



Australian Government

Australian Institute of Criminology

# Police drug diversion: a study of criminal offending outcomes

Jason Payne  
Max Kwiatkowski  
Joy Wundersitz

**AIC Reports**  
Research and  
Public Policy Series **97**



# Police drug diversion: a study of criminal offending outcomes

*Jason Payne*  
*Max Kwiatkowski*  
*Joy Wundersitz*

**AIC Reports**  
Research and  
Public Policy Series

97

[www.aic.gov.au](http://www.aic.gov.au)



© Australian Institute of Criminology 2008

ISSN 1836-2060 (Print)

1836-2079 (Online)

ISBN 978 1 921185 95 3 (Print)

978 1 921185 99 1 (Online)

Apart from any fair dealing for the purpose of private study, research, criticism or review, as permitted under the *Copyright Act 1968* (Cth), no part of this publication may in any form or by any means (electronic, mechanical, microcopying, photocopying, recording or otherwise) be reproduced, stored in a retrieval system or transmitted without prior written permission. Inquiries should be addressed to the publisher.

Project no. 0131

Dataset no. 0115

Published by the Australian Institute of Criminology

GPO Box 2944

Canberra ACT 2601

Tel: (02) 6260 9200

Fax: (02) 6260 9299

Email: [front.desk@aic.gov.au](mailto:front.desk@aic.gov.au)

Website: <http://www.aic.gov.au>

Please note: minor revisions are occasionally made to publications after release. The online versions available on the AIC website will always include any revisions.

**Disclaimer:** This research report does not necessarily reflect the policy position of the Australian Government.

Edited and typeset by the Australian Institute of Criminology

A full list of publications in the AIC Reports series can be found on the Australian Institute of Criminology website at <http://www.aic.gov.au>

# Foreword

The Australian Institute of Criminology (AIC) has released a number of research reports on diversion in Australia. These include a comprehensive catalogue and analysis of diversion programs available to drug offenders, a stocktake of diversion programs specifically designed or otherwise available to Indigenous offenders, and a detailed evaluation analysis of the Queensland drug court program. This report contributes to the broader evidence base in its analysis of the criminal offending outcomes of the Commonwealth-funded police-level Illicit Drug Diversion Initiative (IDDI).

Under IDDI, police drug diversion operates to divert primarily first-time or minor drug offenders away from the criminal justice system in an effort to reduce future contact, and increase access to treatment and rehabilitation services. In some jurisdictions, this includes cautioning and non-mandatory referral to information and treatment services for cannabis offenders, while in others it includes the diversion of illicit drug users of all types into mandatory treatment programs.

This report details analysis undertaken by the AIC to examine the criminal histories and recidivism of persons diverted by the police in each Australian state and territory. It highlights that in all jurisdictions, the majority of those

diverted have neither recent histories of offending nor return to the criminal justice system in the 18 months after their diversion. Although these rates of contact varied markedly within and between jurisdictions, comparative analysis indicates that the impact of diversion was similar for like groups of offenders regardless of the jurisdiction in which they were diverted. Between 70 and 86 percent of first-time offenders did not return to the criminal justice system within 18 months. Similarly, between 53 and 66 percent of prior offenders committed fewer offences after their diversion than in the period before.

These findings suggest that the outcomes of police drug diversion are generally positive. However, in the absence of an identifiable control group and insufficient information about the health and treatment interventions offered in each jurisdiction, it is too early to tell whether these positive outcomes can be sustained in the longer term. Further longitudinal research is needed to combine both criminal justice and health outcomes so that a more comprehensive evaluation of police drug diversion can be undertaken.

**Judy Putt**  
**General Manager, Research**  
**Australian Institute of Criminology**



# Contents

iii	<b>Foreword</b>	
vii	<b>Acknowledgments</b>	
ix	<b>Executive summary</b>	
x	Background and purpose of this study	
x	Methodology	
x	Summary of national results	
xi	Jurisdictional summaries	
1	<b>Introduction</b>	
2	Diversion	
2	Diversion initiatives in Australia	
3	Police drug diversion	
5	Evaluating diversion programs	
6	<b>Overview of police drug diversion programs</b>	
6	Victoria	
7	Tasmania	
8	New South Wales	
9	South Australia	
9	Western Australia	
10	Queensland	
10	Australian Capital Territory	
10	Northern Territory	
12	<b>Methodology</b>	
12	The national roundtable	
13	Overview of specific jurisdictional methodologies	
13	Sample selection	
17	Measuring recidivism	
17	The limitations of police data	
18	The identification of a control group	
19	<b>Overview of diversion participants</b>	
19	Demographics	
23	Prior criminal history	
32	Diversion participation and compliance	
38	<b>Reoffending</b>	
40	How many offenders reoffended?	
44	How frequently did they reoffend?	
46	What offence did they commit first?	
48	What factors were associated with reoffending?	
53	How do these recidivism rates compare?	
60	<b>The impact of diversion</b>	
65	<b>Conclusion</b>	
66	Client profiles	
67	Compliance levels	
70	Level of reoffending after program	
72	Shifts in pre and post-offending levels	
73	Concluding comments	
74	<b>References</b>	
76	<b>Appendix</b>	

	<b>Figures</b>	
39	Figure 1: Time to first post-diversion offence by jurisdiction	
39	Figure 2: Time to first post-diversion offence, New South Wales, South Australia and Victoria	
42	Figure 3: Offending for any offence in the 18 months after diversion, by jurisdiction	
43	Figure 4: Offending for property, drug and violent offences in the 18 months after diversion, by jurisdiction	
46	Figure 5: Multiple offending in the 18 months after diversion	

- 58 Figure 6: Upper and lower bounded confidence intervals for recidivism at 18 months
- 61 Figure 7: Aggregate outcome determination
- 64 Figure 8: Pre–post change in offending among those without prior offences
- 64 Figure 9: Pre–post change in offending among those with prior offences
- 31 Table 12: Classification concordance between most recent and most frequent offending classifications, by jurisdiction
- 34 Table 13: Diversion compliance by jurisdiction
- 35 Table 14: Compliance under the Western Australian Cannabis infringement notice program
- 36 Table 15: Logistic regression predicting noncompliance
- 41 Table 16: Offending for any offence in the six, 12 and 18 months after diversion, by jurisdiction
- 45 Table 17: Categorisation by frequency of offending (any offence) in the 18 months after diversion, by jurisdiction
- 47 Table 18: Offence type for first post-diversion offending episode
- 48 Table 19: Subsequent offending within 18 months after diversion, by gender, Indigenous status, age category and jurisdiction
- 50 Table 20: Subsequent offending within 18 months after diversion, by prior offending category and jurisdiction
- 50 Table 21: Subsequent offending within 18 months after diversion, by compliance status and jurisdiction
- 54 Table 22: Cox regression predicting reoffending (any offence) within the 18 months after diversion
- 58 Table 23: Comparative recidivism rates by jurisdiction
- 63 Table 24: Post-diversion change in offending
- 63 Table 25: Pre–post change in offending
- 77 Summary of police drug diversion programs in each jurisdiction

## Tables

- ix Table 1: Australian police drug diversion programs
- 16 Table 2: Program details and sample selection parameters
- 21 Table 3: Demographic profile of diverted people
- 22 Table 4: Indigenous status by gender and jurisdiction
- 22 Table 5: Age by gender, Indigenous status and jurisdiction
- 23 Table 6: Comparative Indigenous representation indicators
- 25 Table 7: Offending for any offence in the six, 12 and 18 months before diversion, by jurisdiction
- 26 Table 8: Frequency of offending (any offence) in the 18 months before diversion, by jurisdiction
- 28 Table 9: Offence type for the most recent offending episode before diversion, by jurisdiction
- 29 Table 10: Multiple offending in the 18 months before diversion, by most recent offence categorisation and jurisdiction
- 30 Table 11: Offender categorisation by jurisdiction



# Acknowledgments

The Australian Institute of Criminology (AIC) gratefully acknowledges a number of organisations that contributed to the preparation of this report. These include the jurisdictions who willingly aided the project, the Australian Government Department of Health and Ageing, police agencies in all of the jurisdictions who rendered valuable assistance throughout the project as well as providing the data, and health agencies in each jurisdiction for the information and help they provided.

We are particularly indebted to all those units within police agencies that provided data and other very useful information, including the police drug and alcohol policy units of the respective states and territories. The authors would especially like to

acknowledge the assistance of the South Australian Office of Crime Statistics and Research. It not only provided data but shared with the AIC its experience of evaluating police diversion, which was of great help.

The AIC also wishes to thank the many people who went out of their way to ensure the success of this evaluation. These include all those who attended the AIC's roundtable in October 2006 and May 2007, and all those involved in the extraction of data for the evaluation. The authors would in particular like to thank Bev O'Brien, Fiona Christian, Judy Putt and Peter Homel for their invaluable help and guidance throughout the duration of this project.



# Executive summary

In response to growing community concern about the link between drugs and crime, in 1999 the Ministerial Council on Drug Strategy developed a national framework for the Illicit Drug Diversion Initiative (IDDI), which was designed to ‘underpin the joint Commonwealth/State/Territory development of an approach to divert illicit drug users from the criminal justice system to education or assessment, with a view to treatment’ (Ministerial Council on Drug Strategy 1999). This framework, combined with its associated Australian Government funding, has proven to be a major impetus to establish or enhance a raft of police-based drug diversion programs that use an individual’s contact with the justice system as the gateway to engage that individual in drug education, assessment and treatment.

Each Australian state and territory now has implemented at least one police-based diversion program targeted at the use or possession of

cannabis and cannabis implements (Table 1). The majority also have a second component designed to respond to the use of other illicit drugs, while a small number include the illicit use of prescription drugs.

These programs share some common features. For example:

- all rely on the police as the referral source
- all focus on individuals detected in possession of minor amounts of drugs and/or drug implements, but do not target individuals charged with non-drug offences even if that offending is linked to their drug use
- all involve an educational component, while the majority – particularly those targeted at illicit drugs other than cannabis – also include assessment and, where appropriate, require attendance at one treatment session or more provided by accredited treatment agencies

**Table 1: Australian police drug diversion programs**

Jurisdiction	Program
New South Wales	<ul style="list-style-type: none"> <li>• Cannabis Cautioning Scheme</li> </ul>
Victoria	<ul style="list-style-type: none"> <li>• Cannabis Cautioning Program</li> <li>• Drug Diversion Program</li> </ul>
Australian Capital Territory	<ul style="list-style-type: none"> <li>• Police Early Intervention and Diversion Program</li> </ul>
Tasmania	<ul style="list-style-type: none"> <li>• Cannabis and Illicit Drug Diversion – 1st, 2nd and 3rd Level Diversions</li> </ul>
Northern Territory	<ul style="list-style-type: none"> <li>• Cannabis Expiation Notice Scheme</li> <li>• Illicit Drug Pre-court Diversion Program</li> </ul>
Western Australia	<ul style="list-style-type: none"> <li>• Cannabis infringement notice</li> <li>• All Drug Diversion</li> <li>• Young Person’s Opportunity Program (not included in this evaluation)</li> </ul>
South Australia	<ul style="list-style-type: none"> <li>• Police Drug Diversion Program</li> </ul>
Queensland	<ul style="list-style-type: none"> <li>• Police Diversion Program</li> </ul>

- all now operate as state or territory-wide programs.

However, as envisaged by the national IDDI framework, each state and territory has tailored its responses to suit local conditions and priorities. This has resulted in a number of crucial differences among these schemes, including:

- the type of drug targeted (i.e. cannabis only, cannabis and other illicit drugs, other illicit drugs only)
- whether police referral is mandatory or discretionary
- whether the program caters for youths only, both youths and adults, or adults only
- what eligibility criteria apply, particularly in relation to prior and concurrent offending records
- whether the offender is required to admit the offence
- the type of intervention provided
- whether the offender is required to comply with any requirements
- whether there are consequences for noncompliance.

Such differences inevitably impact on the demographic characteristics and offending histories of those referred to these programs, which in turn impact on key outcome measures such as recidivism – a factor that must be borne in mind when interpreting the findings from this study.

## Background and purpose of this study

In September 2006, the Australian Government Department of Health and Ageing engaged the AIC to examine the criminal justice outcomes of IDDI programs across Australia. The aim of the evaluation was to assess the effectiveness of these IDDI programs to reduce the level of contact that diverted participants have with the criminal justice system. This recidivism study complements two other national evaluations of police diversion contracted by the Department of Health and Ageing, one of which investigated access to diversion in rural and remote regions, and was

conducted by the Australian Institute of Health and Welfare. The other study, by the Allen Consulting Group, was focused on the cost-effectiveness of diversion.

## Methodology

As a first major step in the implementation of this project, the AIC convened a roundtable meeting in October 2006. It involved key stakeholders from the police and health sector in each state and territory. The aim of the roundtable was to garner inter-jurisdictional support for the evaluation program and identify key issues for the evaluation's methodological approach.

Based on advice received at this roundtable, it was agreed that the AIC would not pursue the identification of independent jurisdictional comparison or control groups. Instead, the study would attempt to measure individual-level change by assessing differences in pre and post-diversion offending records. Moreover, cross-jurisdictional comparisons would be limited, because variations in each of the jurisdictional programs would limit the interpretability of the findings.

Subsequent to the roundtable, the AIC requested from each jurisdiction data pertaining to the pre and post-diversion criminal offending for a sample of diverted offenders (cohort census or randomly selected) at each level of that jurisdiction's diversion program(s). More detail about the specific sample selection criteria are outlined in 'Methodology'.

## Summary of national results

As a whole, the findings were generally very positive. Across all jurisdictions, the majority of people who were referred to a police-based IDDI program did not reoffend in the 12 to 18-month period after their diversion. In most cases, those who did reoffend did so only once during that time. Perhaps the best indication of changes in criminal behaviour after diversion comes from comparing the pre and post-offending records of each individual. Again, the results were very positive,

particularly in relation to those individuals who had a prior offending history. Among this group, the majority were apprehended for either no or fewer post-program offences than before, and this finding was consistent across all jurisdictions. Similarly, of those individuals who had not offended in the 18 months prior to diversion, the majority (ranging from 70% in Tasmania to 86% in New South Wales) remained non-offenders for an equal period after diversion.

Despite these consistent trends, there were marked differences in post-program recidivism levels from one program to another. These are, for the most part, attributable to variations in program structure and client characteristics, with differences in prior offending records being particularly critical to both compliance levels and post-program reoffending. Variations in compliance levels are illustrated by comparing the results for Tasmania and the Australian Capital Territory. Tasmania's 2nd Level and 3rd Level diversionary components had the highest proportion of individuals with a prior property and drug offence, and it also recorded the lowest compliance levels. In contrast, a comparatively small proportion (less than one-quarter) of people referred to the Australian Capital Territory's diversionary programs had a prior offending record in the 18 months preceding diversion, and compliance levels exceeded 90 percent. A similar pattern applied in relation to reoffending. The two states that recorded the highest levels of pre-diversion offending – South Australia and Tasmania – also had the highest levels of post-diversion offending. In contrast, New South Wales, which recorded the lowest pre-diversion offending levels, had the lowest post-diversion offending levels.

In light of these results, it is not surprising that the two variables that were identified as significant predictors of reoffending across most jurisdictions were prior offending and program noncompliance. The only jurisdiction where prior offending was not retained as a significant predictor was the Australian Capital Territory, while noncompliance was not relevant in Tasmania and the Northern Territory.

Other variables included in the regression analysis proved to be less important. Gender remained an independent predictor in only three jurisdictions

(New South Wales, South Australia and Victoria), while Indigenous status was relevant in New South Wales and South Australia only. Age was a significant predictor in New South Wales only. There did not appear to be any consistency between the type of intervention offered and the level of reoffending. Although analysis was limited to Western Australia, South Australia, Tasmania and Victoria, this factor proved to be a significant predictive variable in Western Australia only. Hence, an early finding that cannabis diversion schemes seemed to have lower reoffending rates than those programs targeted at other illicit drug use may have more to do with differences in the prior offending records of participants than with the nature of the program intervention itself.

Probably one of the most telling findings from the research was that, although the programs varied considerably in terms of both pre and post-diversion offending levels, the proportionate decrease in offending after diversion was relatively consistent across all jurisdictions. In six jurisdictions, between 31 and 48 percent of prior offenders did not reoffend after diversion. In the remaining two jurisdictions, the figure was between 53 and 54 percent. A similar pattern tended to apply to those individuals who had no prior offending history in the lead-up to their diversion. The percentage who remained non-offenders ranged from 69 to 77 percent in six jurisdictions, while it exceeded 80 percent in the remaining two. In other words, even though one program started with a higher level of prior offending and recorded higher levels of offending after diversion, the degree of change among its clients was relatively similar to that of a program with lower pre and post-offending levels, once prior offending was accounted for.

## Jurisdictional summaries

### *New South Wales*

Of the 11,020 individuals diverted to the NSW Cannabis Cautioning Scheme between program commencement and 31 December 2003, 86 percent were male. Indigenous people accounted for seven percent, while the mean

age was comparatively high at 25.9 years, although this reflects the nature of the NSW program, which only targets adults.

Overall, prior offending was low, with only 13 percent being apprehended for at least one criminal event in the 18 months preceding diversion, including eight percent who had a prior property offence, three percent with a prior violent offence and two percent with a previous drug offence. In addition, of those who had any prior offences in the 18 months leading up to diversion, almost two-thirds had been apprehended for one previous incident while less than one percent of offenders had 10 or more prior offences. Compliance with diversion is indicated as 100 percent, although this is because the Cannabis Cautioning Scheme involves issuing a police caution and distributing education material – no further follow-up action is required.

In terms of post-diversion reoffending, a relatively low percentage (18%) of diverted people had reoffended within the 18-month period following their caution. More offenders in New South Wales were identified as having committed a drug offence (9%) than either property (8%) or violent (4%) offences. Of the 18 percent of offenders who reoffended, two in three had been apprehended for only one offence episode within the 18 months after diversion, while only one-third were rearrested on multiple occasions. More offenders were rearrested in the first instance for a drug offence (37%) than either a property (30%), violent (18%) or other offence (15%).

Regression analysis indicated that gender, Indigenous status, age and prior offending were all significant contributors to the risk of reoffending. After controlling for the confounding effects of all other covariates, females remained less likely than males to reoffend over the 18-month post-diversion period. Indigenous offenders were more than twice as likely to reoffend as non-Indigenous offenders, and age was associated with a declining risk. In terms of prior offending, those with a recent history were twice as likely as those with no such history to reoffend. For each additional offence episode committed during the 18 months prior to diversion, there was an additional 20 percent increase in the risk of post-diversion reoffending.

Finally, of those with a recent history of offending, drug offenders (i.e. those whose frequency of drug offending was higher than property or violent offending) were statistically less likely to reoffend than those classified as property offenders. However, there was no difference between property and violent offenders. For reasons outlined above, compliance was not an issue in this jurisdiction.

A comparison between the pre and post-offending records indicated that of those individuals with a recent history of offending, two-thirds (66%) recorded a relative decrease. Eighteen percent went on to commit more offence episodes after their diversion than before, while 16 percent committed an equal number of offence episodes before and after diversion. Of those with no prior record, 86 percent remained non-offenders in the 18 months after diversion while a small percentage (14%) was apprehended at least once.

## *Victoria*

Of the 1,278 individuals diverted to Victoria's Cannabis Cautioning Program and Drug Diversion Program, the majority (84%) were male. Indigenous people made up only a very small percentage (1%) which, in part, is a reflection of the relatively low Indigenous population base in this state. The mean age at diversion was 24 years, with juveniles accounting for 17 percent of all people diverted. On average, participants in the Drug Diversion Program were slightly older than those referred to the Cannabis Cautioning Program (mean age of 25.5 years compared with 23.7 years respectively), even though the latter targets adults only, while the former accepts both juvenile and adult referrals.

In total, 26 percent had committed at least one offence in the 18 months preceding their diversion, although the figure was higher for those referred to the Drug Diversion Program (33%) compared with those processed through the Cannabis Cautioning Program (25%). By offence type, a higher percentage of those diverted under the Drug Diversion Program and Cannabis Cautioning Program had a prior property offence (26% and 11% respectively) than either a drug offence (11% and 8% respectively) or violent offence (10% and 8% respectively). Of those who did have a prior

criminal record, the majority (55%) had been apprehended for one incident only. However, those diverted under the Drug Diversion Program tended to have more prior offences than their counterparts who were diverted under the Cannabis Cautioning Program.

As in New South Wales, Victoria's Cannabis Cautioning Program had a compliance rate of 100 percent, because once a caution was issued, no further action was required of the offender. In contrast, the Drug Diversion Program requires attendance at an assessment/treatment session. It had a compliance rate of 75 percent. Regression analysis indicated that once other factors had been controlled for, the only variable that remained a significant predictor of noncompliance was a recent history of property offending. Those with at least one prior property offence were four times more likely to be noncompliant than those without a recent history of property offending. Gender, age, drug offending and violent offending were not important factors associated with noncompliance.

In terms of post-diversion recidivism, 28 percent of individuals were reapprehended at least once within 18 months. However, both the prevalence and frequency of recidivism were lower among those individuals referred to the Cannabis Cautioning Program than among those diverted under the Drug Diversion Program. Under the Cannabis Cautioning Program, 26 percent of those cautioned reoffended and of these, more than half (54%) committed only one offence in the 18 months after diversion. In comparison, 33 percent of those dealt with under the Drug Diversion Program reoffended within 18 months, of which only 41 percent were apprehended for one incident only.

For the group as a whole, there was little difference among the types of offending post-diversion, with 13 percent of individuals committing at least one drug offence, 12 percent committing at least one property offence and 10 percent charged with at least one violent offence. Interestingly though, of those individuals referred to the Cannabis Cautioning Program, a greater proportion were reapprehended for a drug offence than either a property or violent offence. The opposite was true for those who participated in the Drug Diversion

Program, who were more likely to have been reapprehended for a property offence than a drug or violent offence.

Gender, Indigenous status or age were not found to be significant predictors of post-diversion recidivism. However, after controlling for their effect, prior offending was significant. Offenders with a recent history of offending were at greater risk of reoffending than those without. Moreover, those with a greater number of recent offending episodes were at even higher risk. Each additional offence episode committed during the 18 months prior to diversion was linked to an 11 percent increase in the risk of post-diversion reoffending. Offenders who were classified as drug offenders prior to diversion (based on offending frequency) were more likely to reoffend than property offenders. Finally, after controlling for demographic and prior offending factors, those diverted under the Cannabis Cautioning Program were no more or less likely to reoffend than those who were diverted under the Drug Diversion Program. However, of those in the latter group, compliance was a statistically significant factor associated with the risk of reoffending. Those who did not comply with the requirements of their drug diversion were almost twice as likely to reoffend as those who were compliant.

A comparison between pre and post-offending records for each individual indicated that of those who had a recent history of criminal behaviour, two-thirds (66%) committed relatively fewer offending episodes after diversion, while 18 percent committed more offending episodes and 16 percent committed an equal number before and after. Among those with no recent history of offending, 81 percent did not reoffend, and as such had no offence episodes either before or after their diversion. In contrast, 19 percent went on to commit at least one new offending episode in the 18 months after their diversion.

### *Australian Capital Territory*

Of the 174 individuals diverted for either cannabis or illicit drug use in the Australian Capital Territory, 81 percent were male. Indigenous offenders made up one percent, although for eight percent of individuals the relevant details were not available.

Juveniles accounted for 27 percent of the sample, while the mean age of all people diverted was 23.3 years.

In the 18 months prior to diversion, 24 percent of participants had committed at least one offence, including 12 percent who had at least one prior property offence, six percent with a previous violent offence and nine percent with a prior drug offence. Of those who had a prior record, over half (57%) had been charged with multiple incidents, including 12 percent who had between four or more prior offences.

Overall, compliance levels were very high (91%). Regression analysis revealed only one variable – gender – to be a significant predictor of noncompliance once the influence of other factors such as age and prior offending had been taken into account. Holding all else constant, females were 4.76 times (odds ratio [or]=4.76) more likely than males to not comply with the requirements of their diversion.

Of all people diverted in the Australian Capital Territory, 33 percent had reoffended within 18 months. Of these, well over half (57%) had committed only one criminal incident during this period. Post-diversion drug offending was more prevalent than either property or violent offending, with 17 percent of all individuals recording at least one drug offence within 18 months following diversion, compared with 15 percent who committed a property offence and 10 percent who committed a violent offence.

In contrast to other jurisdictions, only one factor – noncompliance – proved to be predictive of post-diversion reoffending. Those who failed to comply with the requirements of their diversion were four times more likely to reoffend than those who complied. Gender, age or prior criminal history were not identified as significant in this multivariate model. However, although not statistically significant, prior criminal history and frequency of offending were associated with an increase in the risk of reoffending, with the failure of this relationship to achieve statistical significance most likely the result of small sample sizes. Moreover, although gender was not a significant predictor of post-diversion reoffending, it was an important predictor of noncompliance, which in turn

significantly predicted reoffending. This indicates the complex relationship between gender, noncompliance and reoffending in the Australian Capital Territory. Nonetheless, more women than men reoffended.

A comparison between each individual's offending records before and after referral to diversion indicated that just over half (53%) of those offenders with a recent history of offending experienced a relative decline in their offence rate. In contrast, offending increased for 28 percent and remained stable for 19 percent. Of those with no recent history of criminal behaviour, over three-quarters (78%) did not reoffend within 18 months of their diversion, while 23 percent did reoffend.

## *Tasmania*

The Tasmanian analysis was conducted on a randomly selected sample of people diverted through that state's 1st, 2nd and 3rd Level Diversion programs (including 104, 70 and 21 people respectively). Of the total, 80 percent were male, 13 percent were Indigenous, and the average age was 26.6 years. Juveniles comprised 15 percent of the sample.

In the 18 months preceding diversion, 48 percent had offended at least once, although this varied considerably depending on the level of diversion. The highest levels (71%) were recorded among those people referred to 3rd Level Diversion (which responds to third-instance cannabis and first-instance other illicit drug use), while the lowest levels were recorded by first-time cannabis users dealt with by way of a 1st Level Diversion. As in the majority of other jurisdictions, diverted people were most likely to have a prior record of property offending, with 28 percent apprehended for at least one such offence in the 18 months prior to diversion. This compared with 11 percent with a prior violent offence and nine percent with a prior drug offence. Prior property offending dominated across all three levels of diversion.

Of those who did have a prior record, a comparatively high proportion were also classified as multiple offenders, with six in 10 (60%) having been charged in the past 18 months with more than one offence, while nine percent had 10 or



more prior offences. Again, however, there were differences across the three program levels, with multiple prior offending being far less prevalent among those dealt with under 1st Level Diversion than was the case for those directed to a 3rd Level Diversion.

Overall, more than three-quarters (78%) complied with their diversion. However, 1st Level Diversions require no further action by the offender, which results in an automatic compliance rate of 100 percent. Compliance for 2nd Level Diversion and 3rd Level Diversion was 53 and 52 percent respectively. Of those diverted under 2nd Level Diversion and 3rd Level Diversion programs, the only significant predictor of noncompliance was a recent history of drug offending which, when controlling for other factors, increased the odds by a factor of nine. This is an extremely high predicted probability, and is most likely driven by the relatively small sample size (n=91).

Within 18 months of diversion, a relatively high proportion (42%) of the Tasmanian sample had reoffended. Recidivism estimates varied according to the level of diversion. Those referred to 1st Level Diversion had the lowest recidivism rates (35%), while those referred to 3rd Level Diversion had the highest levels (57%).

In terms of the type of reoffending, 21 percent of all people in the Tasmanian sample committed at least one property offence within 18 months of their diversion, while 13 percent had committed at least one new violent offence and 10 percent had been apprehended for at least one new drug offence. However, in terms of the first offence committed after diversion by those who continued to offend, proportionately more (49%) were charged with an 'other offence' than any of the alternative offence categories. This may be attributed to a high level of breach offending which, in turn, may indicate jurisdictional variance in police charging or data recording practices. Despite this, Tasmanian offenders were still more likely to be first arrested for a property offence (31%) than a drug offence (12%).

Only one factor emerged as a significant predictor of post-diversion recidivism. Interestingly, it was not whether an offender had a recent offending history but rather the number of prior offending episodes

committed by those who did have a recent history. Simply having a history of prior offending was not in itself a significant predictor, but for each additional offence episode committed by those who did, the risk of reoffending increased by 25 percent. Again, however, the small sample size will invariably impact on the number of factors that can be identified as significant.

A comparison of the pre and post-offending records of diverted individuals indicated that, of those with a recent offence history, two-thirds recorded a relative decrease in offending, while 27 percent increased and nine percent remained stable. As a whole, this group recorded a significant decline in their overall rate of offending, from 3.4 to 3.0 offence episodes in the 18 months after their diversion. Of those with no recent offending history, 70 percent retained their status as non-offenders in the post-diversion period. In contrast, three in 10 went on to commit at least one new offence in the 18 months after diversion. Although still in the minority, this was higher than in any other jurisdiction.

## *Northern Territory*

Of the 125 individuals diverted to the Cannabis Expiation Notice Scheme and the Illicit Drug Pre-court Diversion Program, 70 percent were male. Not surprisingly, given their relative population size, Indigenous people made up a greater proportion than in any other jurisdiction – 31 percent. The mean age of 15.2 years was the lowest of any jurisdiction, which again was to be expected given that these programs are the only ones in Australia targeted exclusively at young people.

A comparatively small percentage of diverted individuals had a prior offending record, with only 23 percent apprehended for at least one criminal incident in the preceding 18 months, including 12 percent who had at least one property offence, four percent with a violent offence and six percent with a drug offence. Not only did a small percentage have a criminal record, but of those who did, almost seven in 10 (69%) had committed only one offence, while none had 10 or more prior offences. The relatively low prevalence levels and the low frequency of offending among those with prior

offences are potentially due to the fact that diversion in the Northern Territory is limited to juvenile offenders who may not have had sufficient time in which to accumulate long offending histories.

Overall, 84 percent of diverted people complied with program requirements. Only two factors – Indigenous status and a recent history of property offending – emerged as independent predictors of noncompliance once other variables had been controlled for. Indigenous offenders were nearly seven times more likely than non-Indigenous offenders to be noncompliant. Similarly, offenders who had committed at least one property offence in the 18 months prior to their diversion were six times more likely to be noncompliant than those who had not.

Of the 125 individuals diverted in the Northern Territory, 34 percent were reapprehended within the next 18 months. Of these, three out of four had committed only one offence during this period. Drug offending was the most prevalent offence type, with more than twice as many (22%) offenders being rearrested for a drug offence than a property offence (9%) following referral to diversion.

In contrast to other jurisdictions, no component of prior offending was retained as a significant predictor of post-program recidivism once other factors had been controlled for. Only one factor emerged as a significant independent predictor – age. The closer the offender was to 18 years of age, the less likely they were to reoffend. Again, this may be due to the fact that the NT programs focus almost exclusively on juveniles. The failure of the NT regression model to identify any other significant factors may be the result of the small sample size (n=125). Two variables – gender and Indigenous status – failed to reach conventional levels of statistical significance, with females being less likely and Indigenous offenders more likely to reoffend than their respective counterparts.

In terms of comparing pre and post-offending profiles, among offenders with a recent criminal history, 58 percent committed fewer offences after their diversion than before, while one in three (33%) committed an equal number of offences before and after diversion. Of those with no recent history

of offending, 71 percent continued as non-offenders after referral to the program, while 29 percent were apprehended for at least one offence, indicating a change of status from non-offending to offending.

## *Western Australia*

Data in Western Australia were collected for the Cannabis infringement notice and All Drug Diversion program. Other diversion programs, such as the Young Person's Opportunity Program, also operate in Western Australia; however, data for this program were not available at the time of this evaluation.

Of those people issued with a Cannabis infringement notice between 1 January and 30 June 2005, and those referred to the All Drug Diversion program between 1 July 2004 and 30 June 2005, 82 percent were male, while the mean age was 26.8 years. There was little variation between the two programs in relation to either of these variables.

Of the total sample, one in three (30%) had been apprehended for at least one incident in the 18 months leading up to diversion. In contrast to trends observed in other jurisdictions, the prevalence of prior offending was notably higher (at 30%) among those dealt with by the Cannabis infringement notice program than was the case for those diverted to the All Drug Diversion program (18%). Moreover, among those Cannabis infringement notice recipients who did have a recent criminal history, a higher percentage had offended on multiple occasions, with 46 percent having at least two prior offences compared with only 21 percent of those diverted to the All Drug Diversion program.

Compared with other jurisdictions, a relatively high percentage of all people diverted in Western Australia had a previous drug offence (14%) while nine percent had a previous violent offence and 13 percent a prior property offence. Again, however, there were differences between the two programs. Those given a Cannabis infringement notice were more likely to have a prior drug offence (14%) than either a prior property or violent offence (13% and 10% respectively), whereas those

referred to the All Drug Diversion program were more likely to have a previous property offence (13%) rather than a prior drug or violent offence (6% and 5% respectively).

In relation to post-program recidivism, 33 percent had been apprehended for at least one offence in the 18 months after diversion. Again, in contrast to trends in other jurisdictions, those dealt with under the Cannabis infringement notice program had higher reoffending levels after diversion than was the case for those referred to the All Drug Diversion program (33% compared with 27%). Of those who did reoffend, a slightly higher percentage of Cannabis infringement notice recipients committed multiple offences in that period (50% compared with 45%).

For the group as a whole, a higher percentage was reapprehended for a new drug offence (20%) than either a new property or violent offence (11% and 12% respectively). This trend was strongest among the Cannabis infringement notice recipients who were more likely than those diverted under the All Drug Diversion program to be rearrested for a drug offence (20% compared with 13%), while those referred to the All Drug Diversion program were more likely to be reapprehended for a property offence (13% compared with 11%).

Regression analysis indicated that among adults, age was a significant predictor of reoffending. However, this was not the case among juveniles. In addition, prior offending and the frequency of that offending were important predictors of post-program recidivism. Interestingly, the type of prior offending did not appear to be relevant. Among All Drug Diversion program clients who, in contrast to Cannabis infringement notice recipients, were required to attend an assessment, noncompliance was predictive of a higher risk of recidivism.

When individuals' levels of offending in the 18 months prior to diversion were compared with those recorded in an equal period after diversion, analysis indicated that among those with a recent offending history, almost two-thirds (64%) committed fewer offences, while 21 percent committed more offences, after diversion. On average, those with a recent offending history committed significantly fewer offences after their diversion than before – declining from 2.2 to

1.5 offence episodes in 18 months. Of those who were classified as non-offenders in the 18 months before diversion, three-quarters continued as non-offenders in the 18 months following, while 23 percent changed status by being apprehended for an offence.

## *South Australia*

Of the 3,249 people diverted to South Australia's Police Drug Program between September 2001 and December 2004, 80 percent were male. Indigenous people accounted for eight percent of those diverted, although information on Indigenous status was not available for 20 percent of all individuals. The mean age at diversion was 21.5 years, while the median was 17 years. This reflects the fact that 61 percent of Police Drug Diversion Program referrals were juvenile.

Of those referred to the Police Drug Diversion Program, prior offending was relatively high, with 41 percent having been apprehended for at least one incident in the 18 months before diversion. Property offences were the most common, with 26 percent of participants having at least one such prior offence, compared with 13 percent who had prior violent offences and seven percent with prior drug offences. Of those individuals who did have a criminal history, a relatively high percentage (58%) also had a record of multiple offending, including eight percent who had been charged in relation to 10 or more previous criminal events.

Overall, 88 percent of diverted people successfully completed the diversion. However, this figure included those juveniles who received education material and were not required to comply with any additional requirements. If analysis is limited only to those individuals referred to assessment or treatment, 78 percent complied with the program's requirements.

Excluding these same juveniles for whom compliance was automatic, regression analysis indicated that gender, Indigenous status, adult/juvenile status and prior criminal history remained significant predictors of compliance once the potential confounding effects of other factors had been controlled for. Females were 53 percent more likely than males to be noncompliant with

their diversion order, Indigenous offenders were 84 percent more likely than non-Indigenous offenders to not comply and adults were more likely than juveniles to be noncompliant. In terms of prior criminal history, those who had committed at least one property offence in the 18 months leading up to their diversion were 2.6 times more likely to be noncompliant than those who had not, while a recent history of violent offending increased the probability of noncompliance by 78 percent. In contrast, recent drug offending was not a significant predictor of noncompliance.

In South Australia, a relatively high percentage (44%) of diversion participants was rearrested within 18 months of diversion. Of those who did reoffend, the majority committed multiple offences. Among those who continued to offend, property offending dominated, with 40 percent being reaprehended for this type of offence. In contrast, only nine percent were reaprehended for a drug offence, followed by other offences (34%) and violent offences (18%).

Regression analysis indicated that gender, prior offending and compliance were significant predictors of reoffending. More specifically, females and non-Indigenous people were less likely than males or Indigenous people to reoffend, while individuals with a recent offence history were three times more likely than those without to be reaprehended after diversion. Moreover, for each additional criminal offence episode recorded in the 18 months prior to diversion, the risk of recidivism increased an additional eight percent. By offence type, those classified as a prior drug offender (based on the frequency of their offending) were not more or less likely than property offenders to reoffend, but those classified as a violent offender were more likely to do so than both property and drug offenders. Finally, among those required to attend a Brief Intervention, noncompliance was associated with a 91 percent increase in the relative risk of recidivism.

A comparison of offending levels before and after referral to diversion indicated that, among those individuals who had a recent history of offending, the majority (55%) recorded a relative decrease in their offending after diversion. However, one in three committed more offence episodes after

their diversion than before, while for 15 percent, offending levels remained stable. Among those with no recent offending history, three-quarters remained offence-free after diversion. However, offending increased for one in every four offenders.

## *Queensland*

Among those 470 individuals selected at random from the 4,700 people diverted to Queensland's Police Diversion Program between 1 January and 30 June 2005, 77 percent were male, while eight percent were Indigenous. The average age at diversion was 26.3 years, with 14 percent aged under 18 years. On average, males were younger than females, and Indigenous offenders were younger than non-Indigenous offenders.

Criminal offending data were only available for the 12-month period before and after diversion, and therefore is not comparable with those of other jurisdictions where 18 months of data were provided. Prior to diversion, 32 percent had been apprehended by police at least once, with a higher percentage apprehended for a drug offence (17%) than either a property or violent offence (14% and 5% respectively). Of those who had been apprehended in the preceding 12 months, the majority (57%) were once-only offenders.

Overall, 82 percent of those referred to diversion complied by attending the compulsory drug assessment session. Males and females had relatively similar noncompliance levels (18% and 19% respectively). In contrast, Indigenous offenders and juveniles were less likely to attend their Drug Diversion Assessment Program (DDAP) appointment than non-Indigenous or adult offenders. Having been apprehended for an offence in the 12 months prior to diversion was also associated with noncompliance, with more than twice as many failing to attend their assessment as those with no recent history of offending (27% and 13% respectively). In a logistic regression model, property offending was the only significant factor linked to noncompliance.

One-third (37%) of Queensland offenders were reaprehended within 12 months of being diverted and of those who continued to offend, just under half (48%) had committed only one offence. In

terms of the type of offending, drug offences were the most prevalent, with 20 percent of all individuals committing a fresh drug offence compared with 12 percent reapprehended for a subsequent property offence and six percent reapprehended for a violent offence.

As with most jurisdictions, prior offending was found to be a strong predictor of post-diversion recidivism. In addition, those classified as a recent prior property offender (based on the frequency of their previous offending) were more likely than prior drug offenders to reoffend. Those classified as violent offenders were also more likely to reoffend than prior drug offenders, but this relationship failed to achieve statistical significance.

A pre and post-comparison of offending levels indicated that among people with a recent prior offending record, six in 10 recorded a decrease in offending levels following diversion. In contrast, offending remained unchanged for 21 percent and increased for 19 percent of those with recent prior offences. Among those with no recent criminal history, 77 percent remained offence-free in the 12 months after diversion, although 24 percent were apprehended in this period, indicating a shift in status from non-offender to offender.





# Introduction

The criminal justice system is constantly evolving in response to changing social, economic and political pressures. One such pressure that gathered momentum during the 1980s and 1990s was community concern about increasing crime rates (particularly property and violent crime) and the perceived link with illicit drug use and drug dependency (notably heroin). In response, Australia has experienced a significant growth in criminal justice initiatives aimed specifically at addressing the drugs–crime nexus. These initiatives encompass a broad range of interventions that are commonly referred to as ‘diversion initiatives’. This is because they aim to divert the offender from the criminal justice system. Over the past seven or eight years, diversion programs have been implemented in every state and territory. Diversion initiatives can be police-based (as with police drug diversion) or court-based (as with drug courts and intermediate court programs).

Police drug diversion programs are among the most common types of diversion and are the focus of this report. Police drug diversion is an alternative to the court system, and is available to people caught with illegal drugs. Instead of an offender being charged with a drug offence, they are cautioned by a police officer. Sometimes this caution also involves the offender having to attend an education or treatment session. Police diversion programs

vary widely among jurisdictions. In some states and territories, police can caution only first-time offenders or juveniles. In other jurisdictions, diversion is available for any offender caught with drugs, irrespective of age or criminal history.

The cost of the various police diversion programs is, at first glance, significant. However, if these initiatives are achieving their objectives, such costs should be more than offset by the benefits accruing to the community through a reduction in illicit drug use and related offending, improved health and wellbeing for erstwhile drug-dependent offenders, and reduced case loads for the criminal justice system. The key question then is: are these programs working? Are they meeting their primary aims?

In September 2006, the Australian Government Department of Health and Ageing engaged the AIC to evaluate the criminal justice outcomes of IDDI programs. The aim of the evaluation was to assess the effectiveness of these programs in reducing the level of contact that program participants have with the criminal justice system. The primary product of the project is a quantitative analysis of IDDI data held by both the jurisdictional health and police agencies. Three specific measures of recidivism were proposed, including:

- probability of rearrest for a drug-specific offence and other categories of offences

- time to reoffending
- reduction in the seriousness of offending.

This report presents the results of the AIC's evaluation of the recidivism outcomes of police drug diversion in Australia. It complements two other evaluations of police diversion contracted by the Department of Health and Ageing. These are: an evaluation looking at access to diversion in rural and remote regions conducted by the Australian Institute of Health and Welfare; and a study focusing on the cost-effectiveness of diversion conducted by the Allen Consulting Group.

The remainder of this section introduces the concept of diversion and outlines the programs that operate in each jurisdiction. It also turns to the literature to examine evaluations conducted of individual diversion programs to date, and what these evaluations have found.

## Diversion

In broad terms, diversion involves the redirection of offenders away from conventional criminal justice processes, with the aim of minimising their level of contact with the formal system. The use of diversion has a very long history. In the case of juveniles, for example, it can be traced back to the establishment in the late nineteenth century of the first children's court, which was designed to redirect offending children away from punitive adult courts into a more informal and benign system that could better meet their need for specialist guidance and treatment (Seymour 1988).

In its purest form, the term 'diversion' applies to those processes that are at the very front end of the criminal justice system – that is, at the pre-apprehension stage before any formal charges are laid – and are focused on diverting individuals from that system rather than to an alternative form of processing. The obvious example here is informal police cautioning whereby individuals, instead of being apprehended and charged by police, are simply given a verbal warning with no further obligations placed on the offender and no official record kept of the contact.

However, over the decades, the term has acquired a broader application. It is now commonly used to

refer to any processing option that offers what is perceived to be a different and less punitive response to what would otherwise have applied. In addition, there is now a much greater emphasis on diverting individuals to an alternative program rather than simply diverting them from the system.

## Diversion initiatives in Australia

As Bull (2005) pointed out, criminal justice initiatives specifically designed to divert drug offenders from the criminal justice system are not new to Australia. South Australia, for example, introduced diversionary Drug Assessment and Aid Panels in 1984 to provide assessment and treatment at the pre-court level for offenders charged with simple possession or use of cannabis. This initiative was followed in 1987 by the inception of Cannabis Expiation Notices, which allowed individuals to pay an on-the-spot fine, thereby avoiding prosecution in court. Similarly, commencing in 1989, ACT magistrates were able to refer offenders with an apparent drug problem to a panel for assessment. In Western Australia, a Court Diversion Service was established in 1988 to provide access to treatment for people with an identified drug problem, with participation being included as a condition of court bail. However, initiatives such as these were relatively isolated and were rarely replicated outside of their state of origin.

What is different about the current range of drug diversion programs is the extent to which their implementation has been codified and supported at the federal level, and the degree of consistency (at least in broad terms) across jurisdictions in the types of programs now provided.

These initiatives can be divided into four groups, depending on their position along the criminal justice continuum:

- police drug diversion – at the front end are the various police-based drug diversion programs. These offer drug education and assessment for those individuals with minor possession offences pertaining to either cannabis and/or other illicit substances



- bail-based programs – as an intermediate response, at the court level are the predominantly bail-based programs designed to provide assessment and short-term treatment for less serious offenders whose criminal behaviour is related to their illicit drug use
- drug courts – at the higher end of the court system are the intensive pre and post-sentencing drug court programs. These offer long-term intensive treatment for entrenched offenders whose drug dependency is a key contributor to their offending
- drug treatment correctional centres – drug treatment correctional centres operate at the custodial level. To date, New South Wales is the only jurisdiction to have implemented this initiative. The NSW Compulsory Drug Treatment Correctional Centre specialises in abstinence-based treatment and rehabilitation for offenders with 'long term illicit drug dependency and an associated life of crime and constant imprisonment' (NSW Government 2007).

Most of the police and intermediate court-based programs had their origin in, and/or are consistent with, the national framework for the IDDI that was developed by the Ministerial Council on Drug Strategy in 1999 at the request of the Council of Australian Governments. The aim of this framework, which consists of 19 principles, was to 'underpin the joint Commonwealth/State/Territory development of an approach to divert illicit drug users from the criminal justice system to education or assessment, with a view to treatment', while at the same time, providing jurisdictions with the flexibility to respond to local requirements (Ministerial Council on Drug Strategy 1999). This framework, with its associated Australian Government funding, has enabled jurisdictions to either establish or expand on pre-existing police and court-based diversion programs, with the result that by the end of 2006, Tasmania was the only state that did not offer both types of diversion for drug and drug-related offending. (In the 2005–06 financial year, for example, the amount of IDDI funding provided for a range of drug diversions were: New South Wales – \$16.982m; Victoria – \$12.307m; Queensland – \$2.700m; Western Australia – \$4.853m; South Australia – \$3.500m; Tasmania – \$0.927m; Northern Territory

– \$1.200m; Australian Capital Territory – \$1.041m (DoHA 2006).)

In contrast to this nationally coordinated approach to the initiation and/or enhancement of programs at the front end of the criminal justice system, drug courts generally developed independently within each jurisdiction and still rely predominantly on state-based funding (exceptions include the NSW Youth Drug Court and the WA Children's Court Drug Court, which are recipients of IDDI funding). Yet even without Commonwealth input, most states have now implemented some form of drug court for adults, while a growing number also offer a similar program for juvenile offenders.

This is not yet the case with specialist correctional facilities. Only New South Wales currently provides this option. Given that this facility has only been in operation since August 2006, it is still too early to predict whether other jurisdictions may follow suite. Its establishment may herald a new developmental phase in the criminal justice system's response to drug and drug-related offending, which would provide a continuum of interventions ranging from initial police contact through to post-sentencing custodial care.

The remainder of this report focuses exclusively on one category of diversion initiatives – police drug diversion. Unless otherwise indicated, the term 'diversion' is used to refer to police drug diversion only.

## Police drug diversion

A key aim of the national IDDI was to establish or enhance a range of Australian Government-funded police-based interventions targeted at first or second-time offenders detected in possession of cannabis and/or other illicit drugs. All states and territories have implemented some form of police drug diversion and while there are numerous differences among these initiatives (Bull 2003; HOI et al. 2002), their basic structure and modus operandi are similar. For example:

- all rely on the police as the referral source, although this may involve mandatory referrals (as in South Australia) or discretionary referrals (as in New South Wales)

‘Probably one of the most telling findings from the research was that, although the programs varied considerably... the proportionate decrease in offending after diversion was relatively consistent across all jurisdictions.’

SEE PAGE XI

- all focus on individuals detected in possession of minor amounts of drugs and/or drug implements. They do not target individuals charged with non-drug offences even if that offending is linked to their drug use
- all have a component that targets cannabis use; however, the amount varies (from 100 g in South Australia to 25 g in the Australian Capital Territory, and 15 g or less in New South Wales, while Tasmania allows the police officer to exercise appropriate discretion). The form the drug can take also varies – New South Wales excludes cannabis resin, oil and living plants, while Tasmania allows all forms
- most have a second diversionary ‘arm’ that focuses on the possession of other illicit drugs. Only a few (e.g. Tasmania’s 3rd Level Diversion and the Australian Capital Territory’s Level 2 response) also include licitly used pharmaceutical drugs, while even fewer extend to alcohol abuse or petrol sniffing
- the majority involve an educational component (although the delivery of this varies from on-the-spot hand-outs of material by the detecting officer, to telephone-based education sessions, through to meetings with a specialist drug counsellor)
- the majority – particularly those targeted at illicit drugs other than cannabis – also include assessment and, where appropriate, treatment. These components are generally undertaken by accredited assessment/treatment agencies funded via the IDDI. However, the intervention provided is generally of very low intensity. South Australia’s police diversion programs, for example, usually require attendance at one assessment and counselling session only, with very few individuals referred on to treatment. By contrast, Western Australia’s All Drug Diversion program requires attendance at three treatment sessions, and Tasmania’s 3rd Level Diversion may extend to five group sessions and three individual counselling sessions spread over a number of months
- most (but not all) have clearly defined eligibility/exclusionary criteria that determine who can or cannot be referred. Many, for example, exclude people who, either previously or concurrently with the simple drug possession offence, have been charged with a violent crime or a sexual offence. Some jurisdictions also exclude people previously convicted of more serious drug offences, such as trafficking. The original expectation was that these initiatives would deal mainly with offenders who were in the initial stage of both drug use and offending (colloquially referred to as ‘clean skins’ – offenders with no prior histories), and who would therefore benefit from early intervention
- there are usually (but not always) restrictions on the number of diversions that a person may receive. For example, Queensland limits police drug diversions to one per person while Victoria allows two diversions. By comparison, in South Australia there is no upper limit

- in most cases, the individual must agree to the diversion and admit the offence, although some jurisdictions – notably South Australia and Western Australia – have no such requirement. However, anecdotal evidence suggests that, at least in Western Australia, diversion is unlikely to be offered if guilt is an issue
- all initiatives now operate as state-wide programs.

The police drug diversion programs operating in each jurisdiction, and the main differences among them, are described in 'Overview of police drug diversion programs'.

## Evaluating diversion programs

A number of diversion programs in Australia have been subject to evaluation. For example, the Australian Government has funded several national evaluations of IDDI initiatives (HOI et al. 2002), while some states have also used a portion of the IDDI funding received from the Australian Government to undertake more in-depth state-specific studies of both the police and the intermediate court-based programs. Similarly, although they do not come under the IDDI umbrella, every state government has commissioned independent evaluations of their drug courts, while the NSW Compulsory Drug Treatment Correctional Centre is currently being evaluated by the NSW Bureau of Crime Statistics and Research. Wundersitz (2007) provided a comprehensive overview of these evaluations, and included commentary on their limitations and key findings.

# Overview of police drug diversion programs

Every state and territory in Australia has implemented at least one police drug diversion program. These programs vary widely among jurisdictions in terms of offender eligibility as well as what a diversion episode actually looks like. These differences reflect varying policy, legislative and drug-consumption conditions among the different jurisdictions. However, this has the effect of making the task of comparing diversion data across jurisdictions difficult. This section outlines the police diversion programs in place in each jurisdiction and their key characteristics. This information is also summarised in the appendix.

## Victoria

There are two police diversion programs in Victoria – the Cannabis Cautioning Program and the Drug Diversion Program (non-cannabis). Eligibility for the Cannabis Cautioning Program is confined to individuals aged 18 and over, while for the Drug Diversion Program to individuals aged 10 and over. Both are discretionary. Under both programs, offenders have to admit to the offence, consent to the diversion, have no more than one previous caution, and not be involved in any other offence at the time of the drug offence. Offenders must be found in possession of less than 50 g of cannabis

or a non-trafficable quantity of other illicit drugs to be considered eligible for diversion.

Under both programs, it is possible for the offender to have concurrent offences, but only if these will be dealt with by an infringement notice or caution, for example, speeding fines. Offenders are limited to no more than two drug cautions of any type – two cannabis cautions, two drug diversions, or one of each.

### *Cannabis Cautioning Program*

Once the offender consents to diversion, the police officer completes the relevant form, processes the drugs as property, reads the official caution and offers the opportunity to attend an education session. The two-hour education session – Cautious with Cannabis – is non-compulsory and aims to reduce drug-related harm. The session incorporates demand and harm-reduction strategies, including identifying and reducing drug-related harm to self and others, exploring options and strategies to reduce and stop drug use, and providing referral options for ongoing treatment and support. The participants are requested to complete an evaluation. The diversion does not include any other treatment and must be completed within 28 days. The cannabis is retained for 28 days from the day of arrest, to allow the

withdrawal of the caution if further evidence arises of other drug offending.

### *Drug Diversion Program (non-cannabis)*

Once an offender consents to diversion, the police officer completes the relevant form, processes the drugs as property and reads the official caution. The officer then makes a phone call to the Drug Diversion Appointment Line to secure an appointment for the offender's drug assessment. The offender must attend one session of drug assessment, consisting of a two-hour session with a qualified assessor, followed by a session of drug treatment. In most cases treatment consists of counselling. However, offenders are also able to access a suite of treatment services that include withdrawal, rehabilitation, supported accommodation and, where appropriate, specialist youth and women's services. Assessment should be undertaken within five working days of arrest, and treatment within five working days of the assessment. A time limit of 28 days from day of arrest applies for compliance to be completed.

## Tasmania

Diversion of both adults and juveniles in Tasmania is subject to police discretion. If an individual is found in possession of cannabis for the first time, they receive a caution, while on the second offence the offender is required to attend a Brief Intervention session. A third cannabis offence, or possession of illicit drugs other than cannabis, results in a Brief Intervention session – the offender is required to attend an appointment with an approved health provider for assessment and subsequent counselling or treatment services. There is no maximum allowable quantity, but the investigating police officer must be satisfied that the illicit drugs with which the offender was apprehended were for personal use only. The three levels of diversion in Tasmania are known as 1st Level Diversion – Cannabis Caution, 2nd Level Diversion – Brief Intervention and 3rd Level Diversion – Assessment and Treatment, respectively.

Under all three programs, the offender must admit to the offence and consent to the diversion. Prior drug-related charges or caution limit diversion. Eligibility is based on the previous number of 'drug events', which include formal or informal conferences relating to drugs, previous drug cautions or diversions, pending drug charges, prior convictions for drug offences, and previous court appearances relating to drugs. Offenders with three or more drug events in the last 10 years are ineligible for the program.

It is possible for the offender to have concurrent offences other than drug offences and still be eligible for diversion, so long as they are not violent offences, sex crimes, breaches of restraining orders, driving under intoxication, or the illegal trafficking, supply or selling of drugs.

### *1st Level Diversion – Cannabis Caution*

This program is open to individuals with a first cannabis offence. Possession can be up to two plants or no more than 50 g of cannabis. The officer must be satisfied that the nature and quantities of cannabis are consistent with personal use. On an offender being apprehended with cannabis or related implements for the first time, the issuing officer informs the offender that they have committed an offence under the provisions of the *Misuse of Drugs Act 2001*. The offender is advised that if they commit further offences of a similar nature they may also be prosecuted, after which they are issued with a 1st Level Diversion Cannabis Caution Notice. No further action is necessary. Although the police encourage the offender to contact the health service that provides drug and alcohol services, there is no requirement for the offender to call the health service or attend any appointments.

### *2nd Level Diversion – Brief Intervention*

On being apprehended with cannabis or related implements for the second time, a 2nd Level Diversion – Drug Diversion Notice is issued and the offender is advised that they must contact the relevant alcohol and drug service within three

working days. The offender is advised that failure to comply with this requirement will result in them being charged and required to attend court for prosecution. On contacting the service provider, the offender makes an appointment to attend an education session known as a Brief Intervention. This session consists of a one-off face-to-face intervention in which personalised information is relayed on the risks and harms associated with drug use, and which also incorporates assessment to identify the offender's level of use and specific problems related to the use of the drug. The Brief Intervention session must be conducted within 21 days, with noncompliance resulting in the offender having to attend court for prosecution.

### *3rd Level Diversion – Assessment and Treatment*

On being apprehended with cannabis for the third time, or if found in possession of any illicit drug other than cannabis, a 3rd Level Diversion – Drug Diversion Notice is issued by the investigating police officer, and the offender is advised that they must contact the relevant alcohol and drug service within three working days. The offender is advised that failure to comply with this requirement will result in them being charged and required to attend court for prosecution. On contacting the service provider, the offender makes an appointment to attend an assessment. Assessment is used to match the offender with an appropriate treatment intervention. A treatment plan is then agreed on between the alcohol and drug service, and the offender. Treatment may involve group work (initial interview, five group sessions of 2.5 hours and three individual counselling sessions), residential rehabilitation, detoxification, psychological therapies, pharmacotherapy treatment (methadone program) and counselling. The aim is to terminate treatment with a review of goal achievement, referral for additional assistance if necessary and the option of after-care between three and six months after the final session. Noncompliance results in the offender having to attend court for prosecution.

## New South Wales

### *Cannabis Cautioning Program*

New South Wales has one police diversion program operating under the IDDI, known as the Cannabis Cautioning Program. It applies to cannabis users aged 18 and over. Diversion under the program is discretionary. An offender cannot be cautioned on more than two occasions under the program. The offender must admit guilt and cannot have any concurrent offences, prior drug convictions, or history of violent or sex-related offences. The maximum allowable quantity is 15 g, and cannabis resin, oil or living plants are excluded from the program.

When police issue a first formal caution, they encourage the offender to contact the Alcohol and Other Drug Information Service but there is no requirement to call the help line or attend an education session. On the second formal caution, police inform the offender that they are required to contact the Alcohol and Other Drug Information Service within 14 days. If the offender makes contact with the Alcohol and Other Drug Information Service, this leads to a telephone health education session, including information on cannabis and its effects; provision of written material; attempts to gauge the offender's use levels and identify signs that would be indicative of their use becoming problematic; and (if appropriate) information on treatment options and the nearest provider. NSW Police Drug and Alcohol Coordination should be advised by police when a second caution has been issued and the Alcohol and Other Drug Information Service is required to monthly inform the NSW Police Drug and Alcohol Coordination of offenders who have contacted them. The NSW Police Drug and Alcohol Coordination then determines who has and who has not complied and notifies police. On noncompliance following the second caution, no further action is taken against the offender, except that at a future court date a magistrate may take noncompliance into account when determining a sentence for other offences.

## South Australia

South Australia has one drug diversion initiative known as the Police Drug Diversion Initiative. This applies to simple possession cannabis offences and simple possession offences for prescription or other illicit drugs committed by juveniles (i.e. aged 10 to 17 years). The Police Drug Diversion Program also applies to adults who have committed simple possession offences for illicit drugs (but not prescription drugs) other than cannabis. Simple cannabis possession offences for adults are dealt with by police issuing Cannabis Expiation Notices (which are not part of the Police Drug Diversion Program).

On detection, the police officer contacts the Drug Diversion Line and makes an appointment for the offender to undergo an assessment with an accredited health worker in their local area. The details of the appointment are provided to the offender on a Drug Diversion Referral Notice. If the offender attends and participates in the assessment, police are notified and no further action is taken on the matter. The health worker may provide further treatment if required, or refer the individual to another service. Health workers have the option of placing adults on an undertaking to attend treatment for up to six months. Adults diverted on more than three occasions are usually seen by a panel of assessors on their fourth and subsequent diversion. There are no other eligibility or exclusion criteria for the Police Drug Diversion Initiative. That is, diversion is mandatory – police do not have discretion over whether to divert an individual. There is no limit to the number of times an individual is able to be diverted. The individual is not required to admit to the offence and may have concurrent charges for other offences.

## Western Australia

Western Australia has two police drug diversion programs in place: Cannabis infringement notice, and All Drug Diversion. Both programs are discretionary and are available only to those aged 18 and over for possession of small quantities or related paraphernalia. Neither program requires an admission of guilt, but the offender is unlikely to be

diverted if guilt is disputed. An offender has to consent to a diversion, but this need only be verbal. Under both programs an offender can have concurrent offences, but this is dependent on their severity and whether they can be dealt with by way of an infringement.

### *Cannabis infringement notice*

This program is available to individuals found in possession of no more than 30 g of dried-leaf cannabis, two non-hydroponically grown plants or cannabis-related implements. Hashish or cannabis resins are not allowed. On apprehension, the offender is issued with a Cannabis infringement notice. Following on from this, the offender can elect to pay a financial penalty (if fewer than three Cannabis infringement notices have been issued in three years), attend a Cannabis Education Session, or contest the matter in court. The Cannabis Education Session consists of a single group session, on the completion of which the provider signs a Certificate of Completion. The Cannabis Education Session must be completed within 28 days. There is no legal requirement for the offender to continue contact with the service provider after the Cannabis Education Session. Noncompliance can lead to a financial penalty and additional enforcement fees may also be imposed. Failure to further comply may result in loss of driver's licence through the fine enforcement registry.

### *All Drug Diversion*

This program is available to individuals found in possession of drugs other than cannabis, as long as they do not exceed the following quantities: if in tablet form, no more than two tablets; if dealing with ambiguous drugs (such as mushrooms), then the amount that would give rise to a simple drug offence, otherwise, one-quarter of the amount in the *Misuse of Drugs Act 1981* that would give rise to a presumption of an intent to sell or supply (Schedule V). There is a maximum of one diversion per offender under this program. On apprehension, the police officer contacts a booking service to arrange the first session. The offender must then attend the first session booked by the police, and arrange to attend two subsequent sessions. During

the first session the offender is assessed by the treatment provider to determine their particular needs and issues with drugs and alcohol. This assessment would influence the treatment received in the two subsequent sessions. All three sessions must be completed within 30 days. There is no legal requirement for the offender to continue treatment after the three sessions. The treatment provider informs police whether the offender has attended all three sessions. Noncompliance can lead to prosecution for a simple drug offence.

### *Police diversion – juveniles*

The Young Person's Opportunity Program targets young people (10 to 18 years inclusive) who are in contact with a Juvenile Justice Team and have illicit drug-related issues. A specialist drug counsellor assesses the offender, provides harm minimisation information, and refers suitable young people to treatment services. In some regional locations, the Young Person's Opportunity Program project officer may also be the treatment provider. Young people present to the Juvenile Justice Team following a referral by police or the courts. Juveniles in the Court Case Conferencing (Perth only) are also eligible for the Young Person's Opportunity Program. Family and significant others may also be assessed and referred to treatment on a voluntary basis. Data for this project were unavailable at the time of publication.

## Queensland

Police drug diversion in Queensland applies only to offenders found in possession of small quantities of cannabis (50 g or less), or related paraphernalia. The program is available to adults as well as juveniles aged 10 and over. Offenders can only be diverted once through Queensland's Police Diversion Program. To be eligible for diversion, the offender must admit the offence, have no prior convictions for violence, no related indictable offences, not have been jailed for the production, trafficking or supply of drugs, and agree to attend the DDAP.

Diverted individuals must attend the DDAP and comply with any treatment plan recommended

by the program. Compliance leads to the offender not being charged with the drug offence. Failure to attend the DDAP appointment can result in the offender being charged with the original drug offence or an offence of noncompliance.

## Australian Capital Territory

The Australian Capital Territory has in place two police diversion programs. One of these programs is for cannabis offenders – Police Early Intervention and Diversion Program (cannabis) – and the other for those apprehended with other illicit drugs – Police Early Intervention and Diversion Program (non-cannabis). Both programs are available to offenders aged 10 and over, with a maximum number of two diversions per offender. Diversion is at the discretion of a police officer, and it is possible to have concurrent offences. Under both programs, once police have initiated the diversion the offender must attend an assessment followed by one treatment or education session.

The assessment primarily explores the client's alcohol and drug use, and treatment history. Additionally, the assessment includes collection of bio-psychosocial information to determine appropriate treatment options. Treatment typically includes attendance at one education or counselling session (for compliance with the program), but referral can also be made to pharmacotherapy services, withdrawal services and residential programs, as well as longer-term counselling. The diversion service is notified by the treatment provider of attendance at the recommended treatment and this information is passed back to the referring police officer. Noncompliance may lead to the case officer arresting or summoning the person to court to face the original charge.

## Northern Territory

There are two police diversion programs operating in the Northern Territory – the Cannabis Expiation Notice Scheme, and the Illicit Drug Pre-court Diversion Program (non-cannabis). Both are



available to individuals aged 10 to 17 for first-time possession or personal use offences. To be eligible for diversion, offenders must be apprehended with non-trafficable amounts of cannabis or other illicit drugs, admit to the offence and provide consent to be diverted. Both programs aim to divert first-time offenders with no prior criminal history of violent or drug offences, and no concurrent violent or property offences.

### *Cannabis Expiation Notice scheme*

Under this scheme, which targets juvenile offenders apprehended using or in possession of small amounts of cannabis, a police officer issues an infringement notice to the offender. Also provided is an education and self-referral pamphlet. There is no requirement to attend any assessment or education session. On expiation, an offender's record is expunged. As a result, it is impossible to identify and follow expiated offenders after intervention.

### *Illicit Drug Pre-court Diversion Program (non-cannabis)*

This program consists of diversion into assessment and education. It targets juvenile offenders found using or in possession of small amounts of illicit drugs other than cannabis. Multiple diversions are permitted if there is no serious crime involved. Following assessment, eligible offenders are referred to education, counselling and treatment services. Those diverted under this program are recorded into a separate database held by the Northern Territory Drug and Alcohol Policy Unit. As such, unlike the Drug Infringement Notice scheme, there are data available on offenders diverted through this program.

# Methodology

This section outlines key elements of the methodology employed by this evaluation, as well as highlighting some of the limitations of the available data. The first part discusses the national roundtable, which was the first step of this project. Among the points raised by the roundtable was the need for separate methodologies in each jurisdiction due to the substantial differences that exist among police diversion programs. The next part provides an overview of specific jurisdictional methodologies. Subsequent parts demonstrate how the diversion sample was selected in each jurisdiction and how recidivism is measured in this study. Finally, the concluding parts of this section discuss data limitations, as well as the issue of control groups.

## The national roundtable

As a major first step in the implementation of this project, on 18 October 2006 the AIC convened a key stakeholder roundtable involving representatives of the police and health sector from across the Australian states and territories concerned with the management and implementation of police drug diversion programs. The purpose of the roundtable was to seek advice on the design of the AIC's planned evaluation and

to develop, in consultation, the research working plan. At the roundtable, a number of general issues were raised that were directly relevant to the evaluation plan:

- A broad-brush direct comparative analysis of police drug diversion schemes across the jurisdictions that aggregated results from separate programs into a single national figure would be of concern. Instead, it was suggested that discrete jurisdictional analyses be conducted, and any subsequent comparisons be made cautiously and with specific reference to the identified variations among programs, as per the characteristics described in the previous section.
- The proposal for independent jurisdictional control groups would be difficult to achieve because in most jurisdictions all offenders eligible for diversion should be diverted, thus leaving no pool of undiverted individuals available for comparison. Although in many jurisdictions diversion is at the discretion of the arresting officer, identifying a control group that would be sufficiently comparable with diversion participants would be extremely difficult.
- Because of significant jurisdictional variations in terms of processes and information systems, a single data collection and analysis methodology would be inappropriate. Instead,

the methodology would need to be developed in consultation with each jurisdiction, and made relevant to the data systems and protocols of that jurisdiction.

- Data linkage would be difficult, particularly in cases where personal and confidential information would be required.
- Data provision by the jurisdictions for the purpose of national evaluation would be time-consuming and costly, and subject to more formal approval processes.

- Where possible, extractions should include indicative data on a range of demographic (age, gender and Indigenous status) and program-related (treatment type and compliance) data.
- Extractions should also include unique identification details for each diversion participant so that health treatment data can be matched to the criminal history data.
- Pre-existing data extractions were preferred over new extractions should they meet the above requirements.

## Overview of specific jurisdictional methodologies

As agreed at the national roundtable, the AIC proceeded to develop an independent methodology for data collection and analysis in each jurisdiction. This was undertaken in consultation with each jurisdiction under the following minimum data collection guidelines:

- The sample of diversion participants could be no fewer than 200 individuals for each program.
- A total census was attempted in those jurisdictions with fewer than 200 diversions over the life of the program.
- A snapshot selection methodology was employed in jurisdictions with greater than 200 participants (e.g. all people diverted in the first six months of 2005).
- Where possible, in jurisdictions where programs exist for drugs other than cannabis, the sample was split equally among the programs (i.e. 200 participants from each program).
- Unit record offending data were to be obtained for each offender's entire pre-diversion criminal history and at least one year after diversion. The minimum acceptable requirement was one year before diversion and one year after diversion.
- Arrest/apprehension data were the preferred data to identify offending.
- The date of diversion was provided and, where applicable, the date of participation in an education/assessment or treatment program.

## Sample selection

### *New South Wales*

In New South Wales, the Computerised Operational Policing System records all cannabis cautions issued by the NSW police. In 2006, the Drug and Alcohol Policy Unit conducted a data extraction of all cautions issued from the commencement of the program in 2002 to 31 December 2003. Over that time, a total of 11,020 unique individuals had been cautioned. Criminal arrest history data were then obtained for each diverted participant dating between 1998 and 2005. This provided, for each diverted offender, a minimum of two years pre and post-diversion offending data. Information contained in the data extraction included age, gender, Indigenous status, the date of caution, the date of each arrest and offence type. Because the NSW Cannabis Cautioning Scheme has no mandatory assessment or participation requirements, there is no health or treatment-related data included in the extraction. Given that the pre-existing dataset conforms to the minimum data requirements, the AIC opted to obtain permission to access this data in lieu of requesting an additional extraction.

### *Victoria*

Victoria operates two police drug diversion programs – the Cannabis Cautioning Program and the Drug Diversion Program. Entire criminal history data were provided for a complete census of all offenders diverted under these two programs between 1 January and 30 June 2005. As an entire

criminal history, the data contained all criminal events before diversion and all criminal events for a minimum of 18 months after diversion (until 31 December 2006). The sample amounted to 1,278 unique individuals – 1,043 of whom were diverted under the Cannabis Cautioning Program and 235 of whom were diverted under the Drug Diversion Program.

### *Australian Capital Territory*

In the Australian Capital Territory, two data sources were collected in this study. The first was a complete criminal history extraction undertaken by ACT Policing for all people ever diverted, either for cannabis or other illicit drugs. As a complete census, the final criminal history data included all pre and post-diversion offending data; however, the post-diversion observation periods varied depending on the diversion date. The final sample included 174 unique individuals. Subsequently, ACT Health provided the AIC with matching treatment data that included the offender's gender, age, Indigenous status, treatment type and compliance indicators.

### *Tasmania*

Unlike other jurisdictions, where the data were obtained from a central database and through a data extraction script, in Tasmania each record had to be extracted and then coded manually. The management of offenders between Tasmania Police and the Department of Health and Human Services occurs by means of a web-based information system known as the Drug Offence Reporting System (DORS). At the time of issuing a cannabis caution or drug diversion, details are initially entered into the DORS by Tasmania Police. However, it is the Department of Health and Human Services that subsequently records information into the system to advise Tasmania Police about compliance or noncompliance by an offender to meet their obligations to attend appointment(s) with a health provider. For security reasons, the DORS is separate from central police databases, including the one that records conviction data. For the purposes of the AIC evaluation, it would be necessary to extract each

record from the DORS and then code it manually so that it could be cross-checked with the central database containing conviction data. It would clearly impose a significant and unreasonable commitment of resources by Tasmania Police to cross-check all the cautions and diversions issued between 1 January and 30 June 2005.

To minimise the data extraction burden, the AIC and Tasmania Police agreed to a 50 percent random selection of all people diverted in Tasmania between 1 January and 30 June 2005. The process of extraction commenced with identifying all people diverted using the police's electronic diversion database. A list of all people, including their age, gender, Indigenous status and diversion type, was provided to the AIC. A randomisation algorithm was then applied using the statistical software package Stata v9.2 (StataCorp 2006). A comparison between the selected sample and the entire sample was then undertaken to ensure that no systematic bias existed. Selecting 50 percent of unique individuals resulted in a total sample of 195 offenders.

After randomisation, Tasmania Police then undertook the physical criminal history extraction. Complete de-identified criminal history records were provided to the AIC for coding. The criminal history records pertained to all criminal offences identified by the police for each offender's entire criminal history and for a minimum of 18 months after diversion (until 31 December 2006).

### *Queensland*

The number of diversions offered under the Queensland Police Diversion Program typically exceeds 4,000 in any six-month period. Information about each diversion event is recorded on the POLARIS offender database, including each offender's name, date of birth and Indigenous status. Compliance data – whether the offender attended the compulsory drug assessment – are also recorded. Criminal history data are held separately in the Queensland Police Service's POLARIS and CRISP systems, and can only be linked using an offender's name and date of birth – a matching process that must be undertaken manually.

Because the process of extracting criminal history records is labour intensive, the Queensland Police Service agreed to provide a 10 percent random selection of all 4,700 people diverted in Queensland between 1 January and 30 June 2005. The random selection was undertaken by the AIC using the statistical software package Stata v9.2 (StataCorp 2006). A comparison between the selected sample and the entire sample was then undertaken to ensure that no systematic bias existed. The final sample included 470 individual offenders.

After returning the drug diversion identification numbers for the selected sample to the Queensland Police Service, police officers undertook a manual criminal history extraction. The extraction was undertaken to identify any and all of the 470 offenders with at least one criminal offence in the 12 months before and/or after their diversion. The criminal events were then recorded in a separate database and provided to the AIC. The final dataset included each offender's date of birth, gender, Indigenous status and information about each recorded criminal event within the selected 24-month period.

### *Northern Territory*

In the Northern Territory, a complete criminal history extraction was undertaken by the Drug and Alcohol Policy Unit of the Northern Territory Police using the Northern Territory's PROMIS system. The extraction was for a complete census of all people ever diverted, either for cannabis or other illicit drugs. The final criminal history data included all pre and post-diversion offending data; however, the post-diversion observation periods varied depending on the diversion date. The final sample included 125 unique individuals.

### *Western Australia*

The Western Australia Police maintain two separate data recording systems – one for Cannabis infringement notices and one for the All Drug Diversion program. In addition, Western Australia Police maintain two centralised operating systems – IMS and Briefcase. IMS contains all operational information, including offender details

and criminal histories. Briefcase holds information for criminal matters that are briefed for presentation at court and pertain to criminal conviction histories.

The Western Australian Department of Health maintains a separate database for diversion participants, capturing information at the time of assessment or education. For the Cannabis infringement notice program, the notice number issued by the police provides a potential linkage point between the police and health databases. A similar All Drug Diversion program reference number may be used to obtain health and treatment data for those individuals diverted under the program.

Data extraction was conducted for a snapshot sample of all people diverted under the Cannabis infringement notice program between 1 January and 30 June 2005. Because the number of All Drug Diversion program offenders was relatively low, the sample selection period was extended backward by six months. For the All Drug Diversion program, the AIC received the complete criminal history data for all people diverted between 1 July 2004 and 30 June 2005. For all offenders in either the Cannabis infringement notice or All Drug Diversion program samples, complete pre-diversion criminal histories were obtained. Each sample had a minimum of 18 months post-diversion offending data.

### *South Australia*

Information regarding police drug diversions is not recorded on South Australia's Police Information Management System. Instead, at the point of detection the police officer radios or telephones the Drug Diversion Line (a dedicated number that only police officers have access to, which operates 24 hours a day, seven days a week), where the offender's details are recorded. The Drug Diversion Line maintains all data relevant to the diversion and it is this database that was used to identify a sample of diversion participants.

The South Australian Office of Crime Statistics and Research has previously undertaken a brief analysis of Police Drug Diversion Program activities, including data extraction for all diverted individuals up to the end of 2004. This dataset

**Table 2: Program details and sample selection parameters**

Description		Sample selection process	Sample selection dates	Actual sample	Achieved sample
<b>New South Wales</b>					
Cannabis Cautioning Scheme	Police caution for cannabis offence	Complete census	4 April 2002 – 31 December 2003	11,020	11,020
<b>South Australia</b>					
Cannabis	Referral to assessment and treatment for cannabis	Complete census	1 September 2001 – 30 June 2004	2,096	2,096
Other drug	Referral to assessment and treatment for other drugs			1,333	1,333
<b>Tasmania</b>					
1st Level Diversion – Cannabis Caution	Police caution for first cannabis offence	50 percent random selection	1 January – 30 June 2005	232	104
2nd Level Diversion – Brief Intervention	Referral to assessment for second cannabis offence			156	70
3rd Level Diversion – Assessment and Treatment	Referral to treatment for third cannabis or first other drug offence			51	21
<b>Australian Capital Territory</b>					
Police Early Intervention and Diversion Program (cannabis)	Referral to assessment (and treatment where applicable) for cannabis	Complete census	1 January 2002 – 31 December 2006	174	174
Police Early Intervention and Diversion Program (non-cannabis)	Referral to assessment (and treatment where applicable) for other drugs				
<b>Victoria<sup>a</sup></b>					
Cannabis Cautioning Program	Police cautioning and provision of educational material	Complete census	1 January – 30 June 2005	1,043	1,043
Drug Diversion Program	Referral to assessment and treatment for drugs other than cannabis			235	235
<b>Western Australia</b>					
Cannabis infringement notice	Infringement notice for cannabis, expiated through payment of fine or education session	Complete census	1 January – 30 June 2005	1,244	1,244
All Drug Diversion	Diversion for other drug possession offences to assessment (and treatment)		1 July 2004 – 30 June 2005	79	76
Young Person's Opportunity Program	Diversion of juveniles with underlying drug use problems	Data not available			
<b>Queensland</b>					
Cannabis diversion	Referral to assessment and treatment for cannabis	10 percent random selection	1 January – 30 June 2005	470	470
<b>Northern Territory</b>					
Cannabis and non-cannabis	Cannabis infringement notice to expiated by payment of fine or education	Complete census	31 October 2002 – 31 December 2006	125	125

a: The diversion selection date in Victoria was the completion date, although for subsequent analysis, the diversion date was used

Source: AIC Police Drug Diversion [computer file]

includes basic demographic indicators such as age, gender and Indigenous status; program indicators such as diversion type, drug type and compliance; and criminal apprehension data for all recorded criminal events before and after diversion.

## Measuring recidivism

The key subject underlying this evaluation is recidivism – that is, the extent to which people diverted under IDDI programs have had further contact with the criminal justice system. Measures of re-contact commonly used in recidivism analysis include:

- the proportion of offenders who had been rearrested by police
- the time taken for offenders to be rearrested
- the proportion of offenders whose new offences were of a more serious nature.

In undertaking recidivism analysis, the following methodological elements must be specified:

- the sample selection parameters
- the indicators of recidivism
- the observation period.

The sample selection parameters define the sample included in the analysis. The sample consists of people diverted in each state and territory by the police under the local diversion program(s). This report uses offending episodes or events that have occurred within a follow-up period subsequent to diversion as the primary indicator of recidivism.

An episode of offending is defined as any day in which one or more offences were recorded. Take, for example, an incident of break and enter that presumably involves some form of property damage (to break in) and stealing. In some cases, an offender may be apprehended, arrested and/or charged by the police for a single offence – break and enter – while in other circumstances the offender may be charged with three offences – break and enter with intent, stealing, and wilful damage to property.

The decision of how many charges to lay against an alleged offender is affected by a wide range of

factors, including the actual circumstances of the offence (i.e. the existence of obvious property damage) and the offender's prior criminal history. In any case, it is clear that while only a single criminal event was committed, the decisions made by police at the front end would otherwise significantly bias the results against the offender for whom the police laid multiple charges.

For these reasons, episodic measurement is a common aggregation method used in recidivism analysis to control for the potential bias in police charging practices. It is particularly important in this study because data on offending are obtained for offender populations from across entire state jurisdictions (crossing major police operational boundaries), but more importantly, across state borders.

The observation period used in this study to track offending episodes was either 12 or 18 months, measured from the date of diversion. Queensland was the only jurisdiction where all people in the sample had a follow-up observation period of 12 months. This was because offenders in the Queensland sample were diverted too recently to have post-diversion criminal histories consistently in excess of 12 months. However, for all the other jurisdictions, a minimum 18-month observation period was used, although some of the diverted people in the Australian Capital Territory and Northern Territory would have had shorter observation periods as they were diverted relatively recently.

## The limitations of police data

As noted in 'Introduction', in the absence of asking offenders themselves when and how often they were offending, police arrest records are the closest and most comprehensive data source for measuring criminal offending. They are preferred over other forms of recidivism data – reconviction and reimprisonment – because this study looks at the recidivism of diversion offenders who, by the very nature of the police drug diversion programs, were supposed to be at the start of their criminal careers. Moreover, police arrest records provide

more accurate data on when an offence is committed. Of all the possible data sources, arrest records also include the lowest amount of processing time – that is, the time taken for an offence to be detected and recorded by the police will be shorter than for that same offence to be recorded as a criminal conviction in court. Finally, police data also capture offences that lead to secondary diversion events which would not be identified in official conviction records maintained by the courts or departments of corrections.

Despite the obvious utility of police records for measuring offending, they, like all other administrative databases, have limitations. Most notably, police arrest records are not likely to be a true and accurate reflection of all criminal offences committed by an individual. This could be due to a number of reasons. It is possible that the offender was simply not apprehended because the offence was not identified, the victim did not report it to the police, or there was insufficient evidence to apprehend the offender. Perhaps their offending was detected by a secondary investigating agency (common for social security fraud offences) or the offence occurred in another jurisdiction; in each Australian jurisdiction separate data systems are used to capture information and these are not integrated with one another.

The extent to which police arrest records underestimate true levels of offending is unknown, although self-reported offending studies have consistently demonstrated that criminal offenders often commit many more offences than they are apprehended for, let alone arrested and charged. While the true nature of the difference is unknown in Australia, a UK study estimated that for every single conviction recorded among a sample of adult male offenders, 46 self-reported offences had been committed (Farrington & West 1990).

of any selected control group with the diversion participants. Moreover, the delegates raised legitimate concerns regarding the interpretation of differences between the diversion sample and any selected control group that was not sufficiently comparative.

There is one potential concern with using pre and post-test comparisons. Should the diversion programs have involved minor first-time offenders, the pre-diversion offending rate will be low, if not non-existent. Any post-diversion offending may be taken as an increase in the offending rate, but how this compares with the normal offending growth rates of a typical population sample will remain untested.

Ultimately, it was decided that the use of control groups was unfeasible in this study. In lieu of control groups, pre and post-test methods were used as the most appropriate method of analysis.

## The identification of a control group

At the AIC's roundtable in October 2006, it was indicated that developing a legitimate control group in each jurisdiction would be extremely difficult. Concerns were raised about the comparability





# Overview of diversion participants

## Demographics

Table 3 outlines the key demographic characteristics of the sample of diverted offenders in each jurisdiction. It provides a breakdown of diversion participants by gender, Indigenous status and age. Table 4 shows the percentage of Indigenous and non-Indigenous males and females in the sample of each jurisdiction. Table 5 displays the average age of diversion participants by gender and Indigenous status. It also shows the percentage of diversion participants in each jurisdiction who were juveniles at the time of diversion.

Overall, in terms of key demographic characteristics, the samples of diverted offenders varied among the jurisdictions. Mean age ranged from 15.2 years in the Northern Territory to 26.6 years in Victoria. The percentage of diverted people under the age of 18 years ranged from half a percent in New South Wales to 99 percent in the Northern Territory. Such differences in age profiles of samples can largely be explained through differences in diversion eligibility criteria in each jurisdiction. For instance, the Northern Territory offers diversion only to juveniles. Indigenous people comprised 34 percent of the Northern Territory sample, while in the other jurisdictions the percentage was much smaller, ranging from one percent in Victoria to

13 percent in Tasmania. These discrepancies can be explained through differences in the overall population profiles of these jurisdictions. In the Northern Territory, Indigenous people make up a higher proportion of the total population than they do in the other jurisdictions. There were also similarities among the samples. In all jurisdictions, males comprised the majority of the sample of diverted individuals. The percentage of males diverted ranged from 70 percent in the Northern Territory to 86 percent in New South Wales. Diverted females were generally older than their male counterparts. This was the case in all jurisdictions except the Northern Territory, where females were on average younger. With the exception of South Australia, the mean age of Indigenous people was generally higher than that of non-Indigenous people diverted. In South Australia, the mean age of diverted Indigenous people was 20.3 years; for non-Indigenous people the mean was 22.4 years.

By jurisdiction, the results indicate:

In **New South Wales**, the sample numbered 11,020 diverted people, of whom 86 percent were male and 14 percent female. The mean age was 25.9. The overwhelming majority (92%) were non-Indigenous, while Indigenous offenders made up seven percent. The mean age of Indigenous offenders was lower than that of non-Indigenous

offenders (25.9 years compared with 26.7 years). Female offenders were on average older than male offenders (27.2 years compared with 25.7 years). The NSW program is targeted at adult offenders only. However, some juveniles were cautioned; only half a percent were aged 17 or less at the time of diversion.

Of the 3,249 diversion participants in **South Australia**, 80 percent were male and 20 percent female. Seventy-three percent were non-Indigenous and eight percent Indigenous. In 20 percent of cases, offender Indigenous status was unknown. The mean age at diversion was 21.5 years, while the median was 17 years. Offender age spanned a broad range, from 10 to 66 years. Male offenders were on average slightly younger than females (21.4 years compared with 22.1 years). Average age of Indigenous offenders was 22.4 years, while for non-Indigenous offenders it was 20.3 years. Of all diversion participants in the South Australian sample, 61 percent were juveniles. This was more than in any other jurisdiction other than the Northern Territory (where diversion is largely limited to juveniles).

The **Tasmanian** sample was comprised of 195 diverted people. This included offenders diverted through Tasmania's 1st Level, 2nd Level and 3rd Level Diversion programs (104, 70 and 21 people respectively). The total sample consisted of 80 percent males and 21 percent females diverted through any of the three programs. Thirteen percent were Indigenous, 84 percent non-Indigenous and four percent had unknown Indigenous status. Average age was 26.6 years, while the median was 23.0 years. Average age was higher for female than male diversion participants. Among females, average age was 30.1 years, compared with 25.7 years for males. Differences in average age between Indigenous (28.0 years) and non-Indigenous (26.3 years) offenders were less pronounced. Juvenile offenders made up 15 percent of the total Tasmanian sample.

Of the 174 people diverted in the **Australian Capital Territory**, 81 percent were male and 19 percent female. Indigenous offenders made up one percent, non-Indigenous 91 percent, and people with unknown Indigenous status eight

percent of the sample. Average and median age was 23.3 and 20.0 years respectively. Mean age was 22.7 years for males and 25.9 years for females. Of the people diverted in the Australian Capital Territory, 27 percent were juveniles.

The **Victorian** sample consisted of 1,278 individuals. This included 1,043 diverted through the Cannabis Cautioning Program and 235 through the Drug Diversion Program. Of the total sample, 84 percent were male, 16 percent female and 99 percent non-Indigenous. Only one percent of all diverted people were Indigenous – the least of any jurisdiction. Mean age was 24.0 years and median age 21.0 years. Participants in the Drug Diversion Program were on average slightly older than Cannabis Cautioning Program participants (mean age of 25.5 years compared with 23.7 years). The mean age of females was higher than that of males (26.2 years compared with 23.6 years). Of the total Victorian sample, 17 percent of offenders were juveniles at the time of diversion.

A total of 125 people were diverted in the **Northern Territory**, of whom 70 percent were male and 30 percent female. Indigenous offenders made up 31 percent of the sample – a greater percentage than in any other jurisdiction. Sixty-seven percent were non-Indigenous, while in two percent of cases Indigenous status was unknown. Northern Territory diversion participants were on average younger than in any other jurisdiction. Mean age was 15.2 years, while the median was 15.0 years. Offender age ranged from 12 to 26 years, a narrower range than any other jurisdiction. The young age profile of Northern Territory diverted people is due largely to diversion in the Northern Territory being almost exclusively limited to juveniles, who made up 99 percent of all people in the sample. There were minimal differences between the mean age of Indigenous and non-Indigenous offenders (15.5 years compared with 15.0 years), or between male and female offenders (15.4 years compared with 14.7 years). Male offenders were more likely to be Indigenous (34%) than female offenders (27%).

In **Queensland**, offenders diverted under the Police Diversion Program were an average 26.3 years

**Table 3: Demographic profile of diverted people**

	n	Gender		Indigenous status			Age (years)		
		% male	% female	% Indigenous	% Non-Indigenous	% Unknown/not stated	Mean age	Median	Minimum/maximum
<b>New South Wales</b>									
Cannabis Cautioning Scheme	11,020	86.0	14.0	7.3	92.2	0.5	25.9	23	14/53
<b>South Australia</b>									
Police Drug Diversion Program (cannabis/non-cannabis)	3,249	79.8	20.3	7.6	72.6	19.8	21.5	17	10/66
<b>Tasmania</b>									
1st Level Diversion – Cannabis Caution	104	80.8	19.2	13.5	82.7	3.9	27.5	23	14/67
2nd Level Diversion – Brief Intervention	70	75.7	24.3	14.3	84.3	1.4	25.1	23	16/50
3rd Level Diversion – Assessment and Treatment	21	85.7	14.3	4.8	85.7	9.5	27.3	27	17/44
<i>Total</i>	<i>195</i>	<i>79.5</i>	<i>20.5</i>	<i>12.8</i>	<i>83.6</i>	<i>3.6</i>	<i>26.6</i>	<i>23</i>	<i>14/67</i>
<b>Australian Capital Territory</b>									
Police Early Intervention and Diversion Program (cannabis/non-cannabis)	174	80.8	19.2	1.2	90.8	8.1	23.3	20	13/53
<b>Victoria</b>									
Cannabis Cautioning Program	1,043	84.0	15.5	1.1	99.0	0.0	23.7	21	13/69
Drug Diversion Program	235	81.3	18.7	0.9	99.2	0.0	25.5	23	13/48
<i>Total</i>	<i>1,278</i>	<i>83.5</i>	<i>16.1</i>	<i>1.0</i>	<i>99.0</i>	<i>0.0</i>	<i>24.0</i>	<i>21</i>	<i>13/69</i>
<b>Western Australia</b>									
Cannabis infringement notice	1,244	82.7	17.3	11.0	82.4	6.6	26.9	24	14/65
All Drug Diversion	80	71.0	29.0	n.a.	n.a.	n.a.	25.1	23	18/53
<i>Total</i>	<i>1,324</i>	<i>82.1</i>	<i>17.9</i>	<i>–</i>	<i>–</i>	<i>–</i>	<i>26.8</i>	<i>24</i>	<i>14/65</i>
<b>Queensland</b>									
Cannabis diversion	470	77.2	22.8	7.5	92.6	0.0	26.3	24	13/55
<b>Northern Territory</b>									
Cannabis and non-cannabis	125	70.4	29.6	31.2	67.2	1.6	15.2	15	12/26

n.a. = Not available

– = Not able to be calculated

Source: AIC Police Drug Diversion [computer file]

of age, with 14 percent aged under 18 years. Seventy-seven percent were male and 23 percent were female. Indigenous offenders accounted for eight percent of the sample. Males and females were equally likely to be Indigenous; however, males were generally younger than females, and Indigenous offenders were younger than non-Indigenous offenders.

It is not possible for this report to determine whether the demographic profile of diversion participants is representative of all people eligible for diversion. This is because data were unavailable for people not diverted under the police drug

diversion programs. However, other sources of data may be used as points of comparison. In terms of gender, other research indicates that:

- 17 percent of all police custody incidents in 2002 involved a female and 83 percent involved a male (Taylor & Bareja 2005)
- 16 percent of police detainees surveyed in the AIC's Drug Use Monitoring in Australia (DUMA) project in 2006 were female (Mouzos et al. 2007)
- 24 percent of all non-Indigenous people arrested for the first time by Western Australia Police between 1984 and 1993 were female (Broadhurst & Loh 1995).

**Table 4: Indigenous status by gender and jurisdiction<sup>a</sup>**

	n	Male		Female	
		% Indigenous	% non-Indigenous	% Indigenous	% non-Indigenous
New South Wales	11,020	6.6	93.4	12.3	87.7
South Australia	3,249	8.3	91.8	14.1	85.9
Tasmania	195	11.3	88.7	21.1	79.0
Australian Capital Territory	174	1.5	98.5	0.0	100.0
Victoria	1,278	0.8	99.2	1.9	98.1
Western Australia <sup>b</sup>	1,244	8.7	91.3	18.6	81.4
Queensland	470	7.4	92.6	7.5	92.5
Northern Territory	125	33.7	66.3	27.0	73.0

a: Excludes cases where Indigenous status was unknown

b: Indigenous status was provided for the Cannabis infringement notice program only

Source: AIC Police Drug Diversion [computer file]

**Table 5: Age by gender, Indigenous status and jurisdiction**

	n	Mean age (years)				
		Males	Females	Indigenous	Non-Indigenous	% juveniles
New South Wales	11,020	25.7	27.2	26.7	25.9	0.5
South Australia	3,249	21.4	22.1	20.3	22.4	61.1
Tasmania	195	25.7	30.1	28.0	26.3	14.9
Australian Capital Territory	174	22.7	25.9	24.5	23.7	26.7
Victoria	1,278	23.6	26.2	24.5	24.0	16.8
Western Australia	1,319	28.9	26.3	26.5 <sup>a</sup>	27.0 <sup>a</sup>	1.8
Queensland	470	25.8	28.0	24.5	26.4	13.6
Northern Territory	125	15.4	14.7	15.5	15.0	99.2

a: Indigenous status was provided for the Cannabis infringement notice program only

Source: AIC Police Drug Diversion [computer file]

**Table 6: Comparative Indigenous representation indicators (percentage)**

	Population <sup>a</sup>	Police custody survey <sup>b</sup>	Diversion participants
New South Wales	4.6	16.3	7.3
South Australia	3.7	27.6	7.6
Tasmania	7.5	11.6	12.8
Australian Capital Territory	2.9	19.3	1.2
Victoria	1.3	8.2	1.0
Western Australia	7.3	45.9	11.0 <sup>b</sup>
Queensland	7.2	24.4	7.5
Northern Territory	62.5	81.6	31.2

a: Percentage of police custody incidents that were attributable to an offender identified as Aboriginal or Torres Strait Islander. The methods for identifying Indigenous status vary across jurisdictions.

b: Indigenous status was provided for the Cannabis infringement notice program only

Source: AIC Police Drug Diversion [computer file]; ABS (2004, 2006); Taylor and Bareja (2005)

In terms of Indigenous status:

- 26 percent of all police custody incidents in 2002 involved a person identified as Indigenous (Taylor & Bareja 2005). Jurisdictional estimates are provided in Table 6
- 20 percent of police detainees surveyed in the DUMA project in 2006 self-identified as an Aboriginal or Torres Strait Islander (Mouzos et al. 2007)
- eight percent of all people arrested for the first time by Western Australia Police between 1984 and 1993 were identified as Indigenous (Broadhurst & Loh 1995).

## Prior criminal history

Table 7 shows the percentage of diversion participants in each jurisdiction who had carried out an offence at least once prior to their diversion. The period of whether prior offending occurred within six, 12 or 18 months of the diversion is indicated. Also shown is a breakdown by offence category, indicating whether the offender had carried out any property, violent or drug offence in the previous 18 months. Table 8 shows the frequency of offending among those diversion participants with prior offences in the 18 months before diversion.

Prior offending of diversion participants in the 18 months before diversion varied widely among

the jurisdictions. It was lowest in New South Wales and the Northern Territory (13% and 23% respectively), and highest in Tasmania and South Australia (48% and 44% respectively). Most differences can be explained by how diversion program eligibility is determined in each jurisdiction. For instance, in South Australia and Tasmania diversion is open to more offenders, including those with significant criminal histories. Offenders can also be diverted more than once. In New South Wales, by contrast, diversion is more limited and is offered less often to those with significant prior offences or those diverted previously. Similarly, in the Northern Territory for the most part only juvenile offenders are eligible for diversion. Juveniles are more likely to have smaller offending histories than adults because, due to their young age, they have had less opportunity to offend. In all jurisdictions other than Western Australia, diversion participants were most likely to have property rather than violent or drug crime prior offences. In Western Australia, drug prior offences were more likely. Out of those diversion participants with prior offending in the 18 months before diversion, more than 50 percent had carried out only one prior offence in the Northern Territory, New South Wales, Victoria and Western Australia. Multiple prior offending was most likely in Tasmania, the Australian Capital Territory and South Australia. The percentage of prior offenders who carried out 10 or more offences in the 18 months prior to diversion was highest in Tasmania (9%) and South

Australia (8%). In all other jurisdictions the figure was considerably smaller – less than three percent. Indeed, no such offenders were identified in the Australian Capital Territory and Northern Territory (although this may have had to do with small sample size in both jurisdictions).

By jurisdiction, the results were:

In **New South Wales**, six percent of diversion participants had carried out at least one prior offence within six months of the diversion, 10 percent within 12 months and 13 percent within 18 months. In the 18-month period before diversion, eight percent carried out at least one property offence, three percent a violent offence and two percent a drug offence. Of those who had any prior offences in the 18 months before diversion, 65 percent had carried out only one offence. This is a higher percentage than any other jurisdiction except the Northern Territory. Twenty-eight percent carried out two or three offences, and eight percent between four and nine offences. Less than one percent of offenders had 10 or more prior offences.

Among **South Australian** diversion participants, 58 percent had prior offences. In the six months before diversion, 29 percent had carried out an offence; in the previous 12 months, 39 percent; and in the previous 18 months, 41 percent. Property prior offences were most common – 26 percent carried out at least one property offence in the previous 18 months, compared with 13 percent who had prior violent offences and seven percent with prior drug offences. Of those with prior offences in the 18 months before diversion, 42 percent had only one prior offence, 27 percent with two or three and 23 percent with four to nine offences. Those with 10 or more prior offences made up eight percent of the South Australian diversion sample. This is second only to the Tasmanian sample.

In **Tasmania**, more diversion participants had prior offences than in any other jurisdiction. Seventy-six percent carried out at least one offence before diversion. In the six months before diversion, 30 percent had offended; in the previous 12 months, 40 percent; and in the previous 18 months, 48 percent. Prior offending was particularly high among participants in the

3rd Level Diversion program, with 95 percent having prior offences. As in all other jurisdictions except Western Australia, diverted people were most likely to have prior property offences; in the 18 months before diversion, 28 percent had carried out property offences, compared with 11 percent with violent and nine percent with drug offences. The majority of prior offenders in Tasmania (72%) had carried out three or fewer offences in the 18 months before diversion. Nineteen percent had four to nine prior offences, while nine percent had 10 or more prior offences.

One-third of people diverted in the **Australian Capital Territory** had carried out at least one offence prior to diversion. In the six months prior to diversion, 16 percent had offended; in the previous 12 months, 20 percent; and in the previous 18 months, 24 percent. In the previous 18 months, 12 percent of diverted people carried out property offences, six percent for violent offences and nine percent for drug offences. Of those with prior offences, the overwhelming majority had carried out three or fewer offences in the 18 months before diversion – 43 percent had only one offence, and 45 percent had two or three prior offences. Twelve percent had between four and nine prior offences. No one in the Australian Capital Territory had 10 or more prior offences. The Northern Territory was the only other jurisdiction without a single diversion participant with 10 or more prior offences.

In **Victoria**, 41 percent of diverted people had prior offences. Thirteen percent had carried out at least one offence in the prior six months, 21 percent in the prior 12 months, and 26 percent in the prior 18 months. Prior property offences were slightly more likely than prior violent or drug offences. In the 18 months before diversion, 14 percent of diversion participants had carried out at least one property offence. Those with prior violent or drug offences both made up nine percent of the sample. The majority of diversion participants (55%) with prior offences in the previous 18 months had carried out only one offence. Another 30 percent had two or three prior offences, and 13 percent between four and nine. Offences numbering 10 or more in the 18 months before diversion were carried out by three percent of those with prior offences.

**Table 7: Offending for any offence in the six, 12 and 18 months before diversion, by jurisdiction**

	n	Any offence %			Property %			Violent %			Drug %		
		6 months	12 months	18 months	12 months	18 months	12 months	18 months	12 months	18 months	12 months	18 months	
<b>New South Wales</b>													
Cannabis Cautioning Scheme	11,020	5.9	9.5	12.7	5.9	7.9	2.0	2.8	1.2	1.8			
<b>South Australia</b>													
Police Drug Diversion Program (cannabis/non-cannabis)	3,429	27.4	36.1	41.2	22.9	26.4	10.5	13.3	5.7	7.4			
<b>Tasmania</b>													
1st Level Diversion – Cannabis Caution	104	21.2	29.8	39.4	15.4	20.2	7.7	9.6	2.9	2.9			
2nd Level Diversion – Brief Intervention	70	35.7	47.4	54.3	25.7	35.7	11.4	15.7	14.3	15.7			
3rd Level Diversion – Assessment and Treatment	21	57.1	61.9	71.4	38.1	42.9	4.8	4.8	19.1	19.1			
<i>Total</i>	<i>195</i>	<i>30.3</i>	<i>39.5</i>	<i>48.2</i>	<i>21.5</i>	<i>28.2</i>	<i>8.7</i>	<i>11.3</i>	<i>8.7</i>	<i>9.2</i>			
<b>Australian Capital Territory</b>													
Police Early Intervention and Diversion Program (cannabis/non-cannabis)	174	15.5	19.5	24.1	8.6	12.1	2.9	5.8	8.6	9.2			
<b>Victoria</b>													
Cannabis Cautioning Program	1,043	11.4	19.3	24.6	8.2	11.1	7.1	9.7	6.6	8.3			
Drug Diversion Program	235	17.5	27.7	33.2	20.9	26.4	6.8	7.7	8.9	11.1			
<i>Total</i>	<i>1,278</i>	<i>12.5</i>	<i>20.8</i>	<i>26.2</i>	<i>10.5</i>	<i>13.9</i>	<i>7.0</i>	<i>9.3</i>	<i>7.0</i>	<i>8.8</i>			
<b>Western Australia</b>													
Cannabis infringement notice	1,245	16.9	25.2	30.4	10.5	12.9	7.7	9.7	10.9	14.4			
All Drug Diversion	84	10.5	14.5	18.4	5.3	13.4	5.3	5.3	4.0	6.1			
<i>Total</i>	<i>1,329</i>	<i>16.5</i>	<i>24.6</i>	<i>29.7</i>	<i>10.2</i>	<i>12.9</i>	<i>7.6</i>	<i>9.4</i>	<i>10.5</i>	<i>13.8</i>			
<b>Queensland</b>													
Cannabis diversion	470	27.2	32.1	n.a.	14.3	n.a.	4.5	n.a.	17.2	n.a.			
<b>Northern Territory</b>													
Cannabis and non-cannabis	125	10.4	19.2	23.2	7.2	12.0	3.2	4.0	6.4	6.4			

Note: Property, violent and drug-specific counts are for any recorded offence of that type  
n.a. = Not available in Queensland because only 12 months of prior offending data were provided  
Source: AIC Police Drug Diversion [computer file]

**Table 8: Frequency <sup>a</sup> of offending (any offence) in the 18 months before diversion, by jurisdiction**

	n	Any offence %			
		1	2 or 3	4 to 9	10 or more
<b>New South Wales</b>					
Cannabis Cautioning Scheme	1,394	64.6	27.5	7.5	0.4
<b>South Australia</b>					
Police Drug Diversion Program (cannabis/non-cannabis)	1,411	42.3	26.9	23.3	7.5
<b>Tasmania</b>					
1st Level Diversion – Cannabis Caution	41	51.2	29.3	14.6	4.9
2nd Level Diversion – Brief Intervention	38	34.2	31.6	23.7	10.5
3rd Level Diversion – Assessment and Treatment	15	26.7	40.0	26.7	6.7
<i>Total</i>	<i>94</i>	<i>40.4</i>	<i>31.9</i>	<i>19.2</i>	<i>8.5</i>
<b>Australian Capital Territory</b>					
Police Early Intervention and Diversion Program (cannabis/non-cannabis)	42	42.9	45.2	11.9	0.0
<b>Victoria</b>					
Cannabis Cautioning Program	257	58.0	29.2	10.9	2.0
Drug Diversion Program	78	43.6	32.1	19.2	5.1
<i>Total</i>	<i>335</i>	<i>54.6</i>	<i>29.9</i>	<i>12.8</i>	<i>2.7</i>
<b>Western Australia</b>					
Cannabis infringement notice	378	53.7	30.7	14.0	1.6
All Drug Diversion	14	79.0	5.3	15.8	0.0
<i>Total</i>	<i>392</i>	<i>54.9</i>	<i>29.5</i>	<i>14.1</i>	<i>1.5</i>
<b>Queensland</b>					
Cannabis diversion <sup>b</sup>	151	57.0	21.9	19.2	2.0
<b>Northern Territory</b>					
Cannabis and non-cannabis	29	69.0	20.7	10.3	0.0

a: Frequency distributions and averages are calculated only for those individuals with a prior offence; diverted people without prior offences are excluded from calculations

b: Offending is calculated over a 12-month period

Source: AIC Police Drug Diversion [computer file]

Slightly more than half of people diverted in **Western Australia** had ever carried out a prior offence. Prior offences had been carried out by 22 percent of the sample in the six months before diversion, 32 percent in the past 12 months, and 39 percent in the past 18 months. Unlike any other jurisdiction, diversion participants were more likely to have carried out drug rather than property offences in the 18 months before diversion. Fourteen percent had prior drug offences,

compared with 13 percent with prior property offences, and nine percent with prior violent offences. The majority (55%) of those with any prior offences in the 18 months before diversion had carried out only one offence. Offenders with two or three prior offences made up 30 percent, with four to nine prior offences 14 percent and 10 or more prior offences two percent.

In the **Northern Territory**, a smaller percentage of diversion participants had carried out offences prior



to diversion than in any other jurisdiction except New South Wales. Thirty percent had ever carried out a prior offence, including 10 percent in the six months before diversion, 19 percent in the previous 12 months, and 23 percent in the previous 18 months. In the 18-month period before diversion, 12 percent had carried out at least one property offence, four percent a violent offence and six percent a drug offence. Diversion participants with prior offences in the Northern Territory were more likely to have carried out only one prior offence than in any other jurisdiction. In the 18 months before diversion, 69 percent had only one prior offence, while 21 percent had two or three, and 10 percent between four and nine. No one in the Northern Territory diversion sample had 10 or more prior offences. The relatively low proportion of Northern Territory diversion participants with prior offences, and the low frequency of offending among those with prior offences, is likely to be the result of diversion in the Northern Territory being limited to juvenile offenders.

In **Queensland**, 27 percent of offenders had been arrested at least once in the six months before their diversion. This increased to 32 percent when measured over 12 months. Queensland criminal history data going back further than 12 months are not available. In the 12 months before diversion, more offenders had been recently arrested for drug offences (17%) than property (14%) or violent (5%) offences. Prior drug offending was higher in Queensland than any other jurisdiction. Of those who had been arrested in the 12 months before their diversion, the majority (57%) were arrested once only. Twenty-one percent were arrested twice, 19 percent three times and two percent four or more times. Because only 12 months of prior offending data were provided, these frequency ratings are not directly comparable with other jurisdictions where 18-month offending data were used.

Table 9 provides a percentage breakdown of the most recent offending episode before diversion by category of offence. Only diverted people with at least one offence in the 18 months before diversion are counted in the table. Table 10 shows the percentage of offenders who, out of those with at least one prior offence, had committed two

or more offences in the 18 months before their diversion. The data are divided by most recent offence classification.

While following broadly similar patterns, prior offending by the type of most recent offence varied among jurisdictions. In all jurisdictions except Western Australia and Queensland, the most recent offence episode before diversion was most likely to involve a property offence. In Western Australia and Queensland, by contrast, a drug offence was the most likely recent prior offence. The percentage of cases involving a violent most recent offence was similar in most jurisdictions, ranging between 22 and 28 percent. The one exception was the Northern Territory, where violent offences constituted 14 percent of most recent prior offences. Multiple prior offending was most likely among those with a most recent property offence in New South Wales, South Australia, Western Australia and the Northern Territory. In Tasmania it was most likely among drug offenders, and in the Australian Capital Territory and Victoria, among those with a violent most recent prior offence. In all jurisdictions except Tasmania, those with a drug offence as the most recent offence were least likely to have carried out two or more offences. In Tasmania, individuals with a violent most recent offence were least likely to have carried out multiple offences.

By jurisdiction, the data suggest:

In **New South Wales**, the most recent offending episode prior to diversion was most likely to involve property offences (49%). Drug offences (9%) and violent offences (17%) were less likely. Multiple offending was most likely for property and violent offences. In both cases, 36 percent were multiple offenders; that is, they carried out two or more offences in the 18 months before diversion. One in four of those whose most recent offence was a drug offence committed two or more offences in the 18 months preceding their diversion (24%).

In **South Australia**, the most recent offending episode was also most likely to involve property offences. Among 46 percent of those with prior offences in the 18 months before diversion, a property offence was the most recent offence. Ten percent had carried out a drug offence, 15 percent a violent offence, and 30 percent

other offences. Those with a property offence as their most recent offence were most likely to be multiple prior offenders (65%). Those with a most recent violent or drug offence were less likely to have carried out multiple offences in the 18 months before diversion (54% and 40% respectively), although compared with most other jurisdictions the likelihood of being a multiple offender was still high.

Among diversion participants with prior offences in **Tasmania**, 33 percent had a property offence as their most recent prior offence. Most recent prior offence episodes involving drug (14%) and

violent (14%) offences were less common. Unlike all other jurisdictions, those for whom the most recent offence was a drug offence were most likely to be multiple prior offenders – 84 percent of individuals in this category carried out two or more offences in the 18 months before diversion. Fifty-eight percent of those with a recent property prior offence, and 39 percent of those with a recent violent offence, carried out multiple offences in the previous 18 months.

In the **Australian Capital Territory**, in 31 percent of cases the most recent offending episode prior to diversion involved a property offence. A drug or

**Table 9: Offence type for the most recent offending episode before diversion, by jurisdiction**

	n	Offence type % <sup>a</sup>			
		Property	Drug	Violent	Other
<b>New South Wales</b>					
Cannabis Cautioning Scheme	1,394	49.1	9.4	17.1	24.4
<b>South Australia</b>					
Police Drug Diversion Program (cannabis/non-cannabis)	1,516	45.8	10.0	14.7	29.5
<b>Tasmania</b>					
1st Level Diversion – Cannabis Caution	41	31.7	7.3	17.0	43.9
2nd Level Diversion – Brief Intervention	38	36.8	21.1	13.2	29.0
3rd Level Diversion – Assessment and Treatment	15	26.7	13.3	6.7	53.3
<i>Total</i>	<i>94</i>	<i>33.0</i>	<i>13.8</i>	<i>13.8</i>	<i>39.4</i>
<b>Australian Capital Territory</b>					
Police Early Intervention and Diversion Program (cannabis/non-cannabis)	42	31.0	26.2	9.5	33.3
<b>Victoria</b>					
Cannabis Cautioning Program	257	30.0	22.2	26.5	21.4
Drug Diversion Program	78	59.0	19.2	10.3	11.5
<i>Total</i>	<i>335</i>	<i>36.7</i>	<i>31.5</i>	<i>22.7</i>	<i>19.1</i>
<b>Western Australia</b>					
Cannabis infringement notice	378	29.6	32.5	21.4	16.4
All Drug Diversion	14	28.6	28.6	28.6	17.3
<i>Total</i>	<i>392</i>	<i>29.6</i>	<i>32.4</i>	<i>21.7</i>	<i>16.3</i>
<b>Queensland<sup>b</sup></b>					
Cannabis diversion	151	27.2	39.7	6.6	26.5
<b>Northern Territory</b>					
Cannabis and non-cannabis	29	41.4	24.1	6.9	27.6

a: Offence categories are developed using a 'most serious' classification. Where two or more offences occur at the same time, the most serious is used in the classification.

b: Offending is calculated over a 12-month period

Source: AIC Police Drug Diversion [computer file]

**Table 10: Multiple offending in the 18 months before diversion, by most recent offence categorisation and jurisdiction (percentage)<sup>a</sup>**

	Property	Drug	Violent
New South Wales	35.8	23.7	35.6
South Australia	64.7	40.4	53.9
Tasmania	58.1	84.6	38.5
Australian Capital Territory	61.5	27.3	100.0
Victoria	48.8	22.2	55.3
Western Australia	56.0	31.5	49.4
Queensland <sup>b</sup>	51.2	31.7	50.0
Northern Territory	33.3	14.3	0.0

a: Estimates are the percentage of each offender group who had committed two or more offences in the 18 months before their diversion

b: Offending is calculated over a 12-month period

Source: AIC Police Drug Diversion [computer file]

violent offence was the most recent in 26 percent and 10 percent, respectively, of offending episodes. Those with a recent violent offence were most likely to be multiple offenders – 100 percent of those with a most recent offence involving violence had carried out two or more offences in the 18 months prior to diversion. This is more than in any other jurisdiction. Sixty-two percent of those whose most recent offence was a property offence had committed multiple offending episodes in the 18 months before their diversion. This was the case for 27 percent of those with a most recent drug offence.

In **Victoria**, the most recent offence before diversion was a property offence for 37 percent of offenders, a drug offence for 32 percent and a violent offence for 23 percent. Multiple prior offending was similarly likely among those with most recent prior offences involving violent (55%) and property (49%) offences. Multiple offending among those with recent drug prior offences was less likely (22%).

Of those with prior offences in **Western Australia**, the most recent prior offence was likely to be a drug offence, at 32 percent. In 30 percent of cases, the most recent offence was a property offence, while 27 percent of diversion participants with prior offences had a violent offence as their most recent. Fifty-six percent of individuals with a property offence as their most recent prior offence were multiple offenders, compared with 49 percent of those with a violent offence and 32 percent with a drug offence.

Forty percent of people diverted in the **Northern Territory** with prior offences had a property offence as their most recent offence. Twenty-four percent had a recent prior drug offence and seven percent a violent offence. Of those with a property offence as their most recent prior offence, 33 percent were multiple offenders, less than in any other jurisdiction. Among those with a violent most recent offence, the figure was zero percent – less than anywhere else. Among those with a recent drug offence, 14 percent carried out multiple prior offences.

Of the 151 **Queensland** offenders with a prior history of offending, a higher percentage were most recently arrested for a drug offence (40%) than either property (27%) or violent (7%) offences. However, those with a drug offence as their most recent offence had, overall, the lowest frequency of prior offending. Thirty-one percent had committed two or more offences in the 12 months before their diversion. This compares with more than half of those whose most recent pre-diversion offence was a property or violent offence.

Table 11 assigns an offence category to all offenders with at least one prior offence in the 18 months before diversion, based on the offence they carried out most often. Table 12 provides a measure of concordance between the most recent and most frequent prior offence classifications. The concordance is calculated as a percentage of those who were first classified by their most recent offending event.

In all jurisdictions, diversion participants with prior offences were more likely to have carried out property offences most frequently. The percentage categorised as having property offences as their most frequent offence type ranged from 33 percent in Western Australia to 55 percent in New South Wales. Those with drug offences as most frequent ranged from eight percent in New South Wales and South Australia to 36 percent in Queensland. Offenders with most frequent violent offences ranged from 11 percent in Queensland to 30 percent in Victoria. The level of concordance between most recent and most frequent offending varied widely among jurisdictions, except for violent

offences. In all jurisdictions, people whose most recent offence was violent in nature were also very likely to be classified as a violent offender based on their offending frequency. The correlation was weaker in the case of property offences, and weaker still with drug offences in most jurisdictions. The purpose of classifying offenders based on their most recent offence and most frequent offence profile is to develop a schema to understand the prior offending patterns of those who are diverted.

The concordance measures suggest that in most cases it is possible to garner a general understanding of an offender based solely on their most recent offence. While a more complete

**Table 11: Offender categorisation <sup>a</sup> by jurisdiction**

	n	Offence type %			
		Property	Drug	Violent	Other
<b>New South Wales</b>					
Cannabis Cautioning Scheme	1,394	54.4	8.3	20.1	17.2
<b>South Australia</b>					
Police Drug Diversion Program (cannabis/non-cannabis)	1,411	52.9	9.0	24.3	13.8
<b>Tasmania</b>					
1st Level Diversion – Cannabis Caution	41	41.5	7.3	19.5	31.7
2nd Level Diversion – Brief Intervention	38	50.0	13.2	23.7	13.2
3rd Level Diversion – Assessment and Treatment	15	60.0	6.7	6.7	26.7
<i>Total</i>	<i>94</i>	<i>47.9</i>	<i>9.6</i>	<i>19.2</i>	<i>23.4</i>
<b>Australian Capital Territory</b>					
Police Early Intervention and Diversion Program (cannabis/non-cannabis)	42	35.7	23.8	23.8	16.7
<b>Victoria</b>					
Cannabis Cautioning Program	257	32.3	21.4	33.1	13.2
Drug Diversion Program	78	65.4	16.7	18.0	0.0
<i>Total</i>	<i>335</i>	<i>40.0</i>	<i>20.3</i>	<i>29.6</i>	<i>10.2</i>
<b>Western Australia</b>					
Cannabis infringement notice	378	31.5	29.9	28.3	10.3
All Drug Diversion	14	35.7	21.4	28.6	14.3
<i>Total</i>	<i>392</i>	<i>31.6</i>	<i>29.6</i>	<i>28.3</i>	<i>10.5</i>
<b>Queensland<sup>b</sup></b>					
Cannabis diversion	151	37.1	35.8	11.3	15.9
<b>Northern Territory</b>					
Cannabis and non-cannabis	29	41.4	27.6	17.2	13.8

a: Offender categorisation is based on offence frequency and severity. Property offenders are those whose prior offending is dominated by property offences. Where an offender has committed an equal number of offences across two categories, their categorisation is based on offence severity.

b: Offending is calculated over a 12-month period

Source: AIC Police Drug Diversion [computer file]

criminal history analysis is preferable, it may not always be an option in practice. These data suggest that if prior criminal history is instituted as a criterion of risk assessment, then the most recent offence in most cases will be a reasonable indicator of the type of offending undertaken by each offender in the months before their diversion.

In **New South Wales**, as in all other jurisdictions, the largest group of diversion participants with prior offences were those who carried out property offences most frequently (54%). For 20 percent, violent offences were the category of offence carried out most frequently. Eight percent carried out drug offences and 17 percent other offences most frequently. The level of concordance between the most recent and most frequent offence classifications was high. Ninety-seven percent of offenders whose most recent offence was a property offence were also classified as a property offender based on their frequency of offending. This was the case for 93 percent of violent offenders and 87 percent of drug offenders. Ten percent of those whose most recent offence was a drug offence had committed more property than drug offences in the 18 months prior to their diversion.

In **South Australia**, 53 percent of offenders with prior offences had committed more property offences than any other offence type. Corresponding figures for those with most frequent drug, violent and other offences are nine percent, 24 percent and 14 percent, respectively. Concordance figures show that most recent violent and property offences are relatively good indicators of most frequent offending (92%), whereas if the most recent offence is a drug offence the correlation with most frequent offending is weaker (77%). Fifteen percent of most recent drug offenders were subsequently classified as property offenders based on frequency measures.

Among diverted people with prior offences in **Tasmania**, 48 percent had carried out property offences most frequently, 10 percent drug offences, 19 percent violent offences and 23 percent other offences. Concordance results show that in Tasmania, most recent offence is a good indicator of overall offending in the case of violent (100%) and property (97%) offences. For drug offences, the level of concordance is weaker, at 62 percent. Around one in four most recent drug

**Table 12: Classification concordance between most recent and most frequent offending classifications, by jurisdiction (percentage)**

Most frequent	Most recent		
	Property	Drug	Violent
<b>New South Wales</b>			
Property	96.5	10.7	6.7
Drug	0.0	87.0	0.0
Violent	3.5	2.3	93.3
<b>South Australia</b>			
Property	92.3	14.9	7.7
Drug	0.6	77.3	0.5
Violent	7.1	7.8	91.8
<b>Tasmania</b>			
Property	96.8	23.1	0.0
Drug	0.0	61.5	0.0
Violent	3.2	15.4	100.0
<b>Australian Capital Territory</b>			
Property	84.6	9.1	0.0
Drug	7.7	81.8	0.0
Violent	7.7	9.1	100.0
<b>Victoria</b>			
Property	88.6	8.3	6.6
Drug	0.8	86.1	2.6
Violent	10.6	5.6	90.8
<b>Western Australia</b>			
Property	87.9	7.9	4.7
Drug	2.6	85.8	2.4
Violent	9.5	6.3	92.9
<b>Queensland<sup>a</sup></b>			
Property	90.2	11.7	10.0
Drug	4.9	85.0	0.0
Violent	4.9	3.3	90.0
<b>Northern Territory</b>			
Property	92.0	0.0	0.0
Drug	0.0	100.0	0.0
Violent	8.3	0.0	100.0

a: Offending is calculated over a 12-month period

Source: AIC Police Drug Diversion [computer file]

offenders had committed more property offences than drug offences in the 18 months before their diversion.

In the **Australian Capital Territory**, property offences were most frequently carried out by 36 percent of prior offenders. Corresponding figures for drug, violent and other offences were 24, 24 and 17 percent respectively. Concordance results show that in the Australian Capital Territory, an offender's most recent offence is a good indicator of overall offending. In the case of violence, there was a 100 percent concordance. This compared with 85 percent concordance for property offending and 82 percent concordance for drug offending.

In **Victoria**, 40 percent of offenders carried out property offences most frequently. Twenty percent most often carried out drug offences, 30 percent violent offences and 10 percent other offences. Concordance levels show an offender's most recent offence to be a good indicator for all offence types. However, the concordance for violence was slightly higher (91%) than property (89%) or drug (86%) offences.

Of diversion participants with prior offences in **Western Australia**, 32 percent most frequently carried out property offences. This is less than in any other jurisdiction. Thirty percent carried out mostly drug offences, while 28 percent carried out mainly violent and 11 percent other offences. Concordance figures show a high degree of correlation between most recent and most frequent violent offence (93%), and a moderate correlation between most recent and most frequent property offence (88%) and drug offence (86%).

In the **Northern Territory**, 41 percent of offenders with prior offences were categorised as having a property offence as their most frequent offence. This compared with 28 percent where drug offences were most frequent, and 17 percent and 14 percent for violent and other offences respectively. High levels of concordance suggest that an offender's most recent offence is a relatively good indicator of the offence they most frequently committed in the 18 months before their diversion. Concordance in the case of drug and violent offences was 100 percent.

In **Queensland**, 37 percent of offenders were classified as property offenders and 36 percent

as drug offenders, based on the frequency of pre-diversion offence. This increase in property offender classification is in part the result of redistributing those whose most recent offence was a breach offence, but whose most frequent offending profile was not. Generally, for property, violent and drug offence categories, concordance between most recent and most frequent offending was high for property and violent offences (90%), and moderate for drug offences (85%). As with most jurisdictions, concordance among drug offenders was slightly lower, indicating that a higher number of those whose most recent offence was a drug offence were in fact committing another, different, offence type more frequently. However, the difference is marginal. Overall, the most recent offence was generally a reliable indicator in Queensland of an offender's overall recent offending profile.

## Diversion participation and compliance

Table 13 shows overall levels of diversion compliance and noncompliance in each jurisdiction. It also indicates the percentage of diversion participants who did not comply, by gender, Indigenous status, whether they were an adult or juvenile at diversion and whether they had offended in the 18 months before diversion. Table 14 provides extra compliance data for the Western Australian Cannabis infringement notice program, separately showing compliance and noncompliance rates for different options available under the program.

The compliance rate in **New South Wales** is 100 percent. The Cannabis Cautioning Scheme in New South Wales involves issuing a caution by a police officer, with no further follow-up required by the offender. As such, noncompliance is technically impossible. This is also the case under the 1st Level Diversion in Tasmania and the Cannabis Cautioning Program in Victoria.

In **South Australia**, 88 percent of diverted people successfully completed the diversion. Twelve percent did not comply. Of those diverted to assessment, 78 percent complied. The compliance rate for reading material was

100 percent, but this merely indicates that all people who were offered educational material received it. Noncompliance was higher among females (18%) than males (11%). It was also higher among Indigenous (18%) than non-Indigenous (12%) people, and among those with prior offences (19%) compared with no prior offences (6%) in the previous 18 months. Noncompliance was considerably higher among adults than juveniles. Twenty-seven percent of adults did not comply with diversion, compared with only three percent of juveniles.

In **Tasmania**, 78 percent of diverted people complied with the diversion, while 22 percent did not. Because 1st Level Diversion in Tasmania consists of a caution only and does not require any further action, the compliance rate for this program is listed as 100 percent. Compliance for 2nd Level Diversion and 3rd Level Diversion was 53 percent and 52 percent respectively. Noncompliance was higher for females than males under both 2nd Level Diversion (59 percent for females compared with 43 percent for males) and 3rd Level Diversion (67 percent for females compared with 44 percent for males). People with prior offences (58%) had a higher noncompliance rate than those without prior offences (34%) under 2nd Level Diversion. However, under 3rd Level Diversion, the reverse was the case. People without prior offences had a slightly higher noncompliance rate (50%) compared with those with prior offences (47%), although due to the small number of relevant observations, this result is not necessarily conclusive.

Of people diverted in the **Australian Capital Territory**, 91 percent had complied with the diversion, while nine percent did not comply. Noncompliance was higher among females (19%) compared with seven percent among males. It was also higher among adults (10%) than juveniles (6%). Offenders with prior offences in the previous 18 months were more likely (17%) than those without prior offences (6%) not to comply with diversion.

In **Victoria**, overall diversion compliance was 95 percent and noncompliance five percent. Again, as with cautioning in other jurisdictions, the Victorian Cannabis Cautioning Program registered a compliance rate of 100 percent. This was because once a caution was issued,

no further action was required of the offender. As such, it was impossible not to comply. The Drug Diversion Program had a compliance rate of 75 percent. Males were more likely than females not to comply – 27 percent compared with 21 percent. Juveniles and adults were similarly likely not to comply – 25 percent and 26 percent respectively. Diversion participants with prior offences recorded a higher rate of noncompliance (40%) than did those with no prior offences (19%).

In the **Northern Territory**, 84 percent of diverted people complied and 16 percent did not comply with diversion. Noncompliance was 19 percent among males and eight percent among females. It was higher among Indigenous than non-Indigenous people. Among the Indigenous people, 35 percent were noncompliant, compared with eight percent of non-Indigenous people. The noncompliance rate was higher for people with prior offences than without prior offences – 26 percent compared with 13 percent. As the Northern Territory does not divert adult offenders, the data listed are for juveniles only.

In **Queensland**, 82 percent of offenders complied with their diversion order by attending the compulsory drug assessment through the DDAP. The remaining 18 percent failed to attend their assessment. The rate of noncompliance was equal between males and females, of whom 17 percent and 18 percent failed to attend, respectively. Indigenous offenders were less likely to attend their DDAP appointment than non-Indigenous offenders, while adult offenders were more likely than juvenile offenders to attend. Having been arrested in the 12 months before diversion was also a strong indicator of noncompliance, with more than twice as many failing to attend their assessment as those with no recent history of offending (28% and 13% respectively).

In **Western Australia**, 72 percent of those diverted under the All Drug Diversion program complied with the requirements of their diversion. Noncompliance was higher among females (33%) than males (24%) and higher among those with a recent history of offending (29%). Compliance data for the Cannabis infringement notice program are more difficult to assess because of the complexity of the program options. Offenders diverted under this program have the option to expiate their

**Table 13: Diversion compliance by jurisdiction**

	n	Compliance %		Noncompliance %							
		Complied	Did not comply	Male	Female	Indigenous	Non-Indigenous	Juvenile	Adult	Prior offences (18 months)	No prior offences (18 months)
<b>New South Wales</b>											
Cannabis Cautioning Scheme	11,020	–	–	–	–	–	–	–	–	–	–
<b>South Australia</b>											
Educational material	1,533	–	–	–	–	–	–	–	–	–	–
Assessment	1,862	78.0	22.0	19.9	28.7	31.9	21.2	10.8	26.8	33.3	12.7
<b>Tasmania</b>											
1st Level Diversion – Cannabis Caution	104	–	–	–	–	–	–	–	–	–	–
2nd Level Diversion – Brief Intervention	70	52.9	47.1	43.4	58.8	60.0	44.1	55.0	45.8	57.9	34.4
3rd Level Diversion – Assessment and Treatment	21	52.4	47.6	44.4	66.6 <sup>a</sup>	0.0 <sup>a</sup>	44.4	0.0 <sup>a</sup>	50.0	46.7	50.0
<b>Australian Capital Territory</b>											
Police Early Intervention and Diversion Program (cannabis/non-cannabis)	174	91.2	8.8	6.5	18.8	100.0 <sup>a</sup>	7.5	6.4	9.7	17.1	6.2
<b>Victoria</b>											
Cannabis Cautioning Program	1,043	–	–	–	–	–	–	–	–	–	–
Drug Diversion Program	235	74.5	25.5	26.7	20.5	100.0 <sup>a</sup>	24.9	25.0	25.7	39.7	18.5
<b>Western Australia</b>											
Cannabis infringement notice	1,244	c	c	c	c	c	c	c	c	c	c
All Drug Diversion	79	72.2	26.6	23.5	33.3	d	d	d	d	29.4	25.8
<b>Queensland</b>											
Cannabis diversion	470	82.1	17.9	17.6	18.7	28.6	17.0	20.0	17.5	27.2 <sup>b</sup>	13.5 <sup>b</sup>
<b>Northern Territory</b>											
Cannabis and non-cannabis	125	84.2	15.8	19.1	8.3	7.4	35.1	15.8	d	25.9	12.9

a: The sum of the categories have less than five observations – estimates are considered unreliable

b: Prior offending estimates in Queensland are calculated over the past 12 months

c: Compliance under the Western Australia Cannabis Infringement Notice Scheme cannot be measured dichotomously. Further disaggregation of compliance indicators is provided below.

d: Unable to be determined – no data available or no offenders in one or more of the categories

– = Not applicable. Program does not require any formal compliance by the diversion participant

Source: AIC Police Drug Diversion [computer file]



**Table 14: Compliance under the Western Australian Cannabis infringement notice program**

	n	%	% male	% female	% prior offences (18 months)	% no prior offences (18 months)
Cannabis Education Session	157	12.6	13.0	10.7	6.9	15.1
Cannabis infringement notice paid	290	23.3	24.7	16.7	11.4	28.5
Fines enforcement registry registered	708	56.9	55.6	63.3	71.4	50.6
Fines enforcement registry final demand	10	0.8	0.7	1.4	1.1	0.7
Court	2	0.2	0.1	0.5	0.3	0.1
Cancelled/withdrawn	77	6.2	5.9	7.4	9.0	5.0

Note: It is difficult to determine from these data the actual percentage of offenders diverted under the Cannabis infringement notice program who were compliant. Compliance is measured as the number of offenders who attended the Cannabis Education Session or who paid their fine. Information from Western Australian Health indicates that average compliance is 65 percent.

Source: AIC Police Drug Diversion [computer file]

offence and avoid conviction by attending a Cannabis Education Session or by paying a fine. Of those who elected but failed to attend the education session, the infringement notice is registered with the fines enforcement registry and the offender is expected to pay a fine. Failing to attend the education session may not be recorded as noncompliance as long as the offender pays their outstanding fine. Overall, 13 percent of offenders diverted under the Cannabis infringement notice program attended the education session, while 80 percent either paid the Cannabis infringement notice fine (23%) or were registered as being required to pay the fine (57%). It is impossible to determine just how many of those issued with a Cannabis infringement notice actually complied, either by attending the education session or paying the fine. Information provided by the Western Australian Department of Health suggests that compliance may be as high as 65 percent.

In all jurisdictions, people who complied with diversion exceeded those who did not. At the bivariate level, it appears that gender, Indigenous status, age and prior criminal history may be important factors associated with a heightened risk of noncompliance – although the strength and direction of that association may differ among jurisdictions. To test each factor, it is necessary to apply a logistic regression model, whereby the effect of a single factor can be interpreted, holding constant the effect of all factors. Table 15 provides the parameters for the regression models. The

outcome of interest is noncompliance and, as such, the model parameters are interpreted as to their relative effect in predicting whether an offender would comply or not comply with the requirements of their diversion. In South Australia, the education material option, and in Tasmania 1st Level Diversion, have been excluded from the models because these diversionary options do not require individual participation and have a 100 percent compliance rate. A statistically significant parameter is one whose chance of being the result of error is less than five percent ( $p < 0.05$ ). The results suggest that:

In **South Australia**, both gender and Indigenous status significantly predict noncompliance. That is, controlling for the potential confounding effect of prior criminal history, females were 54 percent ( $or = 1.54$ ) more likely than males to be noncompliant with their diversion order. Similarly, Indigenous offenders were 84 percent ( $or = 1.84$ ) more likely than non-Indigenous offenders to not comply. Among adults, age had no effect on compliance rates. However, at an aggregate level, juveniles were less likely than adults to be noncompliant ( $or = 0.43$ ). Prior criminal history was also important in predicting whether a South Australian offender would fail to comply with the requirements of their diversion. Those who had committed at least one property offence in the 18 months before their diversion were 2.6 times more likely to be noncompliant than those who had not. A recent history of violent offending was also an important factor, increasing the probability of noncompliance

by 73 percent, while recent drug offending was not a significant predictor of noncompliance.

In **Tasmania**, the majority of the 195 offenders within the sample were diverted under 1st Level Diversion – Cannabis Caution and were therefore excluded from the analysis. Of those diverted under the 1st Level Diversion and 2nd Level Diversion programs, the only significant predictor of noncompliance was a recent history of drug offending (in the 18 months before diversion) which, when controlling for all other factors, increased the odds by 900 percent (or=9.41). This is an extremely high predicted probability, and is most likely driven by the relatively small sample size (n=91). The confidence interval ranged from a lower bound odds ratio of 1.79 to an upper bound of 49.42. This is the range of values within which

there is certainty that the actual probability lies and, in any case, it remains statistically significant.

In the **Australian Capital Territory**, gender and a history of recent property offending were the only significant predictors of noncompliance. Holding all else constant, females were four times (or=4.09) more likely than males to not comply with the requirements of their diversion. Those with a recent history of property offending were six times more likely than those without to be noncompliant.

In the **Northern Territory**, two factors emerged as independently important to predict noncompliance – Indigenous status and a recent history of property offending. Indigenous offenders were nearly seven times more likely than non-Indigenous offenders to be noncompliant. Similarly, offenders who had committed at least one property offence in the

**Table 15: Logistic regression predicting noncompliance**

	South Australia <sup>a</sup>		Tasmania <sup>a</sup>		Australian Capital Territory <sup>a, b, c</sup>		Northern Territory <sup>c</sup>		Victoria <sup>a, b</sup>		Queensland <sup>d</sup>	
	β (beta coefficient)	or	β	or	β	or	β	or	β	or	β	or
Gender	0.43	1.54*	1.05	2.85	1.41	4.09*	-0.69	0.50	-0.52	0.59	0.14	1.15
Indigenous	0.61	1.84*	-0.09	0.91	–	–	1.92	6.79*	–	–	0.53	1.70
Adult age (centred at 18 years) <sup>e</sup>	0.00	1.00	-0.06	0.94	-0.07	0.94	–	–	-0.02	0.98	0.00	1.00
Juvenile	-0.85	0.43*	-3.06	0.05	-0.35	0.71	–	–	0.67	1.96	-0.21	0.81
Juvenile age (centred at 18 years) <sup>e</sup>	0.07	1.07	-1.71	0.18	0.41	1.51	0.25	1.28	0.51	1.66	0.04	1.04
Property offender (past 18 months)	0.95	2.58*	0.73	2.08	1.80	6.07*	1.83	6.23*	1.43	4.18*	1.47	4.37*
Drug offender (past 18 months)	0.21	1.24	2.24	9.41*	0.08	1.08	0.42	1.53	-0.92	0.40	-0.08	0.92
Violent offender (past 18 months)	0.55	1.73*	-0.40	0.67	–	–	–	–	0.43	1.54	-0.11	0.90
Cons	-2.76		-0.19		-2.50		-2.08		-1.25		-1.80	
McFadden's Pseudo R <sup>2</sup>	0.12		0.19		0.12		0.23		0.04		0.06	

\* Statistically significant p<0.05

a: Models exclude cautions or diversion that involved the provision of educational material only, because neither require compliance. Models control for variance in other treatment types where applicable.

b: Indigenous status was excluded due to small cell frequencies

c: No offenders with a prior violent charge failed to comply with their diversion. Violent offending is therefore excluded from the model.

d: Prior offending is calculated for the previous 12 months

e: Age is a continuous variable centred at 18 years of age. Parameter estimates are interpreted as a unit increase or decrease above or below 18 years.

– = Not applicable

Source: AIC Police Drug Diversion [computer file]

18 months before their diversion were six times more likely to be noncompliant than those who had not. Gender and age among juveniles had no independent effect after controlling for other factors.

In **Victoria**, the only factor that increased the probability of noncompliance was a recent history of property offending. Victorians diverted under the Drug Diversion Program with at least one prior property offence were four times more likely to be noncompliant than those without a recent history of property offending. Gender, age, drug offending and violent offending were not important factors associated with noncompliance.

In **Queensland**, offenders with a recent history of property offending were more likely (by more than four times the odds) to be noncompliant than offenders without a recent history of property offending. This was the only factor that remained significant after controlling for all others.

Excluding cautioning schemes where there is no follow-up action required, the compliance rate was highest in South Australia, Queensland and the Northern Territory. Compliance was lowest under the 2nd Level Diversion and 3rd Level Diversion programs in Tasmania (53% and 52% respectively). Females were less likely than males to comply in South Australia, Tasmania and the Australian Capital Territory. However, it was only in South Australia and the Australian Capital Territory that the gender differential remained significant after controlling for other demographic and prior offending factors. In Victoria and the Northern Territory, more females complied than males, although this was not significant once other factors were taken into account. Indigenous people were less likely than non-Indigenous people to comply with diversion in South Australia and the Northern Territory. In other jurisdictions, due to the small number of relevant observations, the data on compliance by Indigenous status were considered unreliable. Compared with juveniles, adults were less likely to be compliant in South Australia, the Australian Capital Territory and Victoria. However, in Victoria, the difference between juvenile and adult compliance was only slight. Under 2nd Level Diversion in Tasmania, adults were more likely than juveniles to comply. In other jurisdictions, relevant data were not available. Data for 3rd Level Diversion in Tasmania were considered unreliable due to the small sample size. In most jurisdictions, diverted people who had carried out offences in the 18 months prior to diversion were less likely, compared with those without prior offences, to comply with diversion. The only exception was Tasmania, where under 3rd Level Diversion, people with no prior offences were slightly less likely than those with prior offences to comply. However, under Tasmania's 2nd Level Diversion, individuals with prior offences were less likely to comply than those with no prior offending. An interesting and consistent finding from the multivariate analysis was that of those with prior offences, where property offending was the offence most likely to be linked to noncompliance. This was the case in all jurisdictions except Tasmania, where recent drug offending emerged as the most significant predictor of noncompliance.

'A consistently higher percentage of those with multiple prior offences reoffended after diversion than was the case for those who had been apprehended for only one offence.'

SEE PAGE 71



# Reoffending

The objective of this study is to identify the extent to which individuals diverted under the IDDI reoffend. In accordance with the sample selection methodology developed in consultation with the jurisdictions, reoffending in this study was calculated over an 18-month post-diversion observation period. In some jurisdictions, identifying the proportion of offenders who reoffended within 18 months of being diverted was undertaken simply by dividing the total number of individuals with at least one new criminal episode by the number of individuals in the total sample. The resulting estimate is a percentage of all individuals within the sample whose criminal record indicates a new episode of reoffending.

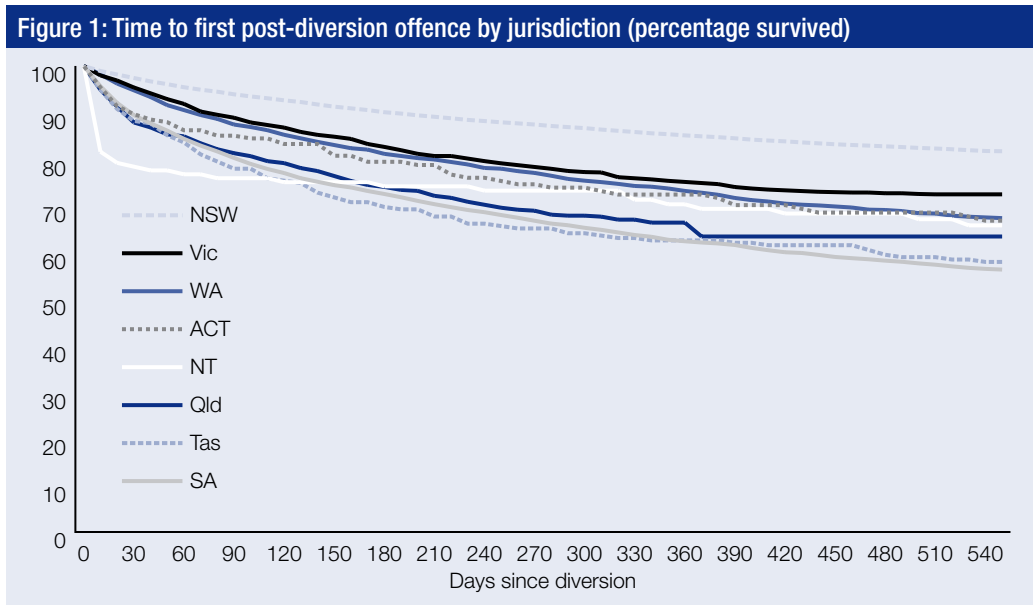
Simple percentage calculation is sufficient in jurisdictions where every individual was observed for the entire 18-month observation period. In Tasmania, for example, criminal history records were obtained for a random selection of all people diverted in the first six months of 2005. The records were extracted after 31 December 2006, and because the selection methodology ensures that the latest possible diversion within the sample was 30 June 2005, every individual will have been observed for no less than 18 months. However, this is not the case for jurisdictions such as South Australia, the Northern Territory or the Australian

Capital Territory. In the latter, where the total number of individuals ever diverted was fewer than 200, a total census (regardless of when diversion occurred) was conducted. This means that criminal history records were collected for all individuals having ever been diverted, including those who had been diverted in the few months preceding the data extraction. For these jurisdictions, not every individual was observed for a complete 18 months after diversion and, as such, raw percentage calculations are rendered invalid.

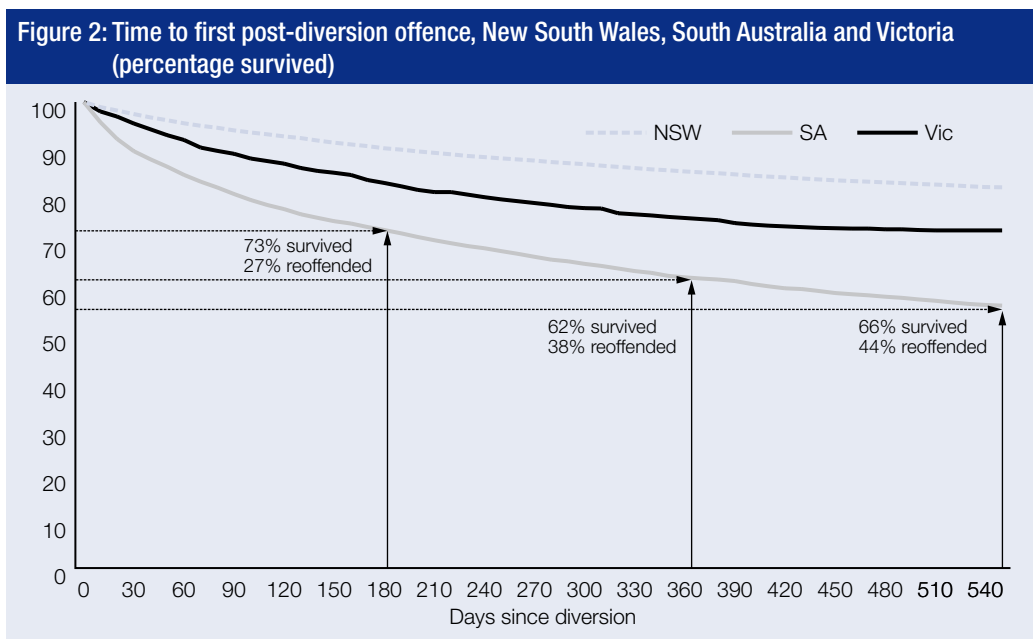
Survival analysis is a statistical technique used for a range of 'time to event' data. It was developed for use primarily in the health and medical sciences where the survival of those undergoing specialist medical treatment was of interest. However, presently the technique is used across a wide range of disciplines as a method for examining not only whether an event occurs, but also when. Apart from being the most suitable for the analysis of complete 'time to event' data, survival analysis also has one other distinct advantage – it allows for the statistical estimation of proportions at time points when not all individuals within the sample have complete data. In other words, survival analysis effectively controls for variation in observation times so that for jurisdictions such as the Northern Territory and the Australian Capital Territory, valid estimates of recidivism may be

generated at 18 months, even though not all offenders were observed for that length of time. Although unnecessary in jurisdictions where all offenders have more than 18 months of observation, survival analysis remains the preferred method of prevalence calculation in this study.

Figure 1 illustrates, for each jurisdiction, the survival curve of the time to first post-diversion offence, regardless of offence type. Figure 2 illustrates, for South Australia, New South Wales and Victoria, how each survival curve is interpreted and how proportions are calculated. In both figures, all



Source: AIC Police Drug Diversion [computer file]



Source: AIC Police Drug Diversion [computer file]

survival curves begin at 100 on the y-axis, which indicates that at zero days (the day of diversion) 100 percent of individuals in each sample had survived. Because offending in this study is measured as discrete daily episodes, no offender could have legitimately reoffended on the same day as their diversion was offered. Moving left to right, each survival curve decreases from 100 percent. Although the rate varies among jurisdictions, the curves indicate the percentage of individuals within each sample who have survived at any given time point on the x-axis. For illustrative purposes, three time points – at six, 12 and 18 months – have been chosen in Figure 2 to illustrate how reoffending prevalence rates are calculated for South Australia. A vertical line at each time point is drawn upwards until it meets the survival curve and a horizontal line, drawn towards the y-axis, indicates the survival percentage value relevant to that time point. In the example, 73 percent of individuals in South Australia will have survived (i.e. not reoffended) within 180 days of being diverted. This means that 27 percent had reoffended. After 18 months, 66 percent of diverted people in South Australia had survived, or conversely, 44 percent had reoffended. Of course, the actual reoffending prevalence rate is calculated not by a visual inspection of the survival curves, but by the construction of a ‘life table’. (A life table tracks the life history and events of a sample of individuals from the time before events occur to the end of data collection.) This ensures that estimates are not derived from a visual estimation that would be otherwise prone to error, but a mathematical calculation from within the statistical calculation.

## How many offenders reoffended?

Using the same methods described above, a life table may be constructed for each jurisdiction. Separate tables may also be generated for each treatment subgroup and for each different offence type. In this study, three primary offence classifications are used – property, drug and violent. The violent category includes offences committed against a person involving violence or threats of violence.

Table 16 provides the reoffending estimates generated from survival analysis for each offence type. For illustrative purposes, the ‘any offence episode’ category is presented for each of the three time points – six, 12 and 18 months – while for property, violent and drug offences, only the 18-month reoffending estimates are provided. The findings illustrate that:

In **New South Wales**, one in 10 offenders cautioned by the police for a cannabis offence reoffended within six months. This increases to 15 percent within 12 months and to 18 percent within 18 months. More offenders in New South Wales were identified as having committed a drug offence (9%) than either property (8%) or violent (4%) offences.

In **South Australia**, 27 percent of offenders reoffended at least once within six months of their diversion. In the following six months, this increased to 38 percent, while after 18 months 44 percent had been rearrested. The prevalence of post-diversion offending within 18 months was higher for property offences (26%) than for violent (15%) or drug (8%) offences. Unlike New South Wales, where subsequent drug offending was higher than both property and violent offending, in South Australia, more offenders committed property or violent offences than they did drug offences. One explanation for the relatively low number of drug offences is that except in the case of the sale, trafficking or manufacture of drugs, all other drug offences result in diversion and, as such, are not recorded as criminal offences.

The prevalence of reoffending in **Tasmania** was, for all diversion participants, 30 percent within six months, 37 percent within 12 months and 42 percent within 18 months. At the six-month mark, Tasmania had the highest prevalence of reoffending of all the jurisdictions, but was soon overtaken by South Australia after 12 months. In any case, an inspection of the plotted survival curves in Figure 1 shows that, at the jurisdictional level, Tasmania and South Australia have very similar survival trajectories. By type of offence, 21 percent of all people in the Tasmanian sample had committed at least one property offence within 18 months of their diversion. This compared with 13 percent who had committed at least one violent

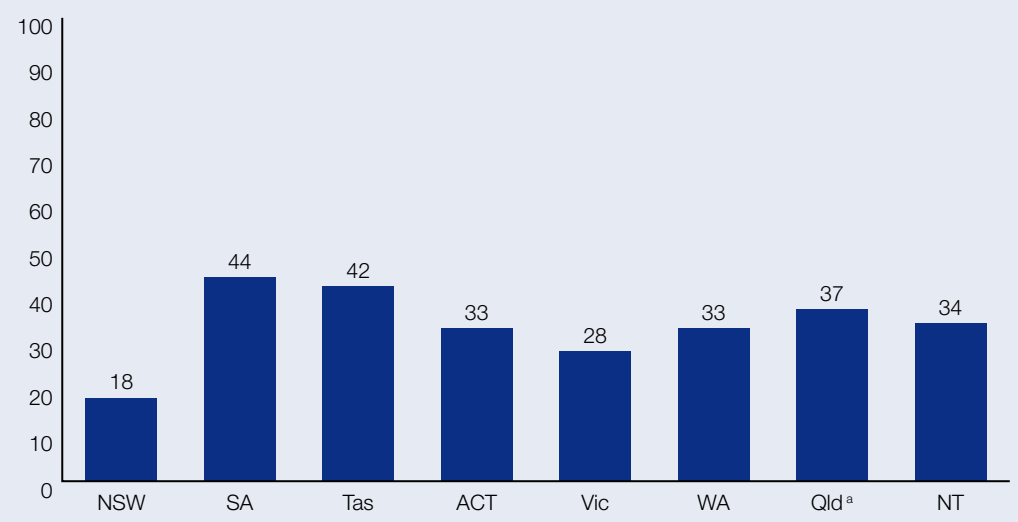
**Table 16: Offending for any offence in the six, 12 and 18 months after diversion, by jurisdiction**

	n	Any offence %			Property %			Violent %			Drug %		
		6 months	12 months	18 months	12 months	18 months	18 months	12 months	18 months	12 months	18 months	12 months	18 months
<b>New South Wales</b>													
Cannabis Cautioning Scheme	11,020	9.9	15.0	18.3	6.5	7.9	3.3	4.4	7.0	8.8			
<b>South Australia</b>													
Police Drug Diversion Initiative (cannabis/non-cannabis)	3,249	27	37.8	43.8	21.1	25.7	11.5	14.8	5.8	7.6			
<b>Tasmania</b>													
1st Level Diversion – Cannabis Caution	104	21.2	28.9	34.6	11.5	15.4	6.7	7.7	1.9	1.9			
2nd Level Diversion – Brief Intervention	70	40.0	45.7	48.6	24.3	25.7	15.7	18.6	15.7	18.6			
3rd Level Diversion – Assessment and Treatment	21	42.9	52.4	57.3	28.6	33.3	14.3	19.1	19.1	19.1			
<i>Total</i>	<i>195</i>	<i>30.3</i>	<i>37.4</i>	<i>42.1</i>	<i>18.0</i>	<i>21.0</i>	<i>10.8</i>	<i>12.8</i>	<i>8.7</i>	<i>9.7</i>			
<b>Australian Capital Territory</b>													
Police Early Intervention and Diversion Program (cannabis/non-cannabis)	174	20.6	27.6	33.2	13.5	15.1	7.2	10.1	15.5	17.2			
<b>Victoria</b>													
Cannabis Cautioning Program	1,043	16.0	23.9	26.3	9.7	10.1	8.3	9.7	10.8	12.2			
Drug Diversion Program	235	23.4	30.2	33.2	17.4	20.0	8.1	9.8	14.5	15.8			
<i>Total</i>	<i>1,278</i>	<i>17.4</i>	<i>25.0</i>	<i>27.6</i>	<i>11.1</i>	<i>12.0</i>	<i>8.2</i>	<i>9.7</i>	<i>11.5</i>	<i>12.8</i>			
<b>Western Australia</b>													
Cannabis infringement notice	1,245	19.0	27.7	33.3	8.8	11.1	8.8	11.7	15.9	20.4			
All Drug Diversion	79	20.2	20.2	27.4	6.6	13.1	6.8	11.0	7.9	13.4			
<i>Total</i>	<i>1,324</i>	<i>19.1</i>	<i>27.2</i>	<i>32.9</i>	<i>8.6</i>	<i>11.2</i>	<i>8.6</i>	<i>11.6</i>	<i>15.5</i>	<i>19.9</i>			
<b>Queensland</b>													
Cannabis diversion	470	26.0	36.6	n.a.	11.9	n.a.	6.0	n.a.	20.2	n.a.			
<b>Northern Territory</b>													
Cannabis and non-cannabis	125	25.8	29.7	34.2	6.1	8.5	3.6	4.6	19.3	21.8			

n.a. = Not available

Source: AIC Police Drug Diversion [computer file]

**Figure 3: Offending for any offence in the 18 months after diversion, by jurisdiction (percentage)**



a: Offending is calculated over a 12-month period

Source: AIC Police Drug Diversion [computer file]

offence and 10 percent who had committed at least one drug offence. Recidivism estimates are also provided for each of the treatment subgroups. At 18 months post-diversion, 35 percent of 1st Level Diversion participants (cannabis caution) had reoffended. This was the case for 49 percent of those diverted under 2nd Level Diversion and 57 percent of those diverted under 3rd Level Diversion. At all time points, and for all offence types, 3rd Level Diversion participants had the highest prevalence of reoffending. Tasmania was the only jurisdiction without a court-based diversion system. This lack of an alternative diversionary mechanism may have acted to artificially inflate Tasmanian recidivism figures when compared with the other jurisdictions.

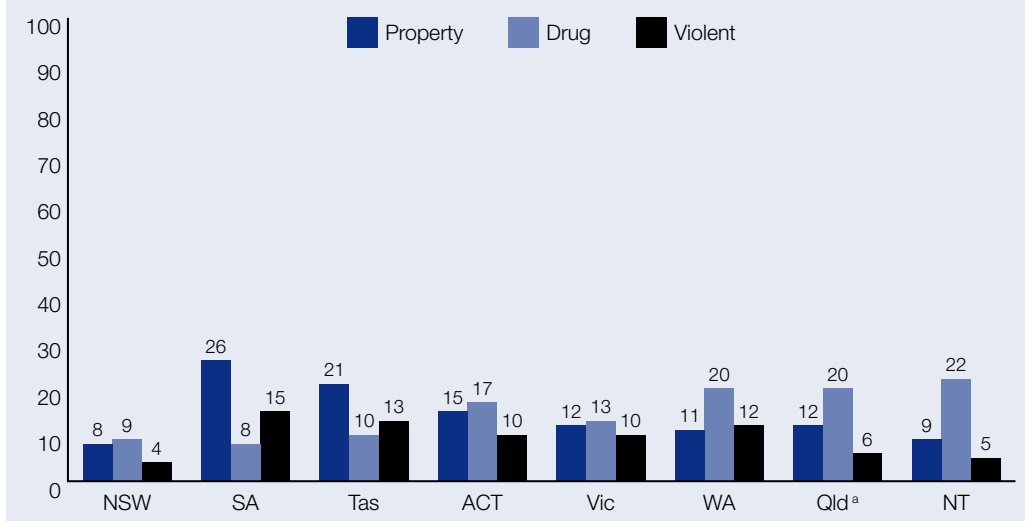
Of all 174 people diverted in the **Australian Capital Territory**, 21 percent had reoffended within six months of being diverted. This increased to 28 percent within 12 months and to 33 percent within 18 months. Drug offending was more prevalent than property or violent offending, with 17 percent of all individuals recording at least one drug offence within 18 months. This compared with 15 percent of individuals committing a property offence and 10 percent committing a violent offence.

In **Victoria**, 17 percent of offenders, regardless of diversion type, had reoffended within six months of their diversion. One in four had reoffended within 12 months and 28 percent within 18 months. By treatment subgroup, Cannabis Cautioning Program offenders had lower recidivism rates than Drug Diversion Program participants, where in the 18 months after diversion 26 percent of those cautioned for cannabis offences had reoffended, compared with 33 percent of those dealt with under the Drug Diversion Program. In all, there was little difference among the offence types – 13 percent of offenders committed at least one drug offence, 12 percent at least one property offence and 10 percent at least one violent offence. Interestingly, of those offenders cautioned for a cannabis offence, a greater number had committed a drug offence than either a property or violent offence. The opposite was true for those who participated in the Drug Diversion Program, who were more likely to have been rearrested for a property offence than a drug offence.

In **Western Australia**, around one in four offenders were rearrested within six months of their diversion. This was generally the same for both those processed under the Cannabis infringement notice program and under the All Drug Diversion program. The recidivism rate rises to 27 percent within



**Figure 4: Offending for property, drug and violent offences in the 18 months after diversion, by jurisdiction (percentage)**



a: Offending is calculated over a 12-month period

Source: AIC Police Drug Diversion [computer file]

12 months and to 33 percent within 18 months. Over that time, those offenders processed under the Cannabis infringement notice program surpassed those in the All Drug Diversion program in having the highest prevalence of reoffending. By offence type, more offenders in Western Australia were rearrested for drug offences (20%) than for property (11%) or violent (12%) offences. This trend was strongest among the Cannabis infringement notice participants who were more likely than those diverted under the All Drug Diversion program to be rearrested for a drug offence, while the All Drug Diversion program offenders were more likely to be rearrested for a property offence.

Of the 125 offenders diverted in the **Northern Territory**, one in four was rearrested within six months of their diversion. Within 12 months, 27 percent were rearrested and within 18 months, 34 percent were rearrested. Drug offending was the most prevalent of offence types, with more than twice as many (22%) offenders being rearrested for a drug offence than a property offence (9%). The Northern Territory had one of the highest post-diversion drug offence rates, with the exception of Queensland, although at the six, 12 and 18-month marks, jurisdictions such as

South Australia and Tasmania had surpassed the Northern Territory in having the highest rates of recidivism. Figure 1 illustrates an interesting finding. Note that the survival curve for the Northern Territory declines rapidly within the first 30 days after diversion then stabilises to a moderate decrease thereafter. This rapid decline indicates that, of those who do reoffend in the Northern Territory, the average number of days it took to reoffend was much shorter than in other jurisdictions. In other words, the risk of reoffending was highest in the first 30 days after diversion.

In **Queensland**, one in four diverted offenders was rearrested within six months of their diversion. This increased to 37 percent within 12 months, a rate almost equivalent to South Australia and Tasmania, the two jurisdictions with the highest post-diversion offending rates. The Queensland criminal histories supplied are only for a maximum of 12 months post-diversion. Therefore, unlike other jurisdictions, data for recidivism at 18 months are not available for Queensland. Within 12 months of diversion, more offenders were rearrested for drug offences (20%) than either property (12%) or violent (6%) offences. After 12 months, more offenders in Queensland had been arrested for a drug offence than in any other jurisdiction, although

the rate was only one percent higher than the Northern Territory.

Across the jurisdictions, between 18 and 49 percent of diversion participants had reoffended within 18 months after their diversion. With the exception of South Australia and Tasmania, whose offenders were most likely to be rearrested for a property offence, more offenders returned to drug offending than either property or violent offending. In those jurisdictions that operate clearly demarcated diversion programs, those diverted under the less intensive cannabis programs had lower rates of property offending than drug offending, while those under the more intensive drug diversion schemes had higher rates of property than drug offending.

## How frequently did they reoffend?

In the same way that the prevalence of first offending can be estimated using survival analysis techniques, so too can multiple offending, where the prevalence of committing a second offence can be calculated among those with a first offence, and so forth. Using this method, Table 17 shows the frequency of post-diversion offending for those who, within the 18 months, committed at least one new offence. The frequency is calculated for daily offence episodes and categorised into four groups. The data show that:

Of the 18 percent of **NSW** offenders who reoffended, two in three had been arrested for only one offence episode within the 18-month post-diversion observation period. Eighteen percent were arrested for two episodes, eight percent for three episodes and 11 percent had been arrested for four or more. In all, around one-third (36%) of those rearrested were arrested for more than one offending episode.

In **South Australia** and **Tasmania**, just over 40 percent of those diverted had reoffended within 18 months. These were, of all jurisdictions, the highest in terms of overall recidivism. In terms of frequency, calculated among those who had reoffended, a similar trend is noted. In both jurisdictions, around one in three (between 34%

and 37%) was arrested for four or more offending episodes in the 18 months after their diversion. This is three times the rate in New South Wales, and twice the rate in Victoria and Western Australia.

In the **Australian Capital Territory**, one in three offenders was rearrested within the 18-month period after their diversion. Of these offenders, the majority (57%) had committed just one episode of offending in this time. Of the remaining 43 percent who had committed two or more offending episodes, the majority had committed four or more offence episodes (25% of all offenders, or 58% of those with two or more episodes).

Between one in four and one in three offenders in **Victoria** and **Western Australia** had reoffended within 18 months. Half of these offenders committed just one offending episode in that time, while the other half committed two or more. At the aggregate jurisdictional level, the actual frequency distribution of offending was similar between both jurisdictions. At the subprogram level, those who were diverted under the more intensive drug diversion programs had a higher frequency of offending than those diverted under the cannabis cautioning or infringement programs.

In the **Northern Territory**, one in three diversion participants reoffended within 18 months. Although this rate is similar to the Australian Capital Territory, Victoria and Western Australia, those in the Northern Territory who did reoffend generally had a lower frequency of offending. In the Northern Territory, three of every four recidivists had committed only one offence in the 18 months after their diversion. Of the remaining 25 percent, approximately 13 percent had committed two offence episodes, five percent had committed three episodes and eight percent had committed four or more episodes. Of all jurisdictions, those who reoffended in the Northern Territory committed, on average, fewer offending episodes than offenders in any other jurisdiction (including across the various treatment subgroups).

In **Queensland**, 37 percent of people diverted were rearrested within 12 months. Of these, 48 percent had committed only one offence. This is less than in any other jurisdiction except Tasmania and South Australia (32% and 35%

**Table 17: Categorisation by frequency of offending (any offence) in the 18 months after diversion, by jurisdiction (percentage) <sup>a</sup>**

	Any offence			
	1	2	3	4 or more
<b>New South Wales</b>				
Cannabis Cautioning Scheme	63.7	18.0	7.5	10.8
<b>South Australia</b>				
Police Drug Diversion Program (cannabis/non-cannabis)	34.5	20.4	11.3	33.7
<b>Tasmania</b>				
1st Level Diversion – Cannabis Caution	43.2	14.2	18.6	23.9
2nd Level Diversion – Brief Intervention	21.9	21.0	9.0	48.1
3rd Level Diversion – Assessment and Treatment	23.1	15.4	17.6	44.0
<i>Total</i>	<i>31.7</i>	<i>17.1</i>	<i>14.6</i>	<i>36.6</i>
<b>Australian Capital Territory</b>				
Police Early Intervention and Diversion Program (cannabis/non-cannabis)	57.3	8.9	9.0	24.8
<b>Victoria</b>				
Cannabis Cautioning Program	54.4	25.2	6.9	13.5
Drug Diversion Program	41.0	19.2	11.5	28.2
<i>Total</i>	<i>51.4</i>	<i>23.9</i>	<i>8.0</i>	<i>16.8</i>
<b>Western Australia</b>				
Cannabis infringement notice	50.4	22.7	11.1	15.9
All Drug Diversion	54.6	13.6	4.5	27.3
<i>Total</i>	<i>50.6</i>	<i>22.2</i>	<i>10.8</i>	<i>16.5</i>
<b>Queensland<sup>b</sup></b>				
Cannabis diversion	48.1	17.7	7.6	26.6
<b>Northern Territory</b>				
Cannabis and non-cannabis	74.6	12.7	5.1	7.6

a: Frequency distributions and averages are calculated only for those individuals with a subsequent offence; diverted people without prior offences are excluded from calculations

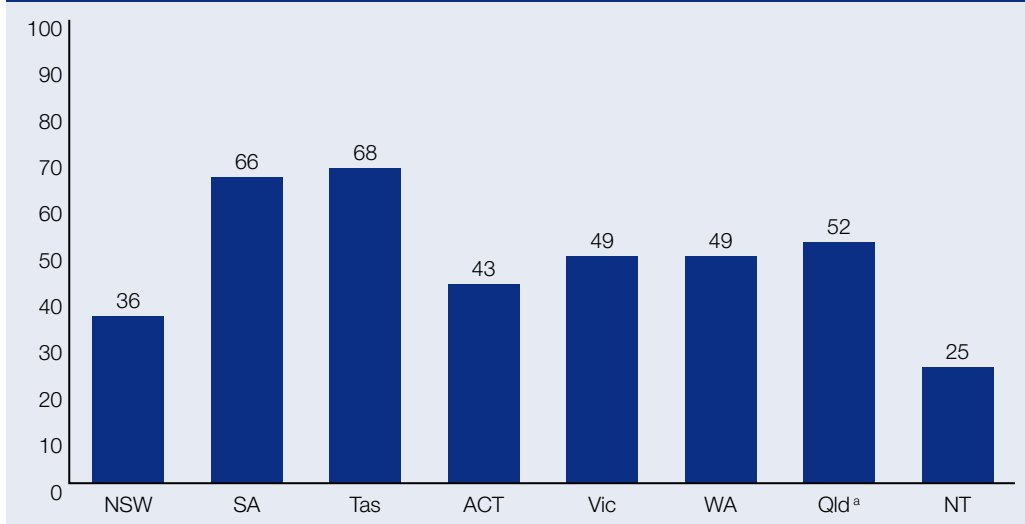
b: Offending is calculated over a 12-month period

Source: AIC Police Drug Diversion [computer file]

at 18 months respectively), even though the post-diversion observation period in Queensland was six months shorter than elsewhere. Eighteen percent had committed two offences and eight percent three offences in the 12 months after diversion. Twenty-seven percent were rearrested four or more times – only South Australia and Tasmania recorded a higher figure, although their rearrest data covered a post-diversion period of 18 months rather than 12 months.

It is generally the case that jurisdictions with higher overall reoffending prevalence rates have higher aggregate offending frequency rates. This means that not only do more offenders in these jurisdictions reoffend, but also of those who do, they generally engage in more prolific offending. With the exception of South Australia, Tasmania and Queensland, more than half of those who reoffended had committed only one offence in the 18 months of observation.

**Figure 5: Multiple offending in the 18 months after diversion (percentage) <sup>a</sup>**



a: Estimates are the percentage of those who reoffended within 18 months and who committed two or more offences

b: Offending is calculated over a 12-month period

Source: AIC Police Drug Diversion [computer file]

## What offence did they commit first?

Table 18 provides data that categorises offenders by the type of offence they first committed in the 18-month post-diversion period. In cases where multiple offences were recorded as occurring on the same day, a second, most serious classification was used. In most jurisdictions, the first recorded offence episode was more likely to be a drug offence than either a property, violent or other offence. The category of 'other' includes those offences not classified elsewhere, such as disorderly conduct, breach of bail, breach of community service order and public drunkenness. South Australia and Tasmania were the only two jurisdictions where the first episode of offending was, clearly, more likely to be for an offence other than a drug offence. By jurisdiction, the data indicate that:

In **New South Wales**, more offenders were rearrested in the first instance for a drug offence (37%) than either a property (30%), violent (18%) or other offence (15%).

In **South Australia**, only nine percent of offenders rearrested within 18 months were rearrested for a

drug offence. The majority were rearrested for property offences (40%), followed by other offences (34%) and violent offences (18%). The low levels of drug offending in the first instance concord with the relatively low levels of actual overall drug offending, with South Australia recording the lowest drug reoffending rate of all jurisdictions. One other possible explanation for this effect is that drug diversion is mandatory in South Australia regardless of the number of prior diversions. And, because diversion events are not recorded as an event in the police database, drug offences are likely to be reduced.

In **Tasmania**, more offenders (49%) were first charged for other offences than any of the alternative offence categories. This exceeds all other jurisdictions where, with the exception of South Australia, the rate is between 11 and 15 percent. This unusually high rate of other offending is most likely attributed to a high level of breach offending, whereby an offender is charged with a breach of bail, breach of community corrections order or failing to appear. It may be indicative of jurisdictional variance in police charging or data recording practices, where the Tasmanian system captures a greater level of information about court-imposed convictions not

**Table 18: Offence type for first post-diversion offending episode (percentage)**

	Offence type			
	Property	Drug	Violent	Other (including breach offences)
<b>New South Wales</b>				
Cannabis Cautioning Scheme	30.4	36.8	17.8	15.4
<b>South Australia</b>				
Police Drug Diversion Program (cannabis/non-cannabis)	39.7	9.3	17.5	33.5
<b>Tasmania</b>				
1st Level Diversion – Cannabis Caution	38.9	2.8	2.8	55.6
2nd Level Diversion – Brief Intervention	23.5	20.6	14.7	41.2
3rd Level Diversion – Assessment and Treatment	25.0	16.7	8.3	50.0
<i>Total</i>	<i>30.5</i>	<i>12.2</i>	<i>8.5</i>	<i>48.8</i>
<b>Australian Capital Territory</b>				
Police Early Intervention and Diversion Program (cannabis/non-cannabis)	30.8	38.5	19.2	11.5
<b>Victoria</b>				
Cannabis Cautioning Program	26.3	31.8	26.3	15.7
Drug Diversion Program	47.4	26.9	11.5	14.1
<i>Total</i>	<i>31.0</i>	<i>30.7</i>	<i>23.0</i>	<i>15.3</i>
<b>Western Australia</b>				
Cannabis infringement notice	19.1	42.8	22.7	15.5
All Drug Diversion	47.8	21.7	17.4	13.0
<i>Total</i>	<i>20.6</i>	<i>41.7</i>	<i>22.4</i>	<i>15.3</i>
<b>Queensland<sup>a</sup></b>				
Cannabis diversion	22.8	37.3	9.5	30.4
<b>Northern Territory</b>				
Cannabis and non-cannabis	12.5	62.5	10.0	15.0

a: Offending is calculated over a 12-month period

Source: AIC Police Drug Diversion [computer file]

originally initiated through formal police arrest. Despite this, Tasmanian offenders were still more likely to be first arrested for a property offence (31%) than a drug offence (12%). Across the levels of diversion, those diverted under 1st Level Diversion were more likely to be first arrested for a property offence than those diverted under 2nd Level Diversion and 3rd Level Diversion. The 2nd Level Diversion participants were the group most likely to be rearrested, in the first instance, for a drug or violent offence.

Like New South Wales, **ACT** offenders were more likely to be first arrested for a drug offence (39%) than either a property (31%) or violent (19%) offence.

In **Victoria**, the number of offenders first arrested for a drug offence was equal to the number of offenders first arrested for a property offence (31%). Although fewer offenders in Victoria were first rearrested for a violent offence (23%), it was the jurisdiction with the highest overall rate of violent offending as the first post-diversion offence. Analysis by treatment subgroup reveals that those offenders diverted under the Cannabis Cautioning Program were more likely to be first arrested for a drug offence (32%) than a property offence (26%). Those diverted under the Cannabis Cautioning Program were more likely to be arrested for a drug or violent offence (26%) than those who were diverted under the Drug Diversion Program (11%)

– who, incidentally, were more likely to be first arrested for a property offence (47%).

The trend in **Western Australia** was similar to that in Victoria – more offenders under the Cannabis infringement notice program were first rearrested for a drug offence (43%) than a property offence (19%) and were more likely than those diverted under the All Drug Diversion program to be first arrested for a drug offence. Of the All Drug Diversion program offenders, the majority (48%) were first arrested for a property offence, than either a drug (22%) or violent (17%) offence. As was also the case in Victoria, Cannabis infringement notice offenders were more likely than the All Drug Diversion program offenders to be first arrested for a violent offence, but Western Australia was the only jurisdiction where more offenders were first arrested for a violent offence than a property offence.

More offenders in the **Northern Territory** were first arrested for a drug offence than any other jurisdiction (63%). As a result, fewer offenders in the Northern Territory were first arrested for a property offence than in any other jurisdiction (13%).

In **Queensland**, offenders were more likely to be first arrested for drug (37%) than property (23%) or violent (10%) offences. A further 30 percent had been arrested for other offences. Fewer offenders

were first rearrested for violent offences than in any other jurisdiction except Tasmania.

## What factors were associated with reoffending?

So far, aggregate recidivism rates for each jurisdiction and for all offenders diverted within the relevant jurisdictional sampling frame have been examined. This analysis described the extent to which all people, regardless of their age, gender or Indigenous status, reoffended within 18 months of their diversion. Using both bivariate and multivariate analyses, this section will illustrate the extent to which the probability of post-diversion reoffending is affected by a range of demographic, prior offending and compliance factors.

Table 19 illustrates that, at the national level, males were generally more likely than females to have reoffended within 18 months. This was the case in all jurisdictions, with the exception of the Australian Capital Territory where female offenders were more likely to reoffend than males. Indigenous offenders were, in every state and territory, more likely to reoffend than non-Indigenous offenders. The situation concerning age was more complex. In New South Wales, Tasmania,

**Table 19: Subsequent offending within 18 months after diversion, by gender, Indigenous status, age category and jurisdiction (percentage)**

	Any offence		Any offence		Any offence			
	Male	Female	Indigenous	Non-Indigenous	<18	18–27	28–37	38–max.
New South Wales	18.7	16.3	44.1	16.3	48.1	19.7	16.1	12.6
South Australia	44.5	40.4	67.4	41.7	39.2	49.6	51.5	51.9
Tasmania	44.5	32.5	44.0	41.8	58.6	46.3	38.4	14.8
Australian Capital Territory	30.2	48.1	50.0	33.0	30.2	36.0	32.9	32.0
Victoria	28.6	22.3	47.3	27.4	37.5	26.8	25.0	19.2
Western Australia	28.3	25.1	b	b	58.3	34.5	30.3	25.0
Queensland <sup>a</sup>	38.6	29.9	45.7	35.9	53.1	36.0	29.6	35.6
Northern Territory	39.4	22.0	50.3	27.1	33.5	c	c	c

a: Offending is calculated over a 12-month period

b: Indigenous status unavailable

c: Northern Territory program available only to juveniles

Source: AIC Police Drug Diversion [computer file]

Queensland and Victoria, younger offenders were generally more likely than older offenders to reoffend, while the opposite was true in South Australia, where the likelihood of reoffending generally increased with age.

Consistent with the general criminological literature, prior offending was a strong predictor of post-diversion recidivism. Table 20 indicates that offenders who had committed at least one offence in the 18 months before their diversion were much more likely to reoffend than those who had not.

In **New South Wales**, 47 percent of those with a recent history of offending reoffended within 18 months. This was more than three times the rate of those without a history of recent offending, of whom only 14 percent reoffended.

In **South Australia**, two in three offenders (69%) with a recent history of offending before their diversion reoffended. This was more than twice that of offenders who did not have a recent history of offending (26%).

In **Victoria, Western Australia, Tasmania** and the **Australian Capital Territory**, just over half (between 52% and 55%) of those with a recent history of offending committed at least one new offence in the 18 months after their diversion. This compared with a recidivism rate of between 19 and 30 percent for those without a recent offending history.

The **Northern Territory**, of all jurisdictions, had the lowest post-diversion reoffending rates among those with a recent offending history (46%). Conversely, it was also the jurisdiction with the highest post-diversion recidivism rate for those without a recent offending history (31%).

In **Queensland**, 62 percent of those with prior offences reoffended within 12 months. In contrast, 25 percent of those without prior offences had been rearrested after diversion. Eighty percent of offenders with two or more prior offences reoffended, compared with 49 percent of those with only one prior offence. Those with a prior property (73%) or violent offence (70%) were much more likely to be rearrested than those who had carried out a drug offence (45%) before diversion.

Among those who had a recent history of offending, multiple offenders (those who recorded two or more offending episodes within the 18 months before their diversion) were more likely than single-episode offenders to reoffend. The difference was highest in the Northern Territory, where more than twice as many multiple offenders reoffended when compared with single-episode offenders.

When categorised by the typology of their most recent (and serious) offence, property and violent offenders were more likely than drug offenders (in New South Wales, South Australia, Victoria, the Northern Territory, Queensland and Australian Capital Territory) to reoffend. The opposite was true in Western Australia and Tasmania, where those whose most recent offence was a drug offence were more likely to reoffend than those whose most recent offence was either a property or violent offence.

Compliance was also an important factor in predicting post-diversion reoffending (Table 21). Across all jurisdictions where diversion requires some level of offender compliance and participation, those who did not comply were more likely to reoffend. Of the noncompliant offenders, between 55 and 73 percent reoffended within the 18 months after their diversion. The lowest was in the Northern Territory and the highest was in South Australia. Of those who complied with the requirements of their diversion, between 25 and 39 percent reoffended. The lowest was in Victoria and the highest was in South Australia.

These bivariate analyses have demonstrated that a wide range of demographic, prior criminal history and compliance factors are important to differentiate between high and low levels of recidivism risk. However, differentiating among the factors is difficult, because the bivariate analyses do not account for the possibility of confounding effects. For example, males were generally more likely than females to reoffend. They were also generally younger, less likely to be Indigenous, and more likely to comply and to have a recent history of offending than their female counterparts. The fact that males at the bivariate level were more likely to be recidivists may not be simply because of their gender, but may be due to the confounding effects of these other covariates.

**Table 20: Subsequent offending within 18 months after diversion, by prior offending category and jurisdiction (percentage)**

	Any offence		Frequency		Categorisation (most recent)		
	Prior offences	No prior offences	One only	Two or more	Property	Violent	Drug
New South Wales	47.4	14.1	36.9	66.7	51.4	54.9	26.1
South Australia	69.3	25.8	51.2	81.2	73.1	75.2	59.9
Tasmania	55.3	29.7	44.7	62.5	52.8	57.1	73.3
Australian Capital Territory	55.1	26.3	53.2	56.9	60.0	65.7	38.6
Victoria	52.0	18.9	38.8	67.9	58.7	59.0	34.4
Western Australia	55.2	23.4	46.8	65.4	58.7	47.8	61.7
Queensland <sup>a</sup>	62.3	24.5	48.8	80.0	73.2	70.0	45.0
Northern Territory	45.8	30.7	33.9	70.4	47.5	33.3 <sup>b</sup>	32.5

a: Offending is calculated over a 12-month period

Source: AIC Police Drug Diversion [computer file]

Multivariate Cox regression analysis is a statistical method used to examine the independent effect of a single factor, controlling for the sum of the effect of all other factors. The Cox regression model is an extension of the survival analysis already conducted, but each factor is determined as having either a positive or negative effect on the hazard (or risk) of reoffending. Hazard, in the case of gender for example, is interpreted as the probability (or ratio of risk) that at any time point females will be more or less likely than males to commit an offence. Where hazard is above the value of 1, females are more likely than males to

reoffend. Where hazard is below the value of 1, females are less likely to reoffend. The sum of each group's hazard across time means that, at the aggregate level, those with a higher hazard ratio will have been, over the entire 18 months, more likely to have reoffended.

Like all statistical models, Cox regression has a number of underlying assumptions – the most important being the assumption of proportionality. In essence, a Cox regression model estimates the effect of a factor, such as Indigenous status, to increase or decrease the risk of reoffending. It assumes in its calculations that Indigenous status will have an equal affect on recidivism regardless of when, in the 18 months, it is measured. Of course, it need not be the case that Indigenous offenders will always, across the entire 18-month period of analysis, be at greater risk than their non-Indigenous counterparts. Should this not be the case, the proportionality assumption would be violated and the statistical model rendered invalid. For the purpose of this report, the AIC examined violations of the proportionality assumption. Both global and individual factor analyses were undertaken. Any factor, identified as non-proportional, was then interacted with the continuous values of time to explicitly model their non-proportional nature.

The Cox regression models were estimated for each jurisdiction using a common set of factors.

**Table 21: Subsequent offending within 18 months after diversion, by compliance status and jurisdiction (percentage)<sup>a</sup>**

	Did not comply	Complied
South Australia	73.0	38.8
Tasmania	65.1	37.5
Australian Capital Territory	68.9	29.9
Victoria	57.0	25.1
Western Australia	c	c
Queensland <sup>b</sup>	63.1	30.8
Northern Territory	54.8	29.1

a: Excludes treatment subgroups where compliance is not required

b: Offending is calculated over a 12-month period

c: Compliance unable to be dichotomised

Source: AIC Police Drug Diversion [computer file]



Not every factor was needed for every jurisdiction; for example, in the Northern Territory only juveniles had been diverted, so the variable that examines the age of adults was not needed. Similarly, in those jurisdictions with multiple treatment subgroups (one of which does not require compliance), a treatment variable was included.

Overall, the statistical model was significant for all jurisdictions. This means that the set of factors included in each model assisted in predicting reoffending better than a model that controls for none of these factors (otherwise known as the 'null model'). The model performed best in New South Wales and South Australia. By jurisdiction, the results suggest that:

In **New South Wales**, gender, Indigenous status, age and prior offending were all significant contributors to the risk of reoffending. After controlling for the confounding effects of all other covariates, females were less likely (hazard ratio [hr]=0.83) than males to reoffend over the 18-month post-diversion period. Indigenous offenders were nearly twice (hr=1.90) as likely as non-Indigenous offenders to reoffend, and age was associated with a declining risk. This means that the older an offender was at the time of their diversion, the less likely they were to reoffend. Juveniles are not eligible for cannabis cautioning in New South Wales; however, a small number (<1%) of cautioned offenders were under the age of 18 years. These juveniles were more likely than those over the age of 18 to reoffend. In terms of prior offending, those with a recent history were 85 percent (hr=1.85) more likely than those without a recent offence history to reoffend. For each additional offence episode committed during the 18 months before diversion, there was an additional 21 percent increase in the risk of post-diversion reoffending. Finally, of those with a recent history of offending, property offenders (those whose frequency of property offending was higher than drug or violent offending) were statistically more likely (hr=1.46) to reoffend than those classified as drug offenders. The same was true for violent offenders, who were 56 percent more likely than drug offenders to reoffend (hr=1.56).

In the **Northern Territory**, only one factor emerged as a significant, independent predictor of recidivism

– age. Because all diverted offenders were juveniles, the hazard ratio (0.74) suggested that the closer the offender was to 18 years of age, the less likely they were to reoffend. The failure of the Northern Territory model to identify any other significant factors may well be the result of the small sample size (n=125). Two variables – gender and Indigenous status – failed to reach conventional levels of statistical significance. While we would not rely on these estimates because the probability of error was greater than five percent, it is interesting to note that the direction of the estimated hazard ratios suggests females were less likely, and Indigenous offenders more likely, to reoffend than their respective counterparts.

In **Victoria**, gender, Indigenous status and age were not significant predictors of post-diversion recidivism. However, after controlling for their effect, prior offending was significant. Offenders with a recent history of offending were at greater risk of reoffending than those without. Moreover, those with a greater number of recent offending episodes were at even higher risk. Each additional offence episode committed during the 18 months before diversion was linked to a 10 percent increase in the risk of post-diversion reoffending. Those classified as violent offenders were more likely than drug offenders to reoffend. Finally, after partialling out any variation associated with demographic and prior offending factors, Cannabis Cautioning Program offenders were no more or less likely to reoffend than those who were diverted under the Drug Diversion Program. However, of those in the latter group, drug type and compliance were statistically significant factors. Those who were diverted for heroin were more likely to reoffend than those diverted for amphetamines, while those diverted for ecstasy were less likely to reoffend. Those who did not comply with the requirements of their drug diversion were 76 percent (hr=1.76) more likely to reoffend than those who were compliant.

In **Tasmania**, one factor emerged as a significant predictor of post-diversion recidivism. Interestingly, it was not whether an offender had a recent offending history, but rather the number of prior offending episodes committed by those who did have a recent history. In other words, simply having

a history of prior offending was not in itself a significant predictor; however, for each additional offence episode committed by those who did, the risk of reoffending increased by 23 percent. Taken together, this should be interpreted as suggesting that there was no statistical difference between offenders with one prior offending episode and those with none, but that as the number of recorded episodes increased so too did the risk of post-diversion recidivism. Like the Northern Territory, the Tasmanian sample was relatively small (n=195), which will invariably impact on the number of factors that can be identified as significant.

In **South Australia**, females were less likely than males to reoffend (hr=0.82), while Indigenous offenders were more likely than non-Indigenous offenders (hr=1.43). Age, among the adults, had little effect in predicting recidivism, which confirms the bivariate analysis that showed very little difference in the prevalence of reoffending among age groups. Among the juveniles, age was significant, suggesting that younger juveniles were at more risk of recidivism than older juveniles. Controlling for these factors, prior offending was a significant predictor of recidivism. Offenders with a recent offence history were more than twice as likely (hr=2.37) than those without to reoffend. Moreover, for each additional criminal offence episode recorded in the 18 months before diversion, the risk of recidivism increased by an additional eight percent. By offence type, those classified as a property offender (based on the frequency of their offending) were neither more nor less likely than drug offenders to reoffend, but those classified as a violent offender were more likely to reoffend than both property and drug offenders. Finally, drug type and program compliance were important factors associated with post-diversion recidivism. Those diverted for heroin were significantly more likely to reoffend than those diverted for cannabis or amphetamines. Those who failed to attend their assessment were 88 percent (hr=1.88) more likely to reoffend than those who had complied.

In the **Australian Capital Territory**, noncompliance was the only factor that significantly predicted post-diversion recidivism. Those who failed to comply with the requirements of their diversion were four times (hr=4.58) more likely to reoffend

than those who complied. Although neither gender, age nor prior criminal history were significant predictors in this multivariate model, it is interesting to note that the direction of the hazard ratio for the prior offending variables is consistent with models whose sample size was large enough to generate reliable estimates. That is, although not statistically significant in the ACT model, prior criminal history and frequency of offending appear related to increases in the risk of recidivism.

In **Queensland**, recent offending and noncompliance were the only two factors associated with post-diversion recidivism. Those with a recent history of offending were 90 percent (hr=1.90) more likely than those without to reoffend. Property offenders (classified by the frequency of their offending) were more likely than drug offenders to recidivate, while those who were noncompliant and failed to attend their DDAP assessment were nearly six times more likely to reoffend than those who did attend.

In **Western Australia**, age was the only significant demographic factor associated with recidivism, with the risk of reoffending decreasing with older offenders. This means that older offenders were at lower risk than younger offenders of having some level of recontact with the police. Prior criminal history emerged as a significant predictor of post-diversion recidivism. Those offenders with a recent history of offending were 80 percent more likely than those without to reoffend. Each additional offending episode committed in the 18 months before diversion was associated with a 19 percent increase in the risk of reoffending. There was no relationship between offender classification and recidivism, indicating that property and violent offenders were just as likely to reoffend as drug offenders, controlling for all other covariates. The final factors differentiated between the type of diversion program and an offender's participation. In general, there was no difference between Cannabis infringement notice or All Drug Diversion program clients in their overall recidivism probabilities. Of those who were diverted under the Cannabis infringement notice program, those electing to, or as a result of failing to, attend the Cannabis Education Session, pay the Cannabis infringement notice fine (hr=1.86), or those whose cannabis

infringement notice was withdrawn ( $hr=2.50$ ), were more likely to reoffend than those who attended the Cannabis Education Session.

## How do these recidivism rates compare?

In this study, neither a control nor comparison could be established. As a result, it is difficult to determine whether the recidivism rates presented in this report are same as, or different from, what might have otherwise been expected had these offenders not been diverted. In the absence of a comparison or control group, an alternative method was to compare the recidivism rates of those who were diverted with similarly comparable recidivism rates developed through other Australia studies. Although this methodology is not watertight, the comparisons provide a useful reference point in assessing the likelihood that diversion had tangible impact on reoffending.

Perhaps the closest comparison comes from Australia's largest population-based recidivism study, conducted by Broadhurst and Loh (1995). The study used 10 years of Western Australian police arrest data to measure the likelihood that first-time offenders would be rearrested by the police. Like this study, survival analysis was used to control for variations in observation times. The authors, in their initial analysis, generated a cumulative probability distribution function that measures the quantity of recidivism risk experienced by any randomly selected individual at any time point. Both the survival function used earlier in this report, and cumulative hazard function used by Broadhurst and Loh (1995), are the products of a subset of survival analysis techniques where the cumulative hazard function may be calculated as the negative log of the population survivor function (where at any time point, cumulative hazard is equal to  $-\ln(\text{survivor function})$ ). More detail on the relationship between these survival techniques can be found in Singer and Willett (2003).

Because the Broadhurst and Loh (1995) study used cumulative hazard distributions generated from a fitted survival regression model, comparative

analysis could only be undertaken using similarly generated distributions from the diversion offender's data. Because the 1995 recidivism study examined the time to second offence, only first-time offenders (or at the very least, those with no recent offending histories) were selected for the comparison. The samples were also restricted to male non-Indigenous offenders to ensure comparability and to maximise sample sizes. Table 23 provides the Nelson-Aalen cumulative hazard values at 12 and 18 months after diversion, as well as the upper and lower confidence intervals (c.i.) at 18 months. Because the values themselves are generated from survival analysis, it is not surprising to find that many of the key jurisdictional differences highlighted earlier still remain. Nonetheless, at 18 months, the cumulative hazard values ranged from the lowest in New South Wales (14.4) to the highest in Tasmania (40.2). This compares with an estimated cumulative hazard value of approximately 27 in the Broadhurst and Loh (1995) study of generalised population recidivism.

Jurisdictions with a cumulative hazard value below that estimated by Broadhurst and Loh (1995) were New South Wales, Victoria and the Australian Capital Territory. All other jurisdictions – Tasmania, South Australia, the Northern Territory, Western Australia and Queensland – had cumulative hazard values that exceeded those estimated in Western Australia in 1995. At first glance, this result suggests that the propensity to reoffend is, in less than half of the jurisdictions, lower than a general first-time offender population. However, for the majority, diversion participants were in fact at higher risk of recidivism. Before drawing that conclusion it is important that we examine the upper and lower confidence intervals at 18 months. These values provide context for the point estimates in that they describe the range of values between which the estimated value *could* fall, taking into account the possibility of error. In other words, at the conventional level of statistical testing ( $p<0.05$ ), there is 95 percent confidence that the actual value (in this case, the cumulative hazard value) will fall between the upper and lower bounded confidence interval. Smaller sample sizes are prone to greater levels of error, and so confidence intervals are usually larger.

**Table 22: Cox regression predicting reoffending (any offence) within the 18 months after diversion**

	$\beta$	hr	p
<b>New South Wales</b>			
Gender	0.19	0.83	0.01
Indigenous	0.64	1.90	0.00
Adult age	-0.02	0.98	0.00
Juvenile	0.44	1.56	0.04
Recent offence history	0.61	1.85	0.00
Frequency of recent offending	0.19	1.21	0.02
Drug offender (vs property)	0.38	1.46	0.03
Violent offender (vs property)	0.45	1.56	0.02
<i>Non-proportional covariates (daily change in hazard)</i>			
Indigenous	0.001	1.001	0.03
n	11,020		
Log likelihood	-18,022.49		
LR $\chi^2(9)$	1,076.11		
p	0.00		
<b>Western Australia</b>			
Gender	-0.25	0.78	0.09
Adult age	-0.01	0.99	0.04
Juvenile	-0.06	0.94	0.92
Juvenile age	-0.29	0.75	0.45
Recent offence history	0.58	1.79	0.00
Frequency of recent offending	0.17	1.19	0.00
Drug offender (vs property)	0.04	1.04	0.84
Violent offender (vs property)	0.18	1.20	0.33
All Drug Diversion program (vs Cannabis infringement notice)	-0.04	0.96	0.92
All Drug Diversion program noncompliance	0.63	1.87	0.24
Cannabis infringement notice fine (vs Cannabis Education Session)	0.62	1.86	0.00
Cannabis infringement notice withdrawn (vs Cannabis Education Session)	0.92	2.50	0.00
n	1,314		
Log likelihood	-2,903.17		
LR $\chi^2(16)$	196.47		
p	0.00		

**Table 22 continued**

	<b>β</b>	<b>hr</b>	<b>p</b>
<b>Tasmania</b>			
Gender	-0.23	0.80	0.49
Indigenous	0.33	1.39	0.34
Adult age	-0.02	0.98	0.14
Juvenile	0.79	2.21	0.29
Juvenile age	0.36	1.43	0.35
Recent offence history	0.19	1.20	0.73
Frequency of recent offending	0.21	1.23	0.00
Drug offender (vs property)	-0.38	0.68	0.49
Violent offender (vs property)	-0.24	0.79	0.69
Brief Intervention (vs caution)	0.03	1.03	0.92
Referral to treatment (vs caution)	0.36	1.43	0.44
Amphetamines (vs cannabis)	-0.37	0.69	0.65
Ecstasy (vs cannabis)	0.51	1.67	0.64
Noncompliance	0.54	1.71	0.13
n	195		
Log likelihood	-382.77		
LR $\chi^2(16)$	59.26		
p	0.00		
<b>Victoria</b>			
Gender	-0.31	0.73	0.05
Indigenous	-0.58	0.56	0.21
Adult age	-0.02	0.98	0.07
Juvenile	-0.31	0.73	0.22
Juvenile age	-0.14	0.87	0.15
Recent offence history	0.52	1.68	0.02
Frequency of recent offending	0.09	1.10	0.00
Drug offender (vs property)	0.46	1.59	0.06
Violent offender (vs property)	0.65	1.92	0.01
Drug Diversion Program (vs Cannabis Cautioning Program)	-0.42	0.66	0.18
Heroin (vs amphetamines for Drug Diversion Program)	0.94	2.57	0.00
Ecstasy (vs amphetamines for Drug Diversion Program)	-0.98	0.38	0.13
Other drug (vs amphetamines for Drug Diversion Program)	1.17	3.21	0.04
Noncompliance (for Drug Diversion Program)	0.57	1.76	0.02
n	1,268		
Log likelihood	-2,344.41		
LR $\chi^2(16)$	219.94		
p	0.00		

Table 22 continued

	$\beta$	hr	p
<b>Australian Capital Territory</b>			
Gender	0.50	1.65	0.15
Indigenous	-1.83	0.16	0.12
Adult age	-0.01	0.99	0.59
Juvenile	-0.54	0.58	0.41
Juvenile age	-0.13	0.88	0.59
Recent offence history	0.66	1.94	0.27
Frequency of recent offending	0.12	1.12	0.59
Drug offender (vs property)	0.21	1.23	0.76
Violent offender (vs property)	0.76	2.14	0.29
Noncompliance	1.52	4.58	0.00
n	174		
Log likelihood	-234.17		
LR $\chi^2(11)$	28.48		
p	0.00		
<b>South Australia</b>			
Gender	-0.19	0.82	0.01
Indigenous	0.35	1.43	0.00
Adult age	0.00	1.00	0.80
Juvenile	-0.26	0.77	0.17
Juvenile age	-0.06	0.94	0.02
Recent offence history	0.86	2.37	0.00
Frequency of recent offending	0.08	1.08	0.00
Drug offender (vs property)	0.21	1.24	0.10
Violent offender (vs property)	0.37	1.45	0.01
Assessment (vs educational material)	-0.27	0.76	0.00
Heroin (vs cannabis)	0.52	1.69	0.01
Amphetamine (vs cannabis)	0.04	1.05	0.80
Ecstasy (vs cannabis)	0.05	1.05	0.83
Noncompliance (for Brief Intervention or assessment)	0.63	1.88	0.00
<i>Non-proportional covariates (daily change in hazard)</i>			
Juvenile	0.00	0.00	0.01
Amphetamine	0.00	0.01	0.00
n	3,395		
Log likelihood	-10,942.00		
LR $\chi^2(20)$	1,016.66		
p	0.00		

**Table 22 continued**

	<b>β</b>	<b>hr</b>	<b>p</b>
<b>Queensland</b>			
Gender	-0.17	0.84	0.39
Indigenous	0.01	1.01	0.98
Adult age	-0.02	0.98	0.06
Juvenile	0.06	1.06	0.88
Juvenile age	-0.07	0.93	0.63
Recent offence history	0.64	1.90	0.01
Frequency of recent offending	0.03	1.03	0.36
Drug offender (vs property)	0.60	1.82	0.04
Violent offender (vs property)	0.74	2.09	0.06
Noncompliance	1.78	5.92	0.00
<i>Non-proportional covariates (daily change in hazard)</i>			
Noncompliance	-0.01	0.99	0.00
n	470		
Log likelihood	-953.43		
LR $\chi^2(12)$	138.60		
p	0.00		
<b>Northern Territory</b>			
Gender	-0.85	0.43	0.06
Indigenous	0.69	1.99	0.06
Juvenile age	-0.30	0.74	0.02
Recent offence history	-0.16	0.86	0.83
Frequency of recent offending	0.39	1.47	0.08
Drug offender (vs property)	-0.50	0.60	0.52
Violent offender (vs property)	-0.82	0.44	0.49
Noncompliance	-0.50	0.60	0.43
<i>Non-proportional covariates (daily change in hazard)</i>			
Noncompliance	0.01	1.01	0.02
n	174		
Log likelihood	-161.98		
LR $\chi^2(10)$	23.26		

Source: AIC Police Drug Diversion [computer file]

The purpose of providing confidence intervals is to illustrate that although the point estimate of the cumulative hazard value is higher in Tasmania, South Australia, the Northern Territory and Western Australia, the value identified from the Broadhurst and Loh (1995) study falls between the 95 percent confidence intervals of these jurisdictions. In this case, it would be difficult to suggest with confidence that these jurisdictions had higher

rates of recidivism. Similarly, although the Australian Capital Territory had a lower cumulative hazard value than estimated in the Broadhurst and Loh (1995) study, it too was not significantly lower since the upper confidence interval exceeded the 1995 estimate. The only jurisdictions for which we can have any reasonable confidence of a significant difference were New South Wales, Victoria and Queensland. The former two

**Table 23: Comparative recidivism rates by jurisdiction**

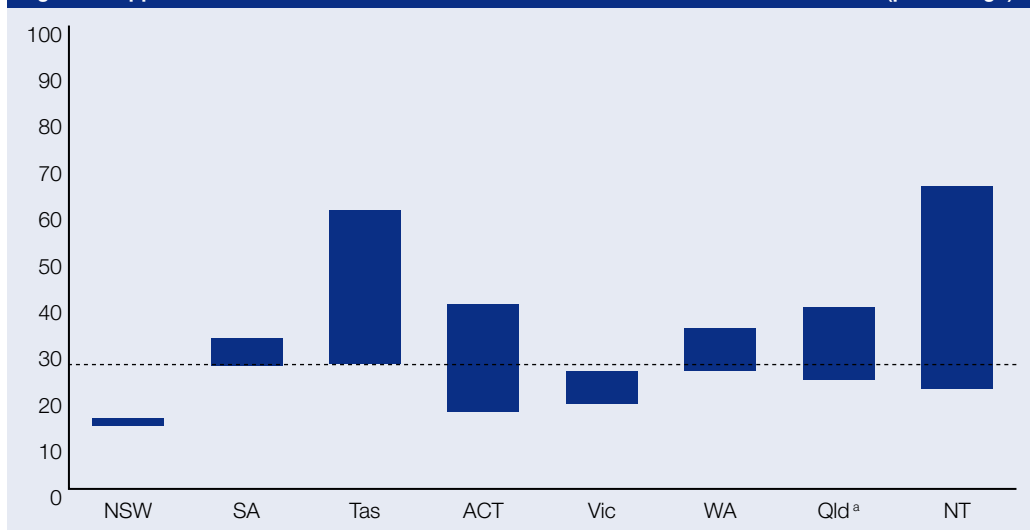
	12 months	18 months	Lower c.i. (18 months)	Upper c.i. (18 months)
Broadhurst and Loh (1995)	21.0	27.0	n.a.	n.a.
New South Wales	11.3	14.4	13.6	15.3
South Australia	21.9	29.5	26.6	32.6
Tasmania	34.2	40.2	26.9	60.1
Australian Capital Territory	20.3	25.7	16.6	39.8
Victoria	19.0	21.7	18.5	25.4
Western Australia	22.0	29.3	25.4	33.8
Queensland <sup>a</sup>	30.3	n.a.	23.5	39.2
Northern Territory	37.5	37.5	21.6	65.3

a: Offending is calculated over a 12-month period

n.a. = Not available

Source: AIC Police Drug Diversion [computer file]

**Figure 6: Upper and lower bounded confidence intervals for recidivism at 18 months (percentage)**



Note: Dotted line represents the 27 percent recidivism estimated by Broadhurst and Loh (1995)

a: Offending is calculated over a 12-month period

Source: AIC Police Drug Diversion [computer file]



jurisdictions had point estimates and confidence intervals lower than the 27 percent. However, in Queensland, the 12-month cumulative hazard estimate and confidence intervals were higher; although after excluding first-time offenders who did not comply with their drug diversion, this result is reduced to being insignificant.

There is at least one key difference between this and the Broadhurst and Loh (1995) study – this evaluation focuses on the recidivism of drug-using offenders who, according to the drugs-crime literature in Australia, typically have higher rates of involvement in crime and other illicit activities than a general offender population. The fact that this evaluation shows no statistical difference between a population of first-time drug offenders and a population of general first-time offenders might be viewed as an even more positive result than might have otherwise been expected.

# The impact of diversion

The purpose of the national IDDI is to divert offenders apprehended for minor drug charges away from the criminal justice system. In doing so, it aims to reduce the burden of drug offending on the criminal justice system by reducing the number of offenders who appear in court on drug charges, and by reducing the subsequent criminal activity of those whose criminal offending is the result of their drug use. An earlier study, conducted in New South Wales, addressed the first of these research issues (Baker & Goh 2004). Its findings indicated that cannabis cautioning had a significant and tangible impact to reduce the number of minor drug charges appearing before the courts. This current study is focused on the second research issue – the extent to which diversion reduced the probability and frequency of post-diversion offending.

The analysis presented in this report summarised the prior and subsequent offending of those people, in each jurisdictional sample, who had been diverted. The end result is complex; however, to disentangle this complexity, it is perhaps easiest to start at the end. Conceptually, a single diverted offender may experience one of three possible outcomes:

- their offending may remain unchanged – committing the same number of offence episodes after their diversion as before their diversion

- their offending may increase – committing more offences after their diversion than before
- their offending may decrease – committing fewer offences after their diversion than before.

Not all offenders may experience these outcomes. For example, offending cannot decline for those offenders with no prior or recent criminal history.

To this end, Figure 7 illustrates the five possible outcomes of drug diversion. For those with no prior history, offending may either remain stable at zero or increase. An increase occurs at the point where an offender commits one or more new offending episodes in the post-diversion period. For those offenders with a history, offending may increase, decrease or remain unchanged. An increase is indicated if the number of post-diversion offending episodes is higher than in the pre-diversion period, while the opposite is true of a decrease. Offenders who had committed the same number of offence episodes in the pre and post-diversion periods are indicated as stable.

For each jurisdiction, these five possible outcomes are determined. However, to ensure that the pre and post-diversion offending comparisons are accurate, equal pre and post-observation periods, censored at 18 months, have been used in the classifications. This means that an offender with 19 months of observable data in the post-diversion

period has been classified based on the first 18 months of post-diversion data, and an equal 18 months of pre-diversion data. An offender with 12 months of observable data in the post-diversion period will be calculated for an equal 12-month pre and post-period. The result therefore indicates, relative to an equal period before diversion, whether offending increased, decreased or remained stable.

Table 24 provides data for each jurisdiction on the percentage of offenders whose offending increased, decreased or remained stable. Table 25 provides the average aggregate offence episode rate (per 18 months) for those with and without a recent history of offending.

The results show that:

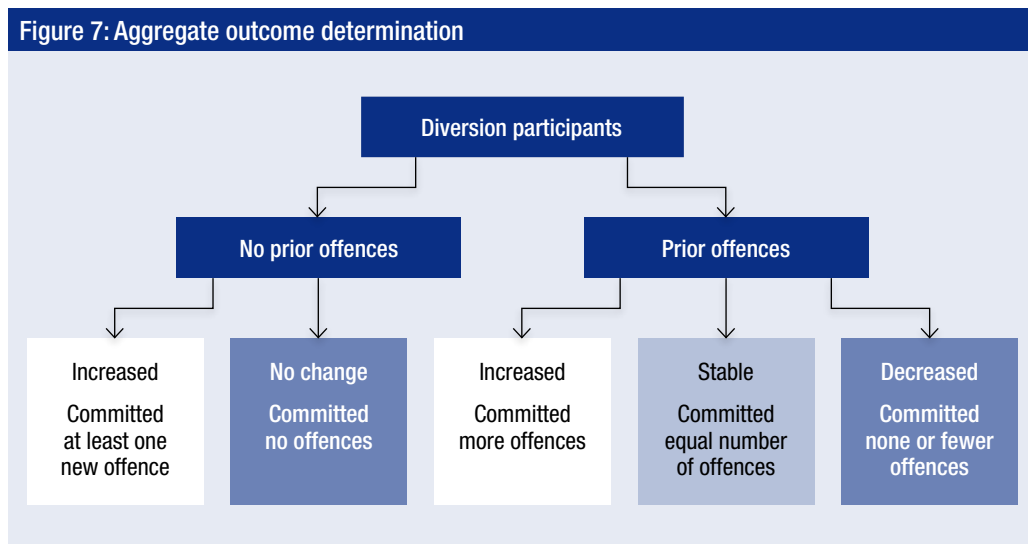
In **New South Wales**, offending increased (from zero to one or more) for 14 percent of those offenders with no recent history of offending. The remaining 86 percent of offenders with no recent history of offending had no new offence episodes in the post-diversion period. Of those with a recent history of offending, the majority (66%) recorded a relative decrease in their offending (from one to zero offence episodes, or five to four offence episodes). Eighteen percent committed more offence episodes after their diversion than before, while 16 percent committed an equal number of offence episodes, being otherwise stable in their offending. At the combined group level, those with

a recent history of offending committed, on average, 1.7 offence episodes in the 18 months before diversion. Driven by the large number of offenders whose relative offending rate declined, this decreased significantly to an average of 1.2 offence episodes.

In **South Australia**, offending increased for one in every four offenders with no recent history of offending, but remained stable (at zero) for the remaining 75 percent. Of those with a recent history of offending, the majority (55%) recorded a relative decrease in their offending. However, one in three, after their diversion, committed more offence episodes than they had carried out before diversion, while 15 percent remained stable in their offending. Despite more offenders in South Australia increasing their offending, the average aggregated offending rate declined significantly among those with a recent history of offending from 3.6 to 3.1 offending episodes.

In **Tasmania**, 30 percent of those with no recent history of offending committed at least one new offence in the 18 months after diversion. Although still in the minority, this was the highest of all other jurisdictions. The remaining 70 percent did not reoffend in the post-diversion period and, as such, had no change in their offending outcomes. Of those with a recent offence history, 65 percent recorded a relative decrease in offending, while 27 percent increased and nine percent remained

**Figure 7: Aggregate outcome determination**



stable. Overall, as a group, those offenders with a recent history of offending recorded a significant decline in their overall rate of offending, from 3.4 to 3.0 offence episodes in the 18 months after their diversion.

In the **Australian Capital Territory**, the majority of those with no recent history of offending did not reoffend (78%) within 18 months of their diversion. This compares with the 23 percent of offenders who, with no recent history of offending, reoffended at least once. Just over half (53%) of those offenders with a recent history of offending experienced a relative decline in their offence rate, while offending increased for 28 percent and remained stable for 19 percent. Of all jurisdictions, the Australian Capital Territory had the lowest proportion of offenders whose offending decreased.

In **Victoria**, 19 percent of those with no recent history of offending committed at least one new offending episode in the 18 months after their diversion. The other 81 percent did not reoffend and therefore had no offence episodes either before or after their diversion. Of the offenders with prior offences, 18 percent committed more offending episodes after their diversion than before, 16 percent committed an equal number both before and after their diversion, and 66 percent committed fewer offending episodes. Victoria, like New South Wales, had the highest proportion of offenders whose post-diversion offence rate declined, with a significant post-diversion reduction in the average number of offence episodes committed by those with a recent history of offending.

In **Western Australia**, 23 percent of offenders with no recent history of offending committed at least one new offence episode in the 18 months after their diversion. The remaining 77 percent did not reoffend within this time. Of those with a recent offending history, 21 percent committed more offences after their diversion than in the 18 months before, 15 percent committed an equal number of offences and the majority (64%) committed fewer offences. On average, those with a recent offending history committed significantly fewer offences after their diversion than before – declining from 2.2 to 1.5 offence episodes in 18 months.

In the **Northern Territory**, 29 percent of those offenders with no recent history of offending reoffended after their diversion – the other 71 percent did not. Among offenders with a recent history of offending, 58 percent committed fewer offences after their diversion than they did before their diversion. One in three (33%) committed an equal number of offences after their diversion as they had before their diversion and eight percent of offenders increased. Fewer offenders in the Northern Territory increased their offending than in any other jurisdiction. Conversely, the Northern Territory had the highest proportion of offenders whose offending remained stable from the pre to post-diversion period.

In **Queensland**, among people with no recent criminal history, post-diversion offending increased for 24 percent and did not change for 77 percent. Among people with recent prior offending, offending decreased for the majority (60%) after diversion. Offending remained unchanged for 21 percent, and increased for 19 percent of those with recent prior offences.

Although the point estimates vary, the situation across the jurisdictions is relatively consistent. The majority of first-time or non-recent offenders diverted under the national IDDI did not reoffend – at least not within 18 months after their diversion. The rate varied between 70 percent in Tasmania and 86 percent in New South Wales. In contrast, between 14 and 30 percent of those with no recent history of offending did reoffend, committing at least one new offence episode within the 18 months after being diverted.

Of those offenders who had recorded at least one offending episode in the 18 months before their diversion, the majority (ranging between 53% in the Australian Capital Territory, and 66% in New South Wales and Victoria) experienced a relative decline in the number of offending episodes after diversion. This might be a decline from one to zero or from 10 to two, but in any case their offending was lower relative to an equal period of time before their diversion. Further analysis revealed that in all jurisdictions the majority (between 54% and 93%) of those who declined in their offending committed no offences in the period after their diversion. The

remaining 30 to 40 percent of those with a recent history of offending committed either more or an equal number of offence episodes after their

diversion. In some jurisdictions, an increase in offending was more prevalent than stabilisation, while in others, stabilisation occurred more often.

**Table 24: Post-diversion change in offending**

	n	No prior offences %		Prior offences %		
		Increased	No change	Increased	Stable	Decreased
New South Wales	11,020	14.1	85.9	17.5	16.4	66.1
South Australia	3,429	25.4	74.6	30.6	14.5	54.9
Tasmania	195	29.7	70.3	26.6	8.5	64.9
Australian Capital Territory	174	22.5	77.5	27.8	19.4	52.8
Victoria	1,278	18.9	81.1	18.2	15.5	66.3
Western Australia	1,329	23.4	76.6	20.7	10.1	64.3
Queensland <sup>a</sup>	470	23.5	76.5	18.5	21.2	60.3
Northern Territory	125	28.7	71.3	8.3	33.3	58.3

a: Offending is calculated over a 12-month period

Source: AIC Police Drug Diversion [computer file]

**Table 25: Pre–post change in offending<sup>a</sup>**

	n	No prior offences %			Prior offences %		
		Pre	Post	Change	Pre	Post	Change
New South Wales	11,020	0.0	0.2	0.2	1.7	1.2	-0.5*
South Australia	3,429	0.0	0.6	0.6	3.6	3.1	-0.5*
Tasmania	195	0.0	0.8	0.8	3.4	3.0	-0.4*
Australian Capital Territory	174	0.0	0.5	0.5	2.2	2.1	-0.1
Victoria	1,278	0.0	0.3	0.3	2.3	1.4	-0.9*
Western Australia	1,329	0.0	0.4	0.4	2.2	1.5	-0.7*
Queensland <sup>b</sup>	470	0.0	0.7	0.7	3.7	3.6	-0.1
Northern Territory	125	0.0	0.7	0.7	1.9	1.4	-0.5*

\* Statistically significant difference at  $p < 0.05$ ; Wilcoxon signed-rank test

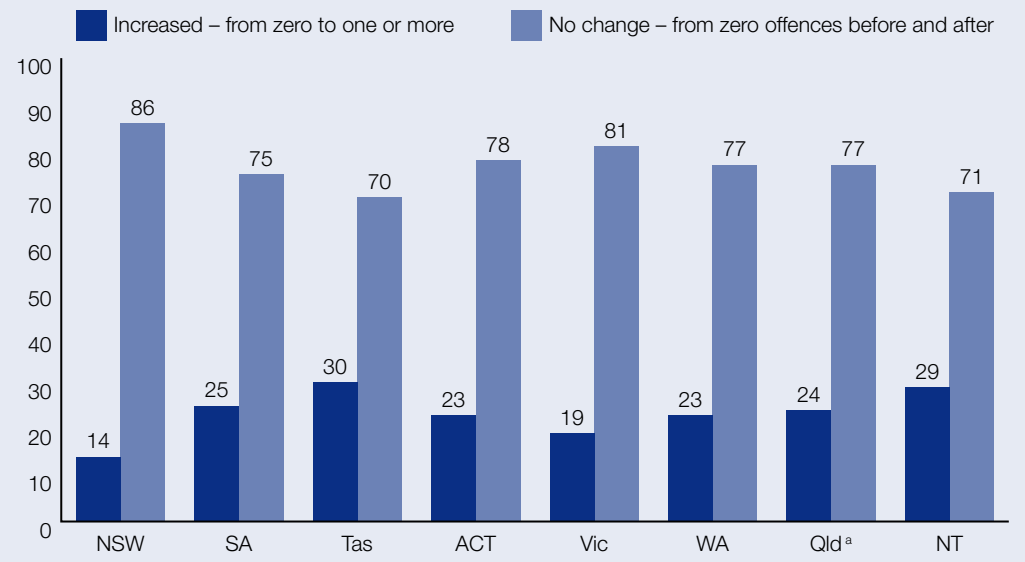
a: Offence rates are for equal pre and post-diversion periods. Standardised rates have been used for offenders with less than 18 months of observation.

The standardised rate is calculated as the average number offences committed per day of observation, multiplied by 545 days.

b: Offending is calculated over a 12-month period

Source: AIC Police Drug Diversion [computer file]

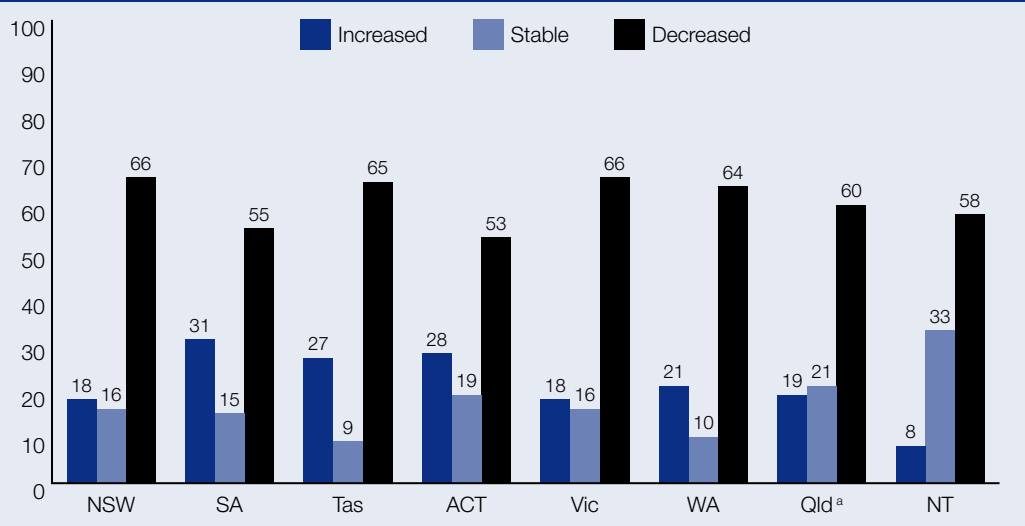
**Figure 8: Pre–post change in offending among those without prior offences (percentage)**



a: Offending is calculated over a 12-month period

Source: AIC Police Drug Diversion [computer file]

**Figure 9: Pre–post change in offending among those with prior offences (percentage)**



a: Offending is calculated over a 12-month period

Source: AIC Police Drug Diversion [computer file]



# Conclusion

The aim of this study was to identify the extent to which individuals referred to a police-based illicit drug diversion initiative reoffended. The study was unique in that, by obtaining relatively comparable data from all jurisdictions, it was able for the first time to assess recidivism levels for these types of programs across Australia and to examine factors that were predictive of reoffending.

In accordance with the aims of the national framework for the IDDI, all Australian states and territories now have implemented at least one police-based diversion program targeted at the use or possession of cannabis and cannabis implements. The majority also have a secondary component designed to respond to the use of other illicit drugs, while a small number also include the illicit use of prescription drugs. While these programs have a range of aims, including a reduction in drug use, improved health and wellbeing, and a reduction in the number of minor drug offenders entering the court system, the impact on drug-related reoffending is obviously a crucial indicator of program effectiveness.

Before discussing the key findings of this study, it must be stressed that any variation in reoffending from one program to another, and from one jurisdiction to another, is not indicative of variations in program success or effectiveness levels. Instead, key differences in program structure, client characteristics and the broader criminal justice

framework within which police drug diversion programs operate, all contribute to and help to explain jurisdictional variations in recidivism levels after diversion.

In relation to program structure and content, although police-based drug diversion initiatives share some broad similarities, there are crucial areas of differences including:

- whether police referral is mandatory or discretionary
- whether the program caters for youths only, both youths and adults, or adults only
- what eligibility criteria apply, particularly in relation to prior and concurrent offending records
- whether the offender is required to admit the offence
- the type of intervention provided
- whether the offender is obliged to comply with any requirements
- whether there are specific consequences for noncompliance (as is the case with the fine enforcement option in Western Australia).

These factors inevitably result in differences in the demographic characteristics and offending histories of those referred to the programs.

One factor potentially impacting on client profiles, and in turn on post-diversion recidivism, is the relative positioning of the police drug diversion

program(s) within each jurisdiction's broader criminal justice framework. In addition to police-based IDDI programs, some jurisdictions have a police infringement notice system for minor cannabis possession which, at least in South Australia, means that adults detected for such expiable offences are not eligible for diversion to the Police Drug Diversion Program. In addition, most jurisdictions now have in place at least one intermediate court-based drug diversion option (such as MERIT in New South Wales, CREDIT in Victoria and CARDS in South Australia) as well as a fully-fledged drug court. However, such a multiplicity of responses is not available in Tasmania, where police diversion offers the only alternative to formal prosecution. There is, therefore, the potential for this to impact on the characteristics of individuals referred to Tasmania's police-based IDDI program.

Finally, when interpreting the reoffending results from this study, it should be acknowledged that while every attempt was made to obtain comparable data from the jurisdictions, there were inevitable variations in sample size (ranging from over 11,000 in New South Wales to fewer than 200 in the Australian Capital Territory and the Northern Territory), which may impact on the robustness of some of the findings, and some variation in the way in which pre and post-offending were measured.

Given these and other differences among the programs, variations in both compliance levels and post-diversion reoffending are inevitable, as too are jurisdictional variations in those factors that help to predict reoffending. The key message here is that any differences among programs in reoffending levels post-diversion do not indicate variations in program effectiveness. Instead, the recidivism results must be interpreted within the context of the unique programmatic elements present in each jurisdiction. These are a product of the fact that, as originally envisaged by the national IDDI framework, each jurisdiction has tailored its responses to suit local conditions and priorities.

This is not to diminish the importance of the study's key findings. Instead, by providing the first comprehensive details on a program-by-program basis of post-diversion reoffending levels, together

with an indication of those factors that seem to be predictive of such reoffending, it provides some insight into how variations in program structure and their subsequent impact on client characteristics potentially influence program outcomes. Such information may, in turn, help to guide future planning and development of IDDI programs at both a national and state level.

## Client profiles

In terms of the demographic and offending profiles of people referred to police-based IDDI programs, the study found a relatively high degree of gender consistency, with males constituting the majority of people referred (from 70% in the Northern Territory to 86% in New South Wales). This accords with the profile of all offenders dealt with by the criminal justice system, with males constituting the majority of people apprehended by police, prosecuted in court and sentenced to imprisonment.

In contrast, there were marked inter-program variations in all other variables assessed. In particular:

**Offender age** – age varied considerably, with those programs focusing primarily on juveniles having a lower mean age than those catering for both juveniles and adults or for adults only. In the Northern Territory, where the majority of those referred were juveniles, the mean age of people referred to its drug diversion programs was 15.2 years. In comparison, the mean age in South Australia's Police Drug Diversion Program, which accepts referrals for both adults and juveniles, was 21.5 years, while in Western Australia, where referrals are limited to adults, the mean age was 26.8 years.

**Indigenous status** – the percentage of Indigenous people varied considerably (from 1% in Victoria and the Australian Capital Territory to 31% in the Northern Territory). While this is partly reflective of the size of the Indigenous population in those jurisdictions, this does not seem to account for all of the variation. For example, although Tasmania has a relatively small Indigenous population, 13 percent of those diverted were Indigenous. In contrast, even though Queensland has a relatively large Indigenous population, only



eight percent of its diversions were Indigenous. One explanation may lie in the type of eligibility criteria applied, particularly those pertaining to prior records (with Indigenous people potentially having longer criminal histories that may preclude them), as well as to the requirement that to be diverted an individual must, in most jurisdictions, admit the offence and agree to the diversion (a course of action which, as indicated by other research, often excludes Indigenous people).

**Prior offending** – prior offending records also varied widely among jurisdictions. When total figures for each jurisdiction are considered, people referred in New South Wales had the lowest levels of prior offending, with only 13 percent being charged with at least one criminal incident in the 18 months before diversion (including 8% with a prior property offence, 3% who had at least one prior violent offence and 2% with a prior drug offence). Moreover, of those NSW referrals with a criminal record, the majority (almost two-thirds) had been charged with only one incident in the 18 months preceding diversion, while very few (8%) had been charged with four or more prior events. These results are in marked contrast to those of Tasmania, which had the highest levels of prior offending. In that state, 48 percent of its diversion clients had offended during the preceding 18 months, including 28 percent charged with a prior property offence, 11 percent who had committed at least one previous violent offence and nine percent who had a prior drug offence. In addition, of these prior offenders, less than half had been charged with one previous criminal incident only, while almost three in 10 had been charged with four or more incidents. Prior offending rates in South Australia were almost as high, with 41 percent of its Police Drug Diversion Program referrals having offended in the 18 months before diversion, including 27 percent with a prior property offence, 13 percent with a prior violent offence and seven percent with a prior drug offence. Of those who had offended, three in 10 had been apprehended for four or more separate incidents.

**Eligibility criteria** – as noted earlier, these jurisdictional variations in client profiles are expected, given the marked variations in the eligibility criteria governing access to the various programs. South Australia arguably has the least

restrictive referral criteria of all programs. It targets both adults and juveniles: there are no restrictions on either the frequency or type of prior offending, or on the number or type of concurrent offences charged against an individual; there is no limit on the number of diversions that a person may receive; the individual does not have to admit the offence; and referral by police is mandatory. It is therefore not surprising that a comparatively high proportion of individuals referred to the Police Drug Diversion Program have a long offending history. In contrast, the NSW program is limited to adult cannabis users only; people with concurrent offences or who have prior drug, sex or violent offences are not admitted – only two cautions are permitted; the individual must admit the offence; and, within these specified parameters, referral remains at the discretion of police. In combination, these factors help to explain the relatively low prior offending records of its client base.

**Drug type** – within the one jurisdiction, prior offending records also seemed to vary depending on the type of drug targeted by the program, with people referred to those schemes catering for cannabis users only generally having lower prior records than those referred to programs directed at other illicit drug use. For example, in Tasmania, of those people diverted to its 1st Level Diversion (first cannabis offence only) program, 39 percent had a prior record compared with 71 percent of those diverted to 3rd Level Diversion (third cannabis offence or other illicit drug use). Similarly in Victoria, of those directed to the Cannabis Cautioning Program, one-quarter (25%) had a prior record compared with one-third (33%) of those directed to the Drug Diversion Program (i.e. other illicit drug use). However, there was at least one exception to this trend – in Western Australia, where those who received a Cannabis infringement notice had higher levels of prior offending than those directed to its All Drug Diversion program.

## Compliance levels

Some of those programs targeted at simple cannabis possession – such as the NSW Cannabis Cautioning Scheme, Tasmania's 1st Level Diversion (first cannabis notice) and Victoria's Cannabis Cautioning Program – involve the distribution

‘Not only did the majority of people referred... not reoffend in the 18 months post-diversion, but also in five of the eight jurisdictions the majority of those who did reoffend were charged with only one new offending incident.’

SEE PAGE 70

of education material only, with no further obligations placed on the offender. Similarly, in South Australia until March 2003, young people aged 14 to 17 years detected for their first cannabis or non-cannabis offence could be given education material only, with no further conditions imposed. Inevitably then, compliance levels could be considered to be 100 percent. In contrast, other cannabis cautioning programs together with those programs targeted at illicit drug use other than cannabis require attendance at one or more assessment and treatment sessions, with noncompliance potentially resulting in the individual being prosecuted in court for the original offence or, as in the case of Western Australia and Queensland, facing a financial penalty.

For those programs where some level of compliance was required, the majority of all people referred actually fulfilled those requirements, which is an encouraging finding. It is also noteworthy that compliance levels did not seem to be associated with the type of drug targeted. For example, compliance levels for Tasmania’s 2nd level Diversion and 3rd Level Diversion were virtually the same, even though one targeted second-time cannabis users, while the other included users of other illicit drugs. Similarly, South Australia and Queensland had relatively comparable compliance levels (78% excluding those who received education material only and 82% respectively), even though South Australia targeted adult and juvenile users of other illicit drugs as well as juvenile cannabis users, while Queensland targeted only adult cannabis users.

Inevitably though, there were differences in compliance levels among programs, which varied from 52 percent for Tasmania’s 2nd Level Diversion and 3rd Level Diversion, to 75 percent for Victoria’s Drug Diversion Program and 91 percent for the Australian Capital Territory’s Police Early Intervention and Diversion Program.

Compliance levels varied according to the characteristics of offenders, although the direction of the relationship was not necessarily consistent across all programs.

- In terms of gender, in South Australia, Tasmania, the Australian Capital Territory and Queensland, female noncompliance levels were higher than those of males. However, the reverse was true in Victoria and the Northern Territory.
- For those programs where Indigenous referral numbers were sufficiently large to permit comparisons with non-Indigenous referrals, no consistent findings emerged. Indigenous people recorded higher noncompliance levels in South Australia and Queensland, but markedly lower noncompliance levels in the Northern Territory and in Tasmania’s 2nd Level Diversion. The Northern Territory and Tasmanian results, combined with the earlier finding that these two jurisdictions also recorded relatively high Indigenous referral rates overall, may warrant further investigation because they run counter to the findings of a number of other studies that Indigenous people are not only less likely to be referred to diversionary options (such as family conferences, intermediate

court-based drug diversion programs and drug courts), but if referred, are more likely to be noncompliant. There may be useful lessons to learn from these two jurisdictions that could help improve Indigenous access to diversion across a broad range of programs.

- No consistent patterns emerged in relation to juvenile versus adult status. In South Australia, adults recorded higher noncompliance levels than juveniles, although in part this may be due to the fact that until March 2003, some juveniles could be given education material only, with no requirement to attend an assessment. These young people, for whom compliance was automatic, were not excluded from this analysis. Victoria's Drug Diversion Program recorded similar levels for the two age groups, while for Tasmania's 2nd Level Diversion and Queensland's cannabis diversion program, noncompliance was higher among juveniles than adults.
- More consistent patterns emerged in relation to offending histories. An analysis of South Australia's Police Drug Diversion Program, Victoria's Drug Diversion Program, Queensland's Police Diversion Program, the Australian Capital Territory's Police Early Intervention and Diversion Program, and Tasmania's 2nd level Diversion revealed higher noncompliance levels among those individuals who had at least one prior offence recorded against them in the 18 months before program referral compared with those who had no prior record. One exception was Tasmania's 3rd Level Diversion, where 50 percent of those with no prior offences failed to comply compared with 47 percent of those with prior offences.

The importance of prior offending as a key explanatory factor was verified by regression analysis. Excluding cautioning schemes where no compliance was required, the study found that in four of the five jurisdictions analysed, some form of prior offending (and in particular, property offending) remained a significant predictor of noncompliance once factors such as age, gender and Indigenous status had been controlled. In both Tasmania and Victoria, prior criminal history proved to be the only significant predictor of compliance. However, in Tasmania a recent history of drug offending was associated with a greater likelihood of noncompliance, while in Victoria the key factor was a prior property offence. In South Australia prior property and prior violent offending were both predictive of noncompliance, but so too were gender, Indigenous status and adult/juvenile status, with adults less likely to comply. In the Northern Territory prior property offending and Indigenous status were both predictive of noncompliance. One program where an individual's criminal history did not seem to be relevant was the Australian Capital Territory's Police Early Intervention and Diversion Program, where the only significant predictor of noncompliance was gender.

Given these results, it is no coincidence that, in general, where a high proportion of program participants had prior criminal histories, compliance levels were also comparatively low. To illustrate,

'Overall, it seems that compliance levels are very high, and that in the main, the majority of people referred to a police-based IDDI program do not offend post-program.'

SEE PAGE 73

Tasmania's 2nd Level Diversion and 3rd Level Diversion programs, which had the highest percentage of individuals with a prior property and drug offence, also recorded the lowest compliance levels (just over 50%). In contrast, a comparatively small proportion (less than one-quarter) of people referred to the Australian Capital Territory's diversionary programs had a prior offending record in the 18 months before diversion, while compliance levels exceeded 90 percent.

## Level of reoffending after program

Reoffending estimates generated from survival analysis indicated that in the first six months following diversion, the majority of individuals referred to a police-based IDDI program did not reoffend. This applied irrespective of the type of program or the jurisdiction within which it operated. (However, these results pertain to all people referred, including those who did not comply.) The figure varied from 70 percent for Tasmanian 1st, 2nd and 3rd Levels combined, to 90 percent in New South Wales. Although levels of reoffending were inevitably higher 18 months after diversion, even at this point the majority still remained offence-free. In fact, at the 18-month mark, less than 20 percent of people referred to the NSW Cannabis Cautioning Scheme had reoffended, while in the Australian Capital Territory, Victoria, Western Australia and the Northern Territory, one-third or less had reoffended. Both South Australia and Tasmania recorded the highest levels of reoffending (just over 40%); in both jurisdictions, a relatively high proportion of individuals referred to these programs had a prior offending record which, as described below, proved to be significantly related to post-program reoffending.

Not only did the majority of people referred to a police-based IDDI program not reoffend in the 18 months post-diversion, but also in five of the eight jurisdictions the majority of those who did reoffend were charged with only one new offending incident. The two exceptions were South Australia and Tasmania. There seemed to be a link between the prevalence and frequency of reoffending after

the program. In those jurisdictions (such as South Australia and Tasmania) where a comparatively high percentage of people reoffended, analysis indicated that of those who continued to reoffend, a relatively high percentage was reapprehended for multiple incidents. In South Australia, for example, 44 percent reoffended in the 18 months after diversion and of these, 34 percent were charged in relation to four or more separate criminal incidents. In contrast, in New South Wales, where only 18 percent reoffended, only one in 10 committed multiple offences after diversion.

In terms of the type of reoffending committed after the program, in four jurisdictions (New South Wales, the Australian Capital Territory, Western Australia and Queensland) drug offending was the most prominent, whereas in South Australia and Tasmania it was property offending. In Victoria, drug and property offences each accounted for similar proportions of reoffending. A similar pattern applied when analysis was limited to the first offence committed following diversion. Again, drug offences were predominant in most jurisdictions, with the exception of South Australia, where the first offence committed was more likely to be a property offence, and Tasmania, where other offences (notably breach offences) dominated, followed by property offences.

Reoffending levels were generally lower among those programs targeted specifically at cannabis possession than among those designed to respond to other illicit drugs. In Tasmania, for example, 18 months after diversion 35 percent of first-time cannabis offenders had committed a new offence, compared with 57 percent of those diverted for a third cannabis or other illicit drug offence. Similarly, in Victoria, 26 percent of people referred to the Cannabis Cautioning Program reoffended within 18 months compared with 33 percent of those dealt with under the Drug Diversion Program. However, this pattern did not apply in all situations. In Western Australia, for example, a lower percentage (27%) of those referred to its All Drug Diversion program reoffended within 18 months compared with 33 percent of those who attended the Cannabis Education Session.

Other factors also seemed to be associated with post-diversion recidivism. In particular:

- males and Indigenous people were generally more likely to reoffend than either females or non-Indigenous people
- in those programs that catered for both adults and juveniles, individuals under the age of 18 were more likely to reoffend than adults, with the exception of South Australia and the Australian Capital Territory
- there was also a consistent link between the prevalence and frequency of prior offending and subsequent reoffending. In six of the eight jurisdictions, over half of those individuals who had a prior criminal record reoffended, with the highest levels recorded in South Australia, where almost 70 percent of those with prior offences were apprehended for new offending in the 18 months after program referral. In contrast, among those with no prior offences, the percentage who reoffended was comparatively low, ranging from 14 percent in New South Wales to 31 percent in the Northern Territory
- a consistently higher percentage of those with multiple prior offences reoffended after diversion (between 57% in the Australian Capital Territory and 80% in South Australia) than was the case for those who had been apprehended for only one offence (between 34% in the Northern Territory and 53% in the Australian Capital Territory)
- there was an apparent relationship between program compliance and reoffending. In all jurisdictions, over half of those who did not comply with program requirements reoffended, compared with under half of those who did comply. This finding is particularly significant. All of the post-program recidivism results outlined so far pertain to those individuals referred to a police diversionary program, even if they did not attend any scheduled assessment or treatment sessions. This analysis, as noted, resulted in recidivism levels that varied from 18 percent in New South Wales to 44 percent in South Australia. However, if analysis is limited only to those who complied with the requirements (i.e. those who received education material only or who attended assessment), the post-program recidivism levels dropped.

Regression analysis was used to determine which factors remained significant predictors of reoffending once the effect of the other variables had been controlled for. The two variables that were identified as significant predictors of reoffending across most jurisdictions were prior offending and program noncompliance. In terms of prior offending, recent offending history (particularly that which included a previous property or violent offence), together with the frequency of that offending, were significant predictors of post-program recidivism in New South Wales and Victoria. In South Australia, recent offending history, frequency of offending and prior violent offences all proved to be relevant. In Queensland, the key factors were recent offending and, in particular, recent property offending. In Western Australia, both the prevalence and frequency of prior offending were significant predictors, although the type of

'At the very least, this report provides important baseline data across all of Australia's police-based IDDI programs that could potentially help jurisdictions identify areas where program reassessment and change may be useful.'

SEE PAGE 73

offending involved was not relevant. In Tasmania, the frequency of prior offending proved to be a significant predictor. One exception to this pattern was the Australian Capital Territory, where none of the prior offending measures proved to be predictive of post-program recidivism once the influence of other variables had been controlled for.

In relation to noncompliance, the only jurisdictions where this variable did not prove to be relevant were Tasmania and the Northern Territory. (New South Wales was not included in the analysis because in that state compliance is automatic.)

Other variables included in the regression analysis proved to be less important. Gender remained an independent predictor in only three jurisdictions (New South Wales, South Australia and Victoria), while Indigenous status was relevant in New South Wales and South Australia only. Age was a significant predictor in New South Wales only. There did not appear to be any consistency between the type of intervention offered and the level of reoffending. Although analysis was limited to Western Australia, South Australia, Tasmania and Victoria, this factor proved to be a significant predictive variable in Western Australia only. In contrast, in South Australia, whether an individual was diverted to a Brief Intervention session or received educational material only did not seem to be relevant. The earlier finding that cannabis diversion schemes seemed to have lower reoffending rates than those programs targeted at other illicit drug use, may therefore have more to do with differences in the prior offending records of participants than the nature of the program intervention itself.

## Shifts in pre and post-offending levels

While the results described above provide some indication of absolute recidivism levels after the program as well as some insight into how these vary depending on program structure and client characteristics, they tell little about whether, at an individual level, offending patterns changed following referral to police diversion. In the absence of a randomised or suitably matched control group

against which these post-program reoffending levels could be assessed, this study opted instead to compare individual offending patterns before and after diversion, on the assumption that any changes over time may be indicative (although not conclusive) of program impact.

Overall, the results were very positive, particularly in relation to those individuals who had a prior offending history. Among this group, the majority were apprehended for either no or fewer offences post-program than before, and this finding was consistent across all jurisdictions. Of those who had offended at least once during the 18 months before diversion, between 53 percent (Australian Capital Territory) and 66 percent (New South Wales and Victoria) recorded fewer offences in the 18 months after diversion.

Similarly, of those individuals who had not offended in the 18 months before diversion, the majority (ranging from 70% in Tasmania to 86% in New South Wales) remained non-offenders in an equal period after diversion. However, as these figures indicate, there was a certain percentage (varying from 14% in New South Wales to 30% in Tasmania) who shifted from the non-offending to the offending category following referral to an IDDI program. While these results may be slightly confounded by the fact that the analysis included individuals who may not have complied with, and so did not receive the full potential benefits of, diversion, another explanation may lie in the changing age-crime continuum, with offending tending to decrease as an individual becomes older. In this context, it is interesting that reoffending levels among pre-program non-offenders was highest in the Northern Territory (29%), which focuses primarily on juveniles, but was lowest in New South Wales, which targets adults only. Nevertheless, this relationship did not always hold true, which suggests that further investigation of this group may be warranted.

The other key finding is that the extent of decrease, particularly as it applied to those individuals with a prior offending record, was relatively consistent across jurisdictions. In five of the jurisdictions, between 60 and 66 percent of prior offenders did not reoffend after referral, while in the remaining three jurisdictions, the figure stood at between 50 and 59 percent. In other words, the percentage

change across these programs was comparatively similar, despite the marked variations among them in terms of absolute pre and post-offending levels. To illustrate, in New South Wales, relatively few people (13%) had a prior record of offending in the 18 months preceding diversion and relatively few (18%) reoffended after program diversion. In comparison, in Tasmania, a relatively high percentage of referrals had pre and post-offending records (76% and 42% respectively). Yet in both states, the percentage of prior offenders who recorded a decrease in offending after diversion was remarkably comparable (66% and 65% respectively). In other words, even though one program started with a higher level of prior offending and recorded higher levels of offending after program referral, the degree of change among its referrals was relatively similar to that of a program with lower pre and post-offending levels. A similar pattern tended to apply to those individuals who had no prior offences prior to referral. The percentage who did not offend post-program varied from 71 to 77 percent in six jurisdictions, while in New South Wales and Victoria it exceeded 80 percent.

## Concluding comments

The findings from this study are generally positive. Overall, it seems that compliance levels are very high, and that in the main, the majority of people referred to a police-based IDDI program do not offend post-program. Moreover, even among those individuals with a prior criminal record, the majority recorded a decrease in offending after diversion. While these decreases cannot definitively be attributed to the program itself (given the difficulties of ascribing causation to behavioural change), the trends are positive.

As expected, the analysis also indicated marked differences in post-program recidivism levels from one program to another, which are in large part attributable to variations in program structure and client characteristics, with differences in prior offending records being particularly critical. The data provide compelling evidence that the programs are targeting different categories of offenders. It is well documented that the link

between drugs and crime is multidimensional (Manski, Pepper & Petrie 2001). For some drug-using individuals, offending may commence and become entrenched before any drugs are used. In contrast, among another group, drug use comes first and may be associated with either no or minimal levels of offending after that time. The comparatively high levels of pre and post-program offending (and in particular property offending) recorded for both South Australia and Tasmania, together with the fact that both also respond to illicit drugs other than cannabis, suggest that these programs may be targeting the first type of offender described above. Programs such as the NSW Cannabis Cautioning Scheme – with its low levels of pre and post-offending, and the fact that much of that post-diversion offending involves a drug offence – may be more focused on drug users who are involved in little or no general offending.

The implications are interesting. For a start, the fact that the proportionate decrease in the percentage of individuals whose offending reduced after referral to the program when compared with their prior program offending history suggests that, irrespective of the category of offender that is being targeted, the program impacts on both entrenched offenders as well as predominantly non-offending drug users. However, the finding that those programs that accept clients with prior histories generally have higher post-program offending levels than those programs that target predominantly ‘clean skins’ raises some questions about the extent to which a police diversionary program – which is generally predicated on a brief assessment/treatment session – can impact on entrenched offending behaviour. It may be that those individuals with longer prior criminal records could be dealt with more appropriately via other diversionary mechanisms – notably intermediate court-based diversions such as CREDIT, MERIT and CARS, which provide more intensive intervention.

At the very least, this report provides important baseline data across all of Australia’s police-based IDDI programs that could potentially help jurisdictions identify areas where program reassessment and change may be useful.

# References

All URLs were correct at 18 June 2008

Australian Bureau of Statistics (ABS) 2004. *Experimental estimates and projections, Aboriginal and Torres Strait Islander Australians*. ABS cat. no. 3238.0. Canberra: ABS

Australian Bureau of Statistics (ABS) 2006. *Population by age and sex, Australia*. ABS cat. no. 3235.0. Canberra: ABS

Australian Government Department of Health and Ageing (DoHA) 2006. *Supplementary submission to the Parliamentary Joint Committee on the Australian Crime Commission's Inquiry into Amphetamines and Other Synthetic Drugs*. Canberra: DoHA

Baker J & Goh D 2004. *The Cannabis Cautioning Scheme three years on: an implementation and outcome evaluation*. Sydney: NSW Bureau of Crime Statistics and Research

Broadhurst RG & Loh NS 1995. Rearrest probabilities for the 1984–1993 apprehended Western Australian population: a survival analysis. *Journal of quantitative criminology* 11(3): 289–313

Bull M 2003. *Just treatment: a review of international programs for the diversion of drug related offenders from the criminal justice system*. Brisbane: Department of the Premier and Cabinet Queensland

Bull M 2005. A comparative review of best practice guidelines for the diversion of drug related offenders. *International journal of drug policy* 16(4): 223–234

Farrington DP & West DJ 1990. The Cambridge Study in Delinquent Development: a long-term follow-up of 411 London males, in Kerner H & Kaiser G (eds), *Criminality: personality, behavior and life history*. Berlin: Springer-Verlag: 115–138

Health Outcomes International (HOI), in association with Catherine Spooner Consulting, National Drug and Alcohol Research Centre, and Turning Point Alcohol and Drug Centre 2002. *Evaluation of Council of Australian Governments' initiatives on illicit drugs: final report to Department of Finance and Administration*. Canberra: Department of Finance and Administration

Manski CF, Pepper JV & Petrie CV (eds) 2001. *Informing America's policy on illegal drugs: what we don't know keeps hurting us*. Washington, DC: National Academy Press

Ministerial Council on Drug Strategy 1999. COAG Illicit Drug Diversion Initiative: Ministerial Council on Drug Strategy report to heads of government. Unpublished report. Australian Government Department of Health and Ageing

Mouzos J, Hind N, Smith L & Adams K 2007. *Drug Use Monitoring in Australia: 2006 annual report on drug use among police detainees*. Research and public policy series no. 75. Canberra: Australian Institute of Criminology. <http://www.aic.gov.au/publications/rpp/75/index.html>



NSW Government 2007. Compulsory Drug Treatment Correctional Centre. Drug Info website. [accessed February 2007] formerly at <http://www.druginfo.nsw.gov.au/>

Seymour J 1988. *Dealing with juvenile offenders*. North Ryde: Law Book Co.

Singer JD & Willett JB 2003. *Applied longitudinal data analysis: modeling change and event occurrence*. New York, NY: Oxford University Press

StataCorp 2006. *Statistical software: release 9.2*. College Station, TX: Stata Corporation

Taylor N & Bareja M 2005. *2002 National Police Custody Survey*. Technical and background paper series no.13. Canberra: Australian Institute of Criminology. <http://www.aic.gov.au/publications/tbp/tbp013/>

Wundersitz J 2007. *Criminal justice responses to drug and drug-related offending: are they working?* Technical and background paper series no. 25. Canberra: Australian Institute of Criminology. <http://www.aic.gov.au/publications/tbp/tbp025/>



# Appendix

## Summary of police drug diversion programs in each jurisdiction

Name	Drug type	Offence	Age	Prior offending allowed	Diversion mechanism	Times allowed to be diverted	Diversion options
<b>South Australia</b>							
Police Drug Diversion Program (cannabis)	Cannabis	Possession of small quantities	10–17	Yes	Police officer refers the offender to assessment and treatment via the Drug Diversion Line	No limit	Appointment with an assessor and subsequent referral to treatment and health services if deemed appropriate at assessment; educational material provided by assessor
Police Drug Diversion Program (other illicit drugs)	Other illicit drugs	Possession of small quantities	10+	Yes		No limit	
Police Drug Diversion Program (prescription drugs)	Prescription drugs	Possession of small quantities	10–17	Yes		No limit	
<b>New South Wales</b>							
Cannabis Cautioning Scheme	Cannabis	Possession of not more than 15 g (of dried cannabis) or equipment for using cannabis	18+	Non-violent only; no prior convictions for drug, violent or sexual assault offences	Police officer issues formal caution notice to the offender. Notice contains information about the legal and health consequences of cannabis use, as well as the phone number of a 24-hour dedicated Cannabis Cautioning telephone helpline.	Twice (max.)	First offence – encouraged to contact health service Second offence – required to contact and attend education program
<b>Tasmania</b>							
1st Level Diversion – Cannabis Caution	Cannabis (first offence)	Possession	10 to adult	Yes	Offender issued with a 1st Level Diversion – Cannabis Caution notice. No further action necessary	Once	Cautioned
2nd Level Diversion – Brief Intervention	Cannabis (second offence)	Possession	10 to adult	Yes	Offender advised that they must contact the relevant alcohol and drug service within three working days. Offender makes an appointment with service to attend an education and assessment session	Once	Offender has to attend an education and assessment session. The session must be conducted within 21 days, with noncompliance resulting in the offender having to attend court for prosecution

## Summary of police drug diversion programs in each jurisdiction (continued)

Name	Drug type	Offence	Age	Prior offending allowed	Diversion mechanism	Times allowed to be diverted	Diversion options
<b>Tasmania (continued)</b>							
3rd Level Diversion – Assessment and Treatment	Cannabis (third offence) or Other Illicits	Possession	10 to adult	Yes	On being apprehended with cannabis for the third time, or with any other illicit drug, offender is advised that they must contact the relevant alcohol and drug service within three working days. Offender makes an appointment to attend an assessment.	Three times in 10 years	Assessment is used to match the offender with an appropriate treatment intervention. Following assessment, treatment may involve group work, residential rehabilitation, detoxification, psychological therapies, pharmacotherapy treatment and counselling
<b>Northern Territory</b>							
Illicit Drug Pre-court Diversion Program/ Cannabis Expiation Notice Scheme	Cannabis	Possession (first time) or personal use offences	10 to adult	No prior criminal history of violent or drug offences	Police officer issues an infringement notice to the offender. An education and self-referral pamphlet is also provided. There is no requirement to attend any assessment or education session. On expiation, an offender's record is expunged	Once	Infringement notice only; self-referral for treatment available, but not required
Illicit Drug Pre-court Diversion Program	Non-cannabis	Possession (first time) or personal use offences	10 to adult	Non-violent only; no prior criminal history of violent offences	Police officer issues an infringement and instructs the offender to call the diversion service. Offender makes an appointment to attend assessment	No limit	Offender attends assessment and is referred to education, counselling and treatment services
<b>Western Australia</b>							
Cannabis infringement notice	Cannabis	Possession of a smoking implement with traces of cannabis; use of or possession of small quantities of cannabis; cultivation of not more than two non-hydroponically grown cannabis plants	18+	Yes	Police issue a Cannabis infringement notice	No limit, although expiation by payment option is removed in cases where an offender has received three or more Cannabis infringement notices on two or more days in the past three years	Cannabis infringement notice must be expiated within 28 days either by paying a fine (depending on offence) or attending a Cannabis Education Session. Attending the Cannabis Education Session is in lieu of payment of the fine. A person may instead elect to have the matter heard in court

## Summary of police drug diversion programs in each jurisdiction (continued)

Name	Drug type	Offence	Age	Prior offending allowed	Diversion mechanism	Times allowed to be diverted	Diversion options
<b>Western Australia (continued)</b>							
All Drug Diversion	Other illicit drugs	Possession of small quantities, personal use, or implements offences	18+	Serious violent offences (specified list) and prior convictions for drug dealing not permitted	On apprehension, the police officer contacts a booking service to arrange the first session. The offender must then attend this session, and arrange to attend two subsequent sessions	Once	The first session involves assessment by the treatment provider. This assessment session affects the treatment received in the two subsequent sessions
<b>Victoria</b>							
Cannabis Cautioning Program	Cannabis	Use and/or possession of small amounts (non-trafficable quantities)	17+	Yes	Police officer provides Caution with Cannabis brochure to the offender, which includes relevant referral telephone numbers. Contact with the education and referral providers is initiated voluntarily by the offender	Twice (max.)	A voluntary cannabis education program is available to accompany the cannabis caution. This program is currently available in 15 locations across Victoria, in both metropolitan and rural areas, and is also open to friends and family members
Drug Diversion Program (non-cannabis)	Other illicit drugs	Possession	10+	Yes	Police officer, in consultation with the offender, establishes the most appropriate treatment agency. Police call the Drug Diversion Appointment Line to organise an appointment	Twice (max.)	Offender is required to attend drug assessment within five days of being issued with a caution. At the assessment, a treatment plan is formulated and an appointment made for a second session with the treatment provider. The second session is to take place within five days of the first appointment
<b>Australian Capital Territory</b>							
Police Early Intervention and Diversion Program (cannabis)	Cannabis	Possession	10 to adult	Yes, except diversion not be available where a violent crime has been committed	Police review and decide on eligibility. The client is referred to the Alcohol & Drug Program Diversion Service for assessment, and then referred to an approved ACT agency for treatment	Twice (max.)	Offender is to attend assessment and any recommended treatment plan. Treatment can include education, counselling, withdrawal, pharmacotherapy or residential rehabilitation

### Summary of police drug diversion programs in each jurisdiction (continued)

Name	Drug type	Offence	Age	Prior offending allowed	Diversion mechanism	Times allowed to be diverted	Diversion options
<b>Australian Capital Territory (continued)</b>							
Police Early Intervention and Diversion (non-cannabis)	Other illicit drugs	Possession	10 to adult				
<b>Queensland</b>							
Police Diversion Program (cannabis)	Cannabis	Possession of not more than 50 g, including the possession of implements that are, or have been, used for the smoking of cannabis	10 to adult	Non-violent only; diversion will not be offered to people with prior convictions for violent offences	Police officer provides offender with information about the DDAP. Officer to make an appointment with the closest DDAP provider. If the offer of diversion is rejected, the offender will be processed as normal	Twice (max.)	Offender is required to attend the DDAP. Offender must comply with any recommended treatment plan



## **AIC Reports**

### **Research and Public Policy Series 97**

In 2006, the Australian Institute of Criminology assessed the effectiveness of state and territory drug diversion programs established by the Illicit Drug Diversion Initiative (IDDI) to reduce illicit drug users' contact with the criminal justice system. This report examines programs run by policing agencies. It looks at the structure and effectiveness of Australian state and territory approaches to IDDI programs through comparison of offending behaviour before and after program attendance. The type and number of prior offences, Indigenous status, age, gender and compliance with intervention programs were examined as potential predictors of post-diversion levels of recidivism. While varying in significance between jurisdictions, these issues show their influence in affecting offender numbers, offending frequency, offence type and associated factors.

Australia's national research and  
knowledge centre on crime and justice

**[www.aic.gov.au](http://www.aic.gov.au)**