



National Prosecutors' Consortium



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The Evolving Role of the Prosecutor

Over the last forty years, there has been a dramatic transformation and expansion of prosecutors' mission, to not only vigorously prosecute criminal cases, but also to engage in crime prevention, problem solving and community partnerships. Prosecutors' fundamental goal is to protect the community and ensure justice when enforcing the law. Traditionally, a prosecutor's role was a limited and relatively passive one - to evaluate and prosecute arrests made by the police.¹ That role has expanded and evolved significantly. The shift is driven by the need for more complex solutions that not only seek positive outcomes for victims, but also strive for long-term solutions for preventing crime and assisting those who are entangled in the criminal justice system.

Prosecutors are uniquely situated to be effective in carrying out these new initiatives. They play a pivotal role in the criminal justice system, making decisions and exercising discretion about whether to prosecute, whom to prosecute, and how to prosecute. Also, as leaders in law enforcement, prosecutors can work with the police and other partners to improve community relationships and to build trust in the criminal justice system.



1. Catherine M. Coles, *Evolving Strategies in 20th- Century American Prosecution*, in *THE CHANGING ROLE OF THE AMERICAN PROSECUTOR, 182-187* (John L. Worrall & M. Elaine Nugent-Borakov, eds., 2008).

The National Prosecutors' Consortium

The National Prosecutors' Consortium (NPC) project is designed to collect information on innovative programs employed by prosecutor offices, to assist prosecutors in developing and deploy-

ing new programs, and to expand their research capabilities. The main areas of focus are the prevention of violent crime, community engagement, and encouraging victim/witness cooperation.

Many of the nation's prosecutors relish the opportunities presented by their expanded roles in the criminal justice system and have adopted innovative programs. However, the nature of their new initiatives is impacted by the size and resources of the organization. A large office with plentiful resources can implement multiple forward-thinking initiatives that impact a large segment of their population. Conversely, a smaller jurisdiction may only have the capacity to develop a smaller, yet still meaningful initiative.

Innovative programs described in this paper are newly developed initiatives undertaken by an office in keeping with its unique resources and the needs of its community. Ideas for new programs are freely shared amongst prosecutors and can nevertheless be innovative when they are introduced, implemented, and customized to suit the needs of a particular office. For instance, a program that would be considered innovative in a smaller office, may be more common-place in a larger office. We seek to highlight those offices that are embracing their new role by working within their capacity to bring effective and proactive programs to their communities.

As part of the NPC project, a prosecutor survey was administered during 2019 at the county level across the United States on a state-by-state basis. The survey captures baseline information about prosecutor offices and collects information about the various evolving and non-traditional aspects of a prosecutor's office, such as alternatives to incarceration, preventing violent crime, community outreach, victim/witness support, and treatment programs.



Overview of Washington Prosecutor Programs

Washington prosecutor offices range in size and in the types of communities that they serve. Some serve in large bustling cities like Seattle and others work in suburban districts or rural areas. The available resources and staff vary greatly between the offices, as does the needs of their communities.

Out of 39 prosecutor offices, 13 (33%) of the prosecutors in Washington participated in the NPC survey. The survey demonstrates that the responding Washington prosecutors participate in a wide variety of programs and initiatives. These programs include Drug courts, Mental Health courts, Mental Health services, Drug Treatment, Anger Management, Victim and Witness Assistance, and Youth Education programs.²

The survey found that 92% of Washington’s prosecutors engage in problem solving courts or other programs that offer alternatives to incarceration. Prosecutors are primarily involved with Drug courts (92%) and half are involved with Mental Health courts (50%). Additional programs, some of which supplement the efforts of these alternative courts, are Mental health services (83%), drug treatment (75%), anger management (75%), and community service (67%). Other offerings included Victim Assistance (92%), Witness Assistance (85%), Restitution (69%), and Victim Services without Arrest (54%).

Community programs that prosecutors either run or participate in are also common. The majority of offices reported participating in Community Engagement (54%) programs, with slightly less offices participating in Co-located Child Abuse reduction (46%), Youth Education (46%), Truancy (31%), Co-located Domestic Violence reduction (31%), and Violence Reduction (23%) programs.

2 Solomon, S. E., Uchida, C. D., Connor, C., Swatt, M. L., Revier, L., Quigley, A. M., Hock, S., & Barrera, V. (2019). National Prosecutors’ Consortium Survey Highlights: Washington. Justice & Security Strategies, Inc

Innovative Programs - Examples

To demonstrate the variety of innovative programs initiated in Washington, three offices are highlighted: King County, the largest office serving over two million residents; Thurston County, a mid-sized office with just over 286,000 residents; and Benton County, a slightly smaller office with approximately 200,000 residents under its purview.

King County runs the Law Enforcement Assisted Diversion (LEAD) program, which allows law enforcement to divert low-level offenders with underlying behavioral health needs to services rather than prosecution and/or jail time. Thurston County implements a First Look Unit to identify qualifying cases for early resolution through diversion or treatment. Similar to King County, Benton County leads a mental health diversion program where offenders with mental illnesses can obtain treatment, and upon successful completion, can either have their pending case dismissed or avoid jail time altogether.

King County Prosecuting Attorney's Office

Population: 2.2 million

Number of Prosecutors: 250 full-time prosecutors

Law Enforcement Assisted Diversion (LEAD) Program

Oftentimes, law enforcement officers have no other choice but to book a person into jail even if their criminal activity stems from behavioral health needs or poverty. In order to better serve those with behavioral health needs, those experiencing poverty, and/or low level offenders, the LEAD program—a collaborative community safety effort



launched in 2011— gives law enforcement a better alternative. LEAD allows officers to divert individuals who are engaged in low-level drug crime, prostitution, and crimes of poverty away from the criminal legal system, bypassing prosecution and jail time. Instead, individuals are referred into a trauma-informed intensive case-management program where they receive a vast array of support services, typically including transitional and permanent housing and/or drug treatment.

In order to maximize a LEAD participant's ability to achieve behavioral change, prosecutors and law enforcement officers collaborate closely with case managers to ensure that all future contacts with LEAD participants, including new criminal prosecutions for other offenses, are coordinated with the participant's service plan. In this manner, LEAD effectively disrupts the cycling of individuals with behavioral health issues through the criminal legal system at the point of arrest or

pre-arrest. The program uses a low barrier, harm reduction based model of care to help participants work toward achieving stability in the community.

A unique coalition of law enforcement agencies, behavioral health providers, prosecutorial partners, and community groups play a role in the LEAD Program, which is governed by the [Policy Coordinating Group](#), a larger stakeholder. The program is funded by King County Mental Illness and Drug Dependency (MIDD) and the Trueblood Phase III Grant. It is currently offered in Seattle's West, East, and North Police Precinct patrol areas as well as in Metro Transit zones and on Metro buses through the King County Sheriff's Office, with future plans to expand into other parts of King County.

Key elements of the LEAD model and service package include:

- Services are provided as long as necessary, rather than ending on a fixed date
- Abstinence is not a requirement to receive services
- Case management services are harm-reduction oriented, holistic, and based on individual needs
- Services are low-barrier and provided through street outreach in the community where the individual spends their time
- Dedicated prosecutorial resources facilitate creative resolutions and coordination with other jurisdictions for outstanding criminal legal issues

In order to gauge program success, LEAD researchers at the University of Washington [externally evaluated](#) the program. Notably, over the entire course of the evaluation to date, LEAD participants were 58% less likely than people in the study's control group to be arrested. It was also found that participants were significantly more likely to obtain housing, employment, and legitimate income in any given month subsequent to their LEAD referral (i.e., during the 18-month follow-up) compared to the month prior to their referral.



LEAD program agency representatives serve as panelists in a discussion of the LEAD program to educate audiences about the program's history and objectives, unique service model, and plans for expansion.

Photo courtesy of: [King County Prosecuting Attorney's Office](#)

Thurston County Prosecuting Attorney's Office

Population: 286,419

Number of Prosecutors: 4 full-time prosecutors

First Look Unit – Timely Dispositions

The prosecutor's First Look Unit is designed to identify qualifying cases for early resolution through diversion or treatment. For over two years, the First Look Unit has completed a front-end assessment to select cases that can be resolved quickly. Once a case is identified, the prosecutor contacts the public defender's office and they work together towards a



disposition of the case. This strategy is becoming an integral part of the way the Prosecutor's Office conducts business. It began with just one deputy prosecuting attorney and County Attorney Tunheim, but has now two more assigned prosecutors.

Cases selected by the First Look Unit often involve crimes driven by a significant addiction or mental health issue or qualify for diversion or an alternative resolution based on other circumstances. The Unit strives to relieve the burden of cases lingering in the criminal justice system, in order for prosecutors to allocate more time and resources to more serious or complex cases. This program also benefits defendants, as their cases are resolved expeditiously and the program often helps them with treatment by connecting them with community resources or the conditions of a diversionary sentence.

The crimes eligible for the program are non-violent Class-C felonies with some Class-B felonies, which are usually drug, mental health-involved, or low-level property crimes. Violent crimes are not part of the program. The defendant must accept responsibility for the crime up front. Once approved for the program, the participant must complete drug and/or mental health counseling or take other steps to get their lives back on track. After complying with the goals of the program, the defendant may have their charges reduced or dismissed.

Over 1,000 offenders have participated in the program since its inception, and in 2019 alone, approximately 700 cases have gone through the First Look process. The program has reduced crowding in the county jail and the Prosecutor's Office is resolving all cases faster.



Thurston County Prosecuting Attorney's Office First Look prosecutors at the Thurston County Courthouse during the First Look calendar.

Benton County Prosecuting Attorney's Office

Population: 201,877

Number of Prosecutors: 27 full-time prosecutors

Joint Mental Health Diversion

Jail Diversion Program

Oftentimes, law enforcement officers have no alternative but to arrest an individual who is clearly suffering from mental health challenges. Jail can exacerbate the situation even in the short period before a court appearance, and sometimes the individual may remain in jail after that court appearance due to a lack of alternatives.



Unfortunately, the individual's subsequent arrest record and jail stay may also eliminate options for mental health treatment and lead to job and housing loss.

To better serve those suffering from mental health issues in Benton County, the jail diversion program allows for law enforcement officers to take an individual with mental health issues directly to the Lourdes Counseling Center (LCC) instead of jail. This avoids an arrest record and allows for immediate mental health intervention and treatment. Follow-up treatment also addresses substance abuse, medication management, life skill building, and ancillary issues such as housing loss.



Fred Yapunich, president of the local chapter of the [National Alliance on Mental Illness \(NAMI\)](#), Benton County prosecutor Andy Miller, and State Senator Sharon Brown discuss diversion programs at a NAMI meeting. NAMI's mission is to improve the quality of life for all those affected by mental illness, by providing a statewide, unifying voice of advocacy and coordinating the delivery of education, support and recovery.

Senator Brown was helpful in obtaining the legislation that expanded diversion programs in Benton County.

Prosecution Diversion Program (PDP)

The Prosecution Diversion Program (PDP) helps defendants that may not be competent to stand trial. In the past, there have been long delays in obtaining a competency evaluation sometimes while the defendant remains in jail. This has also resulted in behavioral and mental health treatment delays. The focus of the PDP is to ultimately restore the competency to stand trial through timely treatment.

The PDP allows the prosecutor to dismiss a case when there is an issue of competency. That decision is made upon recommendation by mental health professionals and in consultation with the defense lawyer. The prosecutor can refile the case if the defendant does not complete the program, which incentivizes the defendant to obtain the services. Program requirements are tailored to the individual's specific needs and may include mental health counseling, substance abuse treatment, medication management, and life skill building. An offender's time in the program can last from six to eighteen months.

The PDP aims to address several areas of concern. These include reducing the number of referrals for competency evaluations and services, as well as reducing recidivism for crimes related to mental or behavioral health. The PDP also seeks to place offenders in stable housing and ensure that they are given access to treatment resources that they might otherwise have been lacking, with the hope that offenders will continue to utilize these resources after completing the program.

When mental health providers, law enforcement, advocates, families, consumers, and legislators identified a need for a program that improves the state's forensic mental health system, the PDP was greatly expanded. To this end, the Second Engrossed Substitute Senate Bill (2E2SSB) 5177 (2015) was passed and funding was made available to Behavioral Health Organizations for implementation of several prosecutorial diversion pilot projects throughout the state. The intent of the legislation was to divert misdemeanors and low level, non-violent felony defendants from incarceration and hospitalization into needed behavioral health treatment. To successfully execute the PDP, the Prosecutor's Office works closely with the Lourdes Counseling Center (LCC). First, the Prosecutor's Office refers individuals who appear to meet eligibility requirements as outlined in the program plan. The LLC then provides a screening within two business days of receiving an eligibility contact request and notifies the prosecutor of the outcome. Once an individual has been deemed eligible for admission to the program, a mental health professional meets with the individual and completes an assessment within two business days. The Prosecutor's Office assists in coordinating with the jail to provide accommodations for meeting with the individual to both determine eligibility for the program and to complete the initial assessment.

Once admitted, a care coordinator meets with the individual within one day and completes a comprehensive needs assessment within the first week. Initially, the care coordinator will attempt to meet with the individual a minimum three times per week for the first month with the goal of identifying needs and connecting the individual to appropriate services.

If an individual is failing or refusing to engage in treatment, LCC notifies the Prosecutor's Office. The Prosecutor's Office then assists the PDP team as appropriate in making a determination when an individual should be terminated from the program. LCC also notifies the Prosecutor's Office upon the individual's satisfactory completion of the program.



Deputy Prosecutor Brandon Pang discusses the Prosecution Diversion Program with Adriana Mercado, care coordinator with Lourdes Counseling Center, the agency that coordinates the treatment and services for program participants.