

Australian approaches to drug-crime diversion

AICrime reduction matters no. 22 discussed the complex nature of the association between drug use and involvement in crime. It also highlighted the role of efforts to divert drug users from further crime involvement.

There are five main types of drug-crime diversionary programs currently in use across Australia. The continuum of opportunities for minimising the progress of offenders through the criminal justice system (CJS) or diverting them out altogether is described here, along with some examples of diversionary measures. Note that within these broad categories, there are a large number of possible interventions and each strategy can be implemented in different ways and in different combinations. The following only summarises the key stages and main intervention types.

1. Pre-arrest – i.e. when an offence is first detected, prior to a charge being laid. Diversionary measures here can include *police discretion* (e.g. offence detected but no action taken); *infringement notice* (e.g. fine but no record); *informal warning* (no record); *formal caution* (verbal warning with record kept, but no further action); and *caution plus intervention* (i.e. warning and record, plus information or referral to an intervention program).
2. Pre-trial – i.e. when a charge is made but before the matter is heard at court. Measures can include *treatment as a bail condition* (e.g. no conviction if recorded if treatment program completed successfully); *conferencing*; and *prosecutor discretion* (e.g. treatment offered as alternative to proceeding with prosecution)
3. Pre-sentence – i.e. after conviction but before sentencing. Includes measures such as *delay of sentence* where the offender may be assessed or treated. The process can include sanctions for non-compliance and incentives such as no conviction recorded.
4. Post-conviction/sentence – i.e. as a part of sentencing. Diversionary measures here include *suspended sentences* of imprisonment requiring compliance with specific conditions (e.g. participation in treatment, abstinence from drugs, avoidance of specific associates, etc.); *drug courts* (i.e. judicially supervised or enforced treatment programs); and *non-custodial sentences* involving a supervised order, probation or bond requiring participation in treatment as part of a sentence.
5. Pre-release – i.e. prior to release from detention or gaol on parole. Options include *transfer to drug treatment* (e.g. while still in custody, being transferred to a secure residential treatment program which is supervised 24 hour a day) and *early release to treatment* such that an inmate may be released early from detention into a structured, supervised treatment program.

AICrime reduction matters no. 24 looks in more detail at the operation of drug courts as a drug crime diversionary measure.

Further reading:

Spooner C, Hall W & Mattick R 2001. An overview of diversion strategies for Australian drug-related offenders. *Drug and Alcohol Review* 20, 281-94

