paid work)
	Unemployed		Unemployed
	Disabled		Disabled
	Retired		Retired

³⁴ This success plan applies to the pilot program only. It does not extend beyond the pilot program.

Handbook for Participants

Welcome to the LEADS Program

This handbook is intended to:

Answer questions

Address concerns

Give you information about Leading Adults to Develop Success (LEADS)

As a participant in this program, you are expected to follow the instructions given in court by the Judge and follow the Individualized Program Success Plan that you develop with your Pretrial Services officer. This handbook explains what is expected of you and what you can expect from LEADS.

Entering and successfully completing LEADS may result in important legal benefits in your case, which will be explained by your attorney. If you are successful in this program, your case can be dismissed or you could receive a reduced sentence. This program can support you in your personal and professional goals and should be considered when you decide to enter into LEADS. If you have any questions about this handbook or about LEADS, ask your Pretrial Services officer or your attorney.

What is LEADS?

LEADS is for adults ages 18 to 26 who have legal and social service needs, and are given the opportunity to participate in LEADS instead of the regular criminal court process. LEADS is an alternative court of the United States District Court for the Northern District of California. Alternative courts use a different approach to resolve criminal cases by connecting participants to community services and other opportunities. The goal is to support participants so they do not commit new crimes. Your LEADS group includes the Judge, Treatment Providers, Assistant United States Attorney, Assistant Federal Public Defender, Defense Attorney, Pretrial Services Officer—and you.

What do I have to do?

The LEADS group members will work with you to create an Individualized Program Success Plan based on your individual needs and goals which may include housing, education, employment, financial benefits, mental and physical wellness, parenting and life skills support. To participate in LEADS, you must agree to follow your Individualized Program Success Plan, which is a shared commitment between you and the court. Before you sign Participant Contract, you will have an opportunity to review it with your attorney and have your questions answered.

You will appear before the LEADS Judge on a regular basis. For the first several months, you will likely come to court every week or every other week. As you start to meet your goals, court hearings will take place less often.

Be on time for your court hearing. Be courteous and respectful of all people in the courtroom. Dress appropriately (no hats, no hoods, pants up, no midriff tops, no shorts).

How long is court?

Court will vary based upon an individual Judge's schedule—however, you should anticipate that your case will be called within two hours. Please make sure that you have cleared the necessary amount of time on your schedule to accommodate your court appearances. Depending on how well you are doing with your Individualized Program Success Plan, your hearing may be called earlier or later in the calendar.

How long will I be involved in LEADS?

The length of time you participate in LEADS depends upon your criminal charges and individual progress with your Individualized Program Success Plan. Participants can expect to be in the program for at least one year and may complete the program up to two years after they start. While you are participating in

LEADS, the Judge, your Pretrial Services officer and your attorney will keep track of your participation and progress through the phases, and will work with you to determine when you are ready to graduate.

Your case will return to the regular criminal court process if you are terminated by the Court for not following your plan, or, if you voluntarily withdraw from LEADS.

How LEADS can work for me?

Services and Resources: Once accepted into LEADS, you will be linked to some or all of the following services: case management, housing, job training and placement, education, group and/or individual therapy, parenting resources, health care, and benefits. We recognize that housing is very difficult. However, your Pretrial Services officer will work with you to find shelter or a more secure environment for you.

Recognition of Progress: As you progress through your Individualized Program Success Plan and the phases, your achievements will be publicly recognized by the Judge, attorneys, and Pretrial Services officer.

Legal Benefits: If you successfully complete your Individualized Program Success Plan and graduate, you will leave the criminal justice system in a better position than the more traditional criminal court process. For example, your charges may be reduced or your charges may be dismissed. Every case is different. Your attorney will discuss the specifics of your case and explain the benefits for your case/s if you successfully complete LEADS.

Opportunity: LEADS offers you a chance to connect and receive services and support, practice and develop skills that lead to success in adulthood, and receive a better legal outcome than if you had remained in a standard criminal court proceeding.

Graduation/Sentencing: Once you are consistently engaged with your Individualized Program Success Plan, following the Judge's orders, and remaining arrest-free, you may be eligible for graduation from LEADS. There are four phases in the program. Graduation is determined by your achievements in each program phase.

Remember that there are many people who make up your LEADS case—including you. The judge, your attorneys, and your Pretrial Services officer wants you to succeed. If you take advantage of the assistance offered, you can discover many ways to make a better life for yourself.

PROGRAM PHASES

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The LEADS program is a four-phased highly structured program lasting from 12-24 months. The length of time varies depending upon your progress.

Each phase includes activities and accomplishments and consists of achievements to move into the next phase. You and your attorneys, the judge, and your Pretrial Services officer, will determine your readiness for phase advancement based on your goals.

The more engaged you are with your Individualized Program Success Plan, the better your progress and outcome. It is not just about showing up. As you move from one phase to another, your family and/or other important persons in your life are invited to join you in court to celebrate your success.

PHASE ONE – Engagement and Assessment	
Objectives	Intake, assessment and orientation; meet with your Pretrial Services officer; develop your Individualized Program Success Plan; attend group and/or individual therapy sessions; meet immediate needs
Expected Length of Phase	3 months
Expectations	<ul style="list-style-type: none">○ Weekly/Biweekly court hearings○ Create Individualized Program Success Plan goals (housing and employment for example) and begin working on them○ Attend support groups as directed○ Comply with the terms and conditions of pretrial release (if applicable)○ Drug testing based on identified needs
Advancement	<ul style="list-style-type: none">○ No pretrial sanctions○ Satisfactory treatment progress or completion○ Satisfactory compliance with all program requirements○ Agreement of your attorneys, the judge, and your Pretrial Services officer

PHASE TWO – Stability and Accountability	
Objectives	Continued Individualized Program Success Plan
Expected Length of Phase	3 months
Expectations	<ul style="list-style-type: none">○ Attend required court hearings○ Ongoing review and updating of Individualized Program Success Plan with goals accomplished (including housing, employment or educational goals)○ Comply with the terms and conditions of pretrial release○ Group, individual and/or family therapy, if required○ Attendance of support groups as directed○ Random drug testing as directed
Advancement	<ul style="list-style-type: none">○ No pretrial sanctions○ Satisfactory treatment progress or completion

	<ul style="list-style-type: none"> ○ Satisfactory compliance with all program requirements <p>Agreement of your attorneys, the judge, and your Pretrial Services officer</p>
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PHASE THREE – Wellness and Community Connection	
Objectives	Continued Individualized Program Success Plan; Wellness, pursuit of education and/or vocational goals, connect with the community at large
Expected Length of Phase	3 months
Expectations	<ul style="list-style-type: none"> ○ Attend required court hearings ○ Ongoing review and updating of Individualized Program Success Plan with goals accomplished (including housing, employment or educational goals) ○ Stable housing arrangements ○ Begin relationships with community partners to continue after program completion ○ Comply with the terms and conditions of pretrial release ○ Group, individual and/or family therapy, if required ○ Attendance of support groups as directed ○ Random drug testing as directed
Advancement	<ul style="list-style-type: none"> ○ No pretrial sanctions ○ Satisfactory treatment progress or completion ○ Satisfactory compliance with all program requirements ○ Agreement of your attorneys, the judge, and your Pretrial Services officer

PHASE FOUR –Program Transition	
Objectives	Transition from LEADS while maintaining wellness and positive community connections
Expected Length of Phase	3 months
Expectations	<ul style="list-style-type: none"> ○ Attend required court hearings ○ Completion of Individualized Program Success Plan with goals accomplished ○ Stable housing arrangements ○ Finalize relationships with community partners to continue after program completion ○ Maintain employment or participation in an educational/vocational program ○ Comply with the terms and conditions of pretrial release ○ Group, individual and/or family therapy, if required ○ Attendance of support groups as directed ○ Random drug testing as directed ○ Develop a Post-Graduation Life Plan
Advancement/Graduation	<ul style="list-style-type: none"> ○ No pretrial sanctions ○ Satisfactory treatment progress or completion ○ Satisfactory compliance with all program requirements

	<ul style="list-style-type: none">○ Agreement of your attorneys, the judge, and your Pretrial Services officer
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On your graduation day, you will be invited to share with the LEADS Judge how life has changed for you since you started the program. The Judge will present you with a certificate of completion and will recognize your accomplishments. Family and friends are invited to join you to celebrate your success.

What are the expectations of LEADS?

You must meet the following commitments to participate in LEADS.

Appear in Court as Scheduled

You must appear in front of the LEADS Judge on a regular basis. The Judge will be given progress reports about your engagement in your Individualized Program Success Plan and with Pretrial. The Judge will ask you about your progress and discuss any challenges you may be experiencing. Depending on your progress, you may have to come to court several times a month. As you make progress, you will have less frequent court appearances.

Follow your Individualized Program Success Plan

Your plan will include some of the following components:

- Case management and therapeutic services
- Group, individual and/or family therapy
- Meeting with your Pretrial Services Officer
- Meeting with a mentor
- Substance abuse counseling (as applicable)
- Housing, education, employment and parenting support

What's in Your Individualized Program Success Plan?

Pretrial Services

Your Pretrial Services Officer will connect you to services in the community to achieve your goals and will inform the Court on your progress on completing your Individualized Program Success Plan. You are expected to attend all scheduled appointments, both with your Pretrial Services Officer and with agencies that you are referred to by your Pretrial Services Officer.

Substance Abuse or Alcohol Treatment

LEADS recognizes that substance abuse often compromises the safety, wellbeing, and mental health of our participants, and we work with you to move towards abstaining from problematic drug and alcohol use.

Drug Testing

Drug testing will take place during phase one. The LEADS group members hears about all drug test results including any failure to test. The Judge may order a drug test at any time. Tampering with the drug test or refusal to be tested is considered a positive test and may result in a remand or termination from the program (if a urine test is used, this includes flushes, diluting, using someone else's urine) or other negative consequences. A positive or "dirty" test will also result in a negative response from the court.

Additional Services and Activities

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Your Individualized Program Success Plan will likely include a number of activities including therapy, employment and education programs, and other services. Completing these activities is your road map to successful completion of the LEADS program. Your plan may change over time, as you complete activities and/or adjust your goals. Your Pretrial Services Officer will provide LEADS with a report about your attendance and progress, and will contact staff at various community agencies to confirm that you are attending and engaged and that the services are meeting your needs.

Rewards and Responses

There are rewards for your conduct while you are a participant in LEADS—both good and bad.

Rewards are received for doing well in LEADS and are awarded on a case by case basis, as determined by the LEADS group. “Doing well” means:

- Arriving on time for court hearings and scheduled appointments
- Following the Judge’s recommendations
- Following your Individualized Program Success Plan
- Being actively engaged in court and your plan
- Practicing and developing accountable behaviors

Responses are consequences for not meeting your commitments to LEADS. Responses are intended to keep you on track, encourage you to make good choices, and help you to succeed in the program. Responses are given in order of increasing seriousness.

The following behaviors may result in the Judge or your Pretrial Services Officer ordering one or more responses.

- Missed court appearances
- Missed appointments with your Pretrial Services Officer or other service providers
- Infractions of rules of treatment including verbal threat of violence
- Other failures to follow your Individualized Program Success Plan
- Continued substance abuse
- Refusing to drug test
- Failure to follow conditions of pretrial release.
- Missed appointments with pretrial.
- Leaving your treatment program or supervised housing
- New criminal offenses

Termination from LEADS

New arrests could result in being terminated from LEADS. Other violations which may result in termination or a judicial response include: failing to meet program commitments; failing to follow instructions of the Pretrial Services Office. The LEADS Judge will make the final decisions about termination from LEADS. If you are terminated from LEADS, your case may be returned to the regular criminal court process.

Participant Contract

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CONTRACT FOR PARTICIPATION³⁵

LEADING EMERGING ADULTS TO DEVELOP SUCCESS (LEADS) PROGRAM

Name: _____

Docket#: _____

Offense(s): _____

INTRODUCTION

You have been invited to participate in the Leading Emerging Adults to Develop Success (LEADS) program of the Northern District of California as part of a post-guilty plea program that offers either diversion or a non-custodial sentence for successful completion of the program.. Participation is entirely voluntary. Participation can only occur after you enter guilty plea(s) to one or more of the criminal charges currently pending against you in the case referenced above. The Court will need to make a final determination whether to accept your guilty plea(s) and plea agreement.

If the Court agrees to accept your guilty plea(s) and plea agreement, in doing so approving your participation, and you thereafter successfully complete the LEADS program, then you will receive the benefits described in your plea agreement, which contains the full set of promises between you and the government.

LEADS PROGRAM BASICS

The LEADS Program will last at least one year, with the possibility that it may be extended up to no more than two years. Participants in the program will have their cases referred to the Court before whom they will enter guilty pleas pursuant to plea agreements with the United States Attorney's Office for the Northern District of California ("USAO").

Participants agree to participate in an evaluation for mental health and/or drug and alcohol evaluation, and in any and all treatment and testing recommended. In addition to the requirements of actively engaging in any treatment and testing that may be recommended for mental health and/or substance abuse issues, Participants are also required to participate in programs designed to address underlying causes of criminal

³⁵ This contract applies to the pilot program only. It does not extend beyond the pilot program.

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activity and to comply with all conditions of this post-guilty plea program required by (1) the plea agreement entered for their guilty plea(s), or (2) the PTSO.

Both your defense counsel and AUSA will work with the PTSO to provide additional support and encouragement for your success in the LEADS program.

LEADS PROGRAM APPEARANCES

At least once per month, at a time to be determined, you will be required to appear before the Court to evaluate your progress. The PTSO, Defense Attorney, and AUSA will be present, and possibly treatment and/or other program providers. Progress reports from the PTSO can be provided to the Judicial Officer, the Defense Attorney, and the AUSA. These reports will describe both successes and problems you have experienced.

LEADS PROGRAM TREATMENT AND COUNSELING PROGRAMS

An important part of the LEADS program will be your participation in substance abuse and/or mental health treatment and counseling programs and/or other programs addressing underlying causes of criminal activity as determined to be necessary by the Court, PTSO, Defense Attorney, and AUSA. Treatment and other program providers will be expected to share information regarding your participation and progress in any treatment and counseling programs with the Court, PTSO, Defense Attorney, AUSA, and any research partner evaluating the LEADS program. Treatment and other program providers can also be present at LEADS program court appearances, at which they could discuss your participation and progress with the Court, PTSO, Defense Attorney, and AUSA. To enable treatment and other program providers to freely share information regarding your participation and progress in any treatment and counseling programs and other programs, you will be required to execute a waiver of confidentiality in the form attached as Exhibit A.

LIMITED USE OF STATEMENTS MADE DURING PROGRAM APPEARANCES

Another important part of the LEADS program is your complete candor during your LEADS program court appearances and treatment sessions. To encourage your candor, the USAO has agreed as follows:

- 1) You agree to be truthful and complete during all LEADS program court appearances and associated treatment sessions.
- 2) Except as otherwise provided in subparagraph (C) below, the USAO will not offer in evidence any statements made by you during LEADS program court appearances (a) in a grand jury proceeding to indict you, (b) in its case-in-chief at a trial against you, or (c) at your sentencing. The USAO may use any statements made by you or any information directly or indirectly derived from statements made by you during LEADS program court appearances for any other purpose, including (a) to obtain leads to other evidence that may be used against you at any stage of a criminal prosecution; (b) in any prosecution of you for perjury, false statements, or obstruction of justice; or (c) in a prosecution of you

for murder, attempted murder, or act of physical violence against the person of another, or conspiracy to commit any of those offenses.

- 3) Notwithstanding paragraph (B), the USAO may use any statements made by you during LEADS program court appearances for any purpose (a) if you testify at any hearing or trial; or (b) to rebut any evidence offered, or factual assertions made, by or on behalf of you at any stage of a criminal prosecution (including but not limited to a detention hearing, trial, or sentencing).
- 4) You understand that this agreement is limited to statements made by you during LEADS program court appearances and does not apply to any oral, written, or recorded statements made by you at any other time or to any other information provided during such appearances. The parties further agree that statements made by you and the USAO during LEADS program court appearances do not constitute “plea discussions” or any “related statement” within the meaning of Federal Rule of Criminal Procedure 11(f) or statements “made in the course of plea discussions” within the meaning of Federal Rule of Evidence 410.
- 5) You understand that this agreement is not binding on any other United States Attorney’s office or on any other federal, state, tribal, or local office or agency. You further understand that no understandings, promises, or agreements have been entered into other than those set forth in this contract and your plea agreement, and nothing said at the LEADS program court appearances will constitute a promise or agreement unless you and the USAO agree in writing.
- 6) To encourage candor with treatment providers,³⁶ statements made in treatment proceedings will not offer in evidence any statements made by you during LEADS treatment appearances:
 - a. in a grand jury proceeding to indict you;
 - b. in its case-in-chief at a trial against you;
 - c. at your sentencing;
 - d. to obtain leads to other evidence that may be used against you at any stage of a criminal prosecution;
 - e. in any prosecution of you for perjury, false statements, or obstruction of justice;
 - f. or, in a prosecution of you for murder, attempted murder, or act of physical violence against the person of another, or conspiracy to commit any of those offenses.

³⁶ Nothing in this program, contract, or prospectus shall be read to supersede or contradict any other professional or legal reporting obligations that a treatment provider might have.

LEADS PROGRAM SUPERVISION VIOLATIONS AND SANCTIONS

LEADS program supervision violations and sanctions will ordinarily be handled on the regularly scheduled court calendar. The Court, however, can schedule an appearance at any time. Sanctions and modifications regarding treatment and other programs may also be handled on an expedited basis with the consent of the parties and the Court.

If there is an allegation of noncompliance, you may choose to agree that the allegation is true and waive the traditional protections and procedures afforded to those on pre-trial supervision when they are accused of violating supervision. If you do so, there will be no hearing on whether the allegation is true and the Court will decide whether a LEADS program sanction is appropriate. As noted above, noncompliance may be handled on an expedited basis outside the presence of the Court if all parties agree.

Noncompliant behavior (including, but not limited to, behavior inconsistent with the expectations set forth herein and in the plea agreement) by you, the Participant, will result in sanctions. The range of possible sanctions has been drafted broadly to assure that some level of sanction is available for every type of violation. Factors that will influence the type of sanction employed include the seriousness of the violation, the number of violations, and the amount of time you have remained compliant, either before a first violation, or between violations. In addition, an important factor will be whether you voluntarily disclose the violation. Dishonesty on your part will result in enhanced sanctions. Depending on these factors, any of the sanctions listed below—including termination from the LEADS program—is available. As a general rule, where there are repeat violations, more serious sanctions will be applied. Sanctions may include, but are not limited to:

- Judicial reprimand;
- Order to attend and observe other court proceedings;
- Order to submit written assignment (for example, write out an explanation for your non-compliant behavior and describe a plan to correct it or write out a list of the special conditions of your post-guilty plea diversion and explain how you violated those conditions and how you plan to avoid similar violations in the future);
- Increase in the time for successful completion of the program;
- Curfew restriction for up to 30 days;
- Increase in frequency of progress hearings before the Court;
- Order to participate in community service as part of the LEADS program;
- Order to complete a term of home confinement (with conditions that may include substance abuse monitors and standard location monitoring with GPS);
- Order to complete a term of up to 30 days at a residential reentry center;
- Order to complete a term at a residential substance abuse treatment facility;
- Order to spend up to 7 days in jail;
- Termination from LEADS program.

If appropriate, sanctions may be ordered more than once during the course of the LEADS program. Note that you must timely complete all phases of the LEADS program and that serious violations such as new criminal activity or repeat violations for less serious violations will likely lead to your dismissal from the program and/or prevent you from completing the program within 24 months.

If you admit to the violation, you may be able to complete the sanction and remain in the LEADS program. When expedited action is appropriate and the parties agree, a sanction or adjustment in treatment can be imposed through a modification without an appearance before the Court. The PTSO's report at the next

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LEADS program appearance will inform the Court whether you properly completed the sanction ordered at the last appearance. Failure to complete ordered sanctions may result in added sanctions, or termination from the LEADS program.

If you wish to contest the violation allegation, you may do so. The only permissible contested hearing in the LEADS program, however, is a claim of actual innocence of the alleged violation. If you wish to have a contested hearing, the defense attorney will assist you in contesting the violation allegation. The Court will ultimately decide whether the allegation is true.

It is important to note that the PTSO need not wait until your scheduled program appearance to address problems in supervision. If you fail to abide by directions of the PTSO, or if the PTSO believes that you have committed other violations of your supervision, the PTSO will have discretion to contact you directly to address the violation; to arrive at a proposed method of addressing the violation through discussions with the Court, Defense Attorney, and/or AUSA; or to request the issuance by the Court of a warrant for your arrest.

TERMINATION FROM THE LEADS PROGRAM

You may be involuntarily terminated from the LEADS program if you fail to participate in treatment or other programs or if you violate the terms of the LEADS program or your post-guilty plea conditions set forth in the plea agreement and herein—including failure to make LEADS program court appearances, failure to participate actively in the LEADS program including failure to timely attend scheduled treatment without prior approval from the PTSO or treatment provider, repeated drug use, failure to meet all program requirements within a 24 month period, or a new law violation. Final decisions regarding involuntary termination will be made by the Court. If you are involuntarily terminated from the LEADS program, you will return to regular pretrial supervision and your case will be set for sentencing before the Court—in imposing sentence, the Court will not be bound to provide the benefits that your plea agreement would have required had you successfully completed the LEADS program. Instead, the Court can impose the sentence as suggested in the plea agreement for unsuccessful completion or termination. The plea agreement will provide the parties' position on sentencing for unsuccessful termination from the LEADS program.

You may also at any time voluntarily discontinue your participation in the program and have your criminal case set for sentencing before the Court—again, however, in such an instance, the Court will not be bound to provide the benefits that your plea agreement would have required had you successfully completed the LEADS program and you will also be bound by the terms of your plea agreement

Whether your termination from the LEADS program is voluntary or involuntary, the Court will be aware of, and can consider in imposing sentence, all conduct that has taken place during your participation in the LEADS program, including successes, failures, and sanctions that occurred during your participation in the LEADS program.

SUCCESSFUL COMPLETION OF PROGRAM

Upon successful completion of the LEADS program, as determined by the Court, USAO, PTSO, and Defense Counsel, you will receive the benefits specified in your plea agreement, which contains the full set of promises between you and the government.

AGREEMENT TO PARTICIPATE

Participant

I, _____, have read, or someone has read to me in the language I best understand, this Contract, the progress plan, and the plea agreement that would be a condition of my participation in the LEADS program. I have discussed this Contract, the progress plan, and the plea agreement with my attorney and I understand its terms. I have also discussed with my attorney the LEADS program and I understand that program. I voluntarily agree to participate in the LEADS program subject to the terms set forth in this Contract, the progress plan, and the plea agreement. I understand I can revoke my voluntary participation in the LEADS program at any time and that, if I do so, my criminal case will be set for sentencing before the Court without any obligation to provide me the benefits set forth in the plea agreement for successful completion of the LEADS program. I understand that, in such a case, I will still be bound by the terms of my plea agreement and cannot withdraw my plea on the basis of voluntary revocation or involuntary termination from the program.

_____ I will appear in Court for my scheduled progress hearings.

_____ I will contact my Pretrial Services Officer and/or treatment provider as scheduled.

_____ I will work to meet the goals of my Individualized Program Success Plan.

_____ I understand my progress will be monitored and that rewards and responses will be applied as appropriate.

_____ I will meet the terms and conditions of my Pretrial Release.

_____ I will comply with drug testing requirements if applicable. If I miss a test, I understand that I am subject to a response from the court.

_____ I understand this is a phased- based program and that I progress through four different phases.

_____ I am accountable to all LEADS expectations.

Signature

Date

Typed Name

Defense Counsel

I, _____, the Defense Counsel representing the Participant in connection with the LEADS program, have discussed the LEADS program, the progress plan, the plea agreement that would be a condition of participation in the LEADS program, and this Contract with the Participant in the underlying criminal matter. I believe that the Participant understands the LEADS program, the terms of the plea agreement that would be a condition of participation in the LEADS program, the progress plan, and the terms of this Contract, and that the Participant's agreement to participate in the LEADS program subject to the terms of this Contract the progress plan, and the plea agreement that would be a condition of participation in the LEADS program is knowingly and voluntarily made.

Signature

Date

Typed Name

Assistant United States Attorney

I, _____, the Assistant United States Attorney representing the United States Attorney's Office for the Northern District of California (the "USAO") in this matter, agree to the terms of this Contract in this case on behalf of the USAO and accept the above named Participant into the LEADS program subject to the terms of this Contract, the progress plan, and the plea agreement that would be a condition of the Participant's participation in the LEADS program.

Signature

Date

Typed Name

Pretrial Services Officer

Last Updated: 2022-05-04

I, _____, the Pretrial Services Officer assigned to this case, accept the above named Participant into the LEADS program subject to the terms of this Contract, the progress plan, and the plea agreement that would be a condition of the Participant's participation in the LEADS program.

Signature

Date

Typed Name

Court

Subject to the Court's acceptance of the Participant's guilty plea(s) and plea agreement, the Court hereby accepts the above named Participant into the LEADS Program subject to the terms of this Contract, the progress plan, and the plea agreement that would be a condition of the Participant's participation in the LEADS program.

Signature

Date

Typed Name