

**ALTERNATIVE SENTENCING PROGRAMS IN THE
NORTHERN DISTRICT OF CALIFORNIA**

**DIVERSION, CONVICTION ALTERNATIVES PROGRAM, LEADING EMERGING
ADULTS TO DEVELOP SUCCESS, AND VETERANS COURT**

AGREEMENT AMONG STAKEHOLDERS

I. PURPOSE OF AGREEMENT

The Northern District of California offers Diversion, a Conviction Alternatives Program (CAP, formerly ATIP), Leading Emerging Adults to Develop Success (LEADS), and Veterans Court, for appropriate qualifying defendants.

Diversion

Diversion has been offered by the United States Attorney's Office (USAO) for years and will continue to be offered to appropriate defendants through a Pre-trial Diversion Agreement, which typically results in dismissal of the charge(s), or through a Post-Plea Diversion Agreement, which may result in dismissal of all or some of the charges or sentence-enhancing allegations, or through a recommendation to a lesser sentence than would otherwise have been recommended.

Conviction Alternatives Program (CAP)

CAP is available to qualifying defendants, pre-conviction, pursuant to a plea agreement with the USAO. It is also available post-conviction from the Court pursuant to deferred sentencing.

With a plea agreement, upon successful completion, the defendant will receive any incentives that may have been promised in a plea agreement for consideration by the sentencing judge (e.g., a non-custodial sentence, dismissal of mandatory minimum charges or sentence-enhancing allegations, an agreement to recommend a lower sentence, or dismissal) for their post-arrest rehabilitation.

Leading Emerging Adults to Develop Success (LEADS)

In the LEADS program, the USAO may offer a plea agreement to qualifying defendants, age 18 to 26, allowing them the opportunity to participate in the program. LEADS Track I plea agreements may be offered to low-risk defendants in Criminal History Category I and generally result in dismissal of the charge(s) for successful completion of the program. LEADS Track II plea agreements may be offered to any risk level of defendant and generally result in a non-

custodial sentence, including dismissal of mandatory minimum charges or sentencing-enhancing allegations. LEADS is only available pursuant to a plea agreement.

Veterans Court

In the Veterans Court program, the USAO may offer a plea agreement to qualifying defendants who are confirmed veterans of the U.S. armed services, allowing them the opportunity to participate in the program. Veterans Court Track I plea agreements may be offered to low to moderate risk defendants and generally result in dismissal of the charge(s) for successful completion of the program. Veterans Court Track II plea agreements may be offered to any risk level of defendant and generally result in a non-custodial sentence, including dismissal of mandatory minimum charges or sentencing-enhancing allegations. Veterans Court is only available pursuant to a plea agreement, though programming may be available for veterans on supervised release who did not participate in a Veterans Court plea agreement.

II. OBJECTIVES OF PROGRAMS AND RESPONSIBILITIES OF PARTIES

Pretrial Diversion (aka Pre-Plea Diversion) Program

The USAO has had a Pretrial Diversion Program for many years. The USAO can offer Pretrial Diversion during plea negotiations, or the U.S. Pretrial Services Agency (PSA) or defense counsel may refer candidates to the USAO for consideration. Pretrial Diversion does not require a guilty plea; however, each participating defendant must agree to a Speedy Trial Act exclusion and may be required by the USAO to agree to a statement of facts supporting the underlying offense. Participants in the Pretrial Diversion Program are supervised by the PSA for an agreed period, typically six months to one year. If the participant successfully completes the program (as determined by the USAO), the USAO will take whatever action is set forth in the Pretrial Diversion Agreement, which typically includes dismissal of the charges.

Post-Plea Diversion Program

The USAO has also offered Post-Plea Diversion in the past and will continue to do so when appropriate. The USAO can offer Post-Plea Diversion during plea negotiations, or the PSA or defense counsel may refer candidates to the USAO for consideration. In addition, the possibility of Post-Plea Diversion may be raised by the Court but, to avoid violating Rule 11(c) of the Federal Rules of Criminal Procedure, the Court may do so only after the defendant has entered a guilty plea. The USAO and the defendant may thereafter agree to Post-Plea Diversion.

Emerging Adults to Develop Success (LEADS)

The USAO, in its discretion, may offer a plea agreement to defendants between the ages of 18 and 26 found suitable for the LEADS program. The assessment process begins with the PSA identifying potentially eligible candidates within 60 days from their initial appearance. If identified as potentially eligible, the parties may request the PSA to conduct a full assessment (final assessment) to determine if a defendant is suitable for the program or the parties may rely on the initial assessment. The full assessment can take up to 60 additional days. Within 30 days after receiving the final assessment, the USAO will schedule a meeting with the defendant, and his or her counsel and may offer a plea agreement.

A LEADS Track I plea agreement may be offered to defendants with Criminal History Category I and generally promises dismissal. A LEADS Track II plea agreement generally promises a non-custodial sentence.

Defendants will plead guilty pursuant to their plea agreement, and the assessment will be provided to the Court. Defendants will be required to appear at agreed upon intervals (e.g., bi-monthly, monthly, quarterly) before the presiding judge (or a designated magistrate judge) who reviews a defendant's progress at status conferences. The status will be attended by the defendant, his or her counsel, the AUSA, and the PSA.

Veterans Court

The USAO, in its discretion, may offer a plea agreement to defendants who have served in U.S. armed forces and are found suitable for the Veterans Court program. The assessment process begins with the PSA identifying potentially eligible candidates within 30 days of their initial appearance. If identified as potentially eligible, the parties may request the PSA to conduct a full assessment (final assessment) to determine if a defendant is suitable for the program or the parties may rely on the initial assessment. The full assessment can take up to 60 additional days. Within 30 days after receiving the final assessment, the USAO will schedule a meeting with the defendant and their counsel and may offer a plea agreement.

A Veterans Court Track I plea agreement may be offered to low to moderate risk defendants and generally promises dismissal. A Veterans Court Track II plea agreement generally promises a non-custodial sentence.

Defendants will plead guilty pursuant to their plea agreement, and the assessment will be provided to the Court. Defendants will be required to appear at agreed upon intervals (e.g., bi-monthly, monthly, quarterly) before one of the Veterans Court judges to review a

Post-Plea Diversion involves the entry of a guilty plea pursuant to a plea agreement, with sentencing postponed during the diversionary period. Participants in the Post-Plea Diversion Program will be required to participate in the Diversion/Deferred Sentencing Court for an agreed upon period, typically one year to 18 months. The Post-Plea Diversion agreement and/or plea agreement then typically provide that, upon successful completion of the Program, the defendant will move to withdraw the guilty plea and the USAO will move to dismiss all or some of the charges or sentence-enhancing allegations, or will recommend a lesser sentence than it would otherwise have recommended.

Conviction Alternative Court (CAP)

The USAO may offer a plea agreement to defendants found suitable for CAP by the PSA. Potentially eligible candidates are initially assessed within 60 days from their initial appearance. The parties may request the PSA to conduct a full assessment (final assessment) to determine a defendant's suitability for the program. This assessment can take up to 60 additional days.

Within 30 days after receiving the final assessment, the USAO will schedule a meeting with the defendant and his or her counsel and may offer a plea agreement with incentives (e.g., a non-custodial sentence, dismissal of mandatory minimum charges or sentence-enhancing allegations, an agreement to recommend a lower sentence, or dismissal) for their post-arrest rehabilitation.

After a defendant pleads guilty pursuant to the plea agreement, the final assessment will be provided to the Court, and the parties will have an opportunity to be heard.

After entry of a plea, where there is not a plea agreement, defendants found suitable by the Court will be referred to the CAP team (which includes a district judge, magistrate judge, pretrial services officer, clinician, AUSA, and assistant federal defender) in the appropriate division. If the defendant is accepted, his or her case will be transferred for all purposes to the CAP district judge in that division.

For successful completion, defendant will receive the benefit of the incentives in the plea agreement.

In cases without a plea agreement, the Court may defer sentencing to refer a defendant for a final assessment and then to CAP.

Those defendants who do not successfully complete CAP or who complete CAP without a plea agreement will likely not benefit from incentives generally offered by the USAO in a plea agreement.

defendant's progress. These status conferences will be attended by the defendant, their counsel, the AUSA, and the PSA.

For those veterans who did not participate in Veterans Court prior to sentencing, programming may still be available to support their reentry during the term of supervised release. The parties will coordinate with the other stakeholders and program providers to fashion whatever programming might be appropriate and available to supplement the reentry court options for the veteran.

III. STAKEHOLDERS' REVIEW OF PROGRAMS

PSA and the Reentry Court subcommittee of the Criminal Justice Working Group will review the program annually for effectiveness and report to the Chief Judge, the USAO, and FPD. In addition, the PSA will work with a trained researcher to identify similarly situated supervisees to serve as a control group. Using that control group and other generally accepted means, the outside researcher will evaluate the program. The control group and the participants will be tracked for at least a three-year period. The supervising pretrial officer and the control group supervisees will not know that they are members of the control group.



RICHARD SEEBORG
Chief United States District Judge for the
Northern District of California

Date: *October 29, 2024*



SILVIO LUGO
Chief United States Pretrial Services Officer
Northern District of California

Date: September 17, 2024




CHRIS CARRUBBA-KATZ
Chief United States Probation Officer
Northern District of California

Date: September 27, 2024



ISMAIL J. RAMSEY
United States Attorney
Northern District of California

Date: September 17, 2024



JODI LINKER
Federal Public Defender for the
Northern District of California

Date: 9/27/24