

WA CANNABIS CAUTIONING AND MANDATORY EDUCATION SYSTEM

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Introduction

There is a lot of concern among many specialists within the drug environment that the health and social detriment of applying the law against cannabis users may be as significant as those that flow directly from cannabis use itself.

A number of States and Territories have adopted differing legislative and regulatory models incorporating either infringement notices or formal cautions for cannabis possession and use.

South Australia, the Australian Capital Territory and the Northern Territory have each adopted a cannabis expiation notice system whereby minor cannabis offences are dealt with by an 'on the spot' fine.

Victoria, Queensland, New South Wales, Tasmania and Western Australia all have maintained legislative systems of total prohibition of cannabis. However, with the recent research that has focused on some of the adverse social impacts that a conviction for a minor cannabis offence, some governments who see it as a response to the problems associated with the total prohibition approach, are embracing several systems of formal cannabis cautioning. Of these the WA system is the most fundamentally different in that there is a mandatory education session attached to each caution.

In this presentation I will briefly cover the background and the proposal for a cannabis cautioning system in Western Australia. I will examine the major principles behind the style of intervention chosen and implemented, along with the benefits identified by police and others during the pilot phase. I will finish by highlighting some case examples of how this system is working even under very difficult situations.

Background

Surveys conducted of cannabis use in Western Australia, prior to the introduction of the Cannabis Cautioning Notice system, indicated that its extent of use has increased steadily into the mid 1990's. It is understood that surveys in all other States have indicated similar trends.

The recognised harms associated with cannabis intoxication and the level of community concern meant that any future direction by the WA Government and police could not be seen as going soft against those who offended. However a more effective and efficient method of dealing with offenders where they would abstain or reduce their cannabis use was necessary.

Other recent studies from the National Drug and Alcohol Research Centre and elsewhere, has highlighted the difficulties and dangers involved with prolonged cannabis use, with over 200,000 Australians being dependant on this drug. Also the number of callers contacting the WA Alcohol and Drug Information Service and Specialist Drug Treatment Services about cannabis related problems has steadily increased in the past few years (ADIS 2000).

There was an obvious need to find another system of dealing with cannabis users, that had a better impact in reducing their future demand and harms associated with its use.

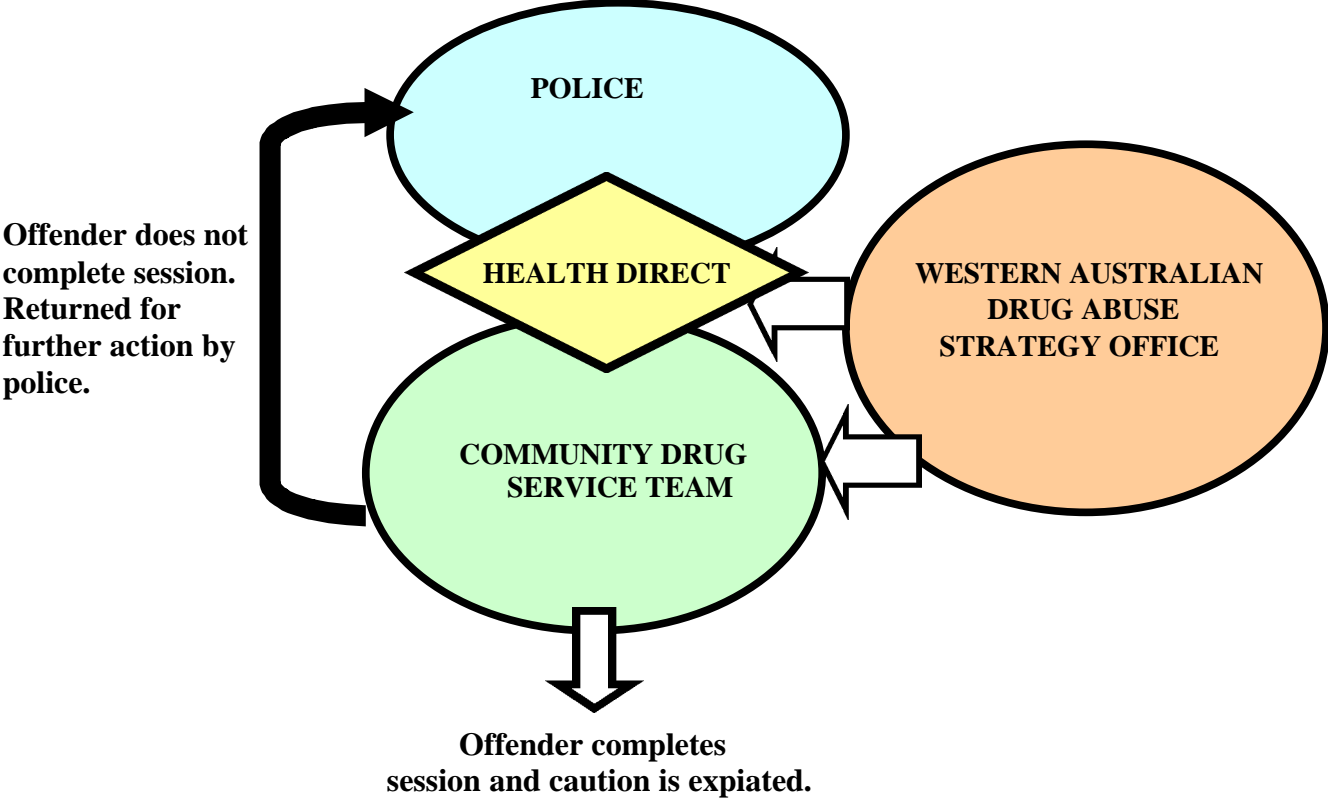
Proposal for a Cautioning System in WA

Building on the Victorian model it was found that a formal cautioning system had the potential to provide a more meaningful intervention, that had a greater and more positive impact on the individual concerned. Those examining its adaptability in WA, acknowledged as being critical, that all cautions for simple offences include an educational intervention. This would provide interventionists with the opportunity to have a greater impact on the offender's behaviour and also reinforce the community's opposition to cannabis abuse. The system would alleviate the substantial impact on Police Service resources that are applied currently to pursue prosecutions for simple cannabis offences. This would also be the case for the courts system.

Thus it was agreed that the proposed provision of a caution notice from police would be conditional upon an extensive educational intervention. Offenders meeting the criteria for eligibility would be required to attend a cannabis education session. At apprehension, the police officer would complete the necessary evidentiary requirements for a charge to be laid prior to issuing the caution. Failure to attend the educational session would then result in a summons being issued for the offence.

Educational sessions would need to be held on a regular basis and the offender required to attend within a defined period. Service provision by Community Drug Service Teams would allow for sessions to be held in various metropolitan and country locations. The educational intervention would be applied to reasonably small groups of individuals (from one to twenty) and would, therefore, allow for interactive intervention and the potential for encouraging a change in behaviour.

Figure 1. WA Cannabis Caution and Mandatory Education Model



Principles Behind the WA Cannabis Cautioning and Mandatory Education System (Ccmes)

The goals and objectives of the CCMES are to:

- achieve a more effective way of dealing with people caught in the criminal justice system for first time simple cannabis offences.
- improve knowledge and attitudes regarding cannabis use by offenders, and
- improve police procedures including a more streamlined process and more positive interaction with offenders.

To achieve these objectives both efficiently and effectively, several principles used in interventions and addressing criminal behaviour were blended to produce a viable and workable system.

Motivational Interviewing

Unlike other cannabis cautioning models, the Western Australia system provides for a face-to-face, personal interaction with individuals or small groups that has a better probability of changing behaviour.

Researchers from the Western Australian Drug Abuse Strategy Office working with other partners based the formation of the education session on studies done in relation to 'motivational interviewing'. Inadequate motivation is a crucial factor for the substance abuser's inability to change harmful behaviour. Motivational interviewing consists of a set of formalised, theory-based, and empirically evaluated interpersonal communication techniques designed to help participants to identify and acknowledge substance abuse behaviours and to move toward cessation. In this instance it is the counsellor's responsibility for motivating or increasing the likelihood that the patient will follow a course of action towards change. This process is not about confronting participants regarding their substance use or to tell them to stop; it is about purposeful interaction that enhances the participant's motivation to change problematic substance use (Compton et al. 1999).

The content and structure of the education session is standardised, however there is room for flexibility to explore participant's issues as they arise. The session focuses on the health, psychological and social harms of cannabis and is designed to motivate behaviour change using an interactive approach, as mentioned above. Follow-up of participants is optional, based on clinical judgement by the Community Drug Service Team (CDST). At the conclusion of the education sessions, the counsellor makes it known that the CDST is available for continuing treatment and support. The format is as follows:

- Welcome
- Video (Candidly Cannabis)
- Review video – brainstorm and discussion session
- Decision making/motivational exercise
- Goal setting and action planning
- Information and continuing treatment and support
- Summary and close.

This personalised interaction form of intervention has recently been supported by a fundamentally similar research project conducted by the National Drug and Alcohol Research Centre. The project used a series of counselling sessions designed to provide cannabis users with the skills necessary to quit. The investigators, Dr Jan Copeland and Dr Wendy Swift found that 10% of participants who had 6 sessions of counselling and 3.6% who had 1 session were able to totally abstain from cannabis use after the program. 'It appears as though the trial was extremely successful in reducing the amount of cannabis used and related problems. We found that even a single session of counselling made a significant impact on levels of cannabis use ...', (Dr Copeland in press release Dillon 1999).

Rational Choice and Deterrence Theory (Sure, Swift and Severe).

It must be reiterated that in Western Australia, the 'use' of and 'possession' of cannabis is still an arrestable offence. Past studies as to why people engage in criminal behaviour, have focused on the element of *personal choice*, which is based within the concepts of *rationality* or *rational choice*, developed in the analysis of human behaviour by the early *classical theorists*, Cesare Beccaria and Jeremy Bentham. One of the central points of this theory is - the *Swiftness, Severity and Certainty* of punishment are the key elements in understanding a law's ability to control human behaviour (Keel 1997). The Western Australian CCMES has adopted this '*sure, swift and severe*' premise into consideration when structuring the cannabis cautioning and mandatory education process.

Sure – for those that flout the law and use cannabis there is no confusion or uncertainty that they will be dealt with by police. In the first instance (first offence) they will be eligible to receive a caution and for any subsequent offences they will be charged to appear before the courts. Also if initially cautioned but the educational session is not completed satisfactorily then the caution is withdrawn and the offender is summonsed to appear in court. There is no walking away, or failing to pay a fine with this model. There is no escaping, of either going to the education session or going to court for every offence.

Swift – it is maintained that the timeliness of the education session, after a person has been caught is critical to the overall success of this form of diversion and intervention. Having been issued with a CCMES Notice the participant must successfully complete the educational session within a 2-week time frame. One of the problems with the present judicial system is the disassociation of the crime and the punishment due to the long wait before a matter is finalised through the courts. The short time frame between the provision of the educational session and the actual commission of the offence within this CCMES, helps to benefit the impact and objectives of the intervention. The education session can be better related to the actual commission of the offence and problems encountered.

Severe – there are a number of interesting issues here. Firstly there is the claim that the social harms caused by a simple cannabis conviction is as detrimental, if not worse to the health harms associated with cannabis use (punishment being too severe for the crime). Secondly, that simple 'possession' and 'use' of cannabis is still an arrestable offence, however the penalties imposed on individuals from court, are not contributing to the government policy objective of discouraging cannabis use (penalties are not severe enough to discourage use). Police are caught in this complex dichotomy. Whilst acknowledging that there are very severe consequences involved in a drug conviction, which does not necessarily reflect the seriousness of the offence; they have in the past been left with no other option but to arrest due to accountability controls being forced upon them from watchdog agencies such as the

Anti-Corruption Commission, or the like in other States. Police are also, all too well aware of the confusion caused by present drug laws, which don't necessarily focus on substances that cause the most harms to society, such as alcohol (Martin 1997). The time involved, punishment received and effort devoted by police in tackling the cannabis problem, is not balanced and justified by the results received.

The other aspect of *sure, swift and severe*, is its use as a selling point for the CCMES, to police. Although traditional attitudes are changing, many officers still have difficulties with the idea of issuing a caution notice to someone involved in flouting the law in regards to drugs. The sure, swift and severe principle was used in a way to generate a sense of rationale to this cannabis cautioning system and its position in the fight against drug abuse. Police officers were better able to accept cannabis cautioning as a viable alternative to traditional enforcement, and thus the concept gained better acceptance and was more readily used by operational police.

Benefits Identified by Police

The CCMES has given police the opportunity to view drug enforcement from a very different perspective. The true benefits of adopting new intervention and diversion strategies had begun to be realised and applied in an operational sense. New partnerships, with increased cooperation and collaboration, inline with the National and State Drug strategies had been accomplished and proved to be very effective in tackling community drug issues.

More specifically there were some real benefits being realised by this system that became more obvious to police.

- The independent evaluation of the CCMES through the comparison of responses to pre- and post-session questionnaires, indicated that there was a better and more enhanced knowledge of cannabis by 76% of the participants.
- Another advantage of the system identified by police and CDST staff is that those issued with cautions are formally linked with the Alcohol and other Drugs treatment system. For many participants this may be the only contact they have with agencies able to assist them with problematic drug use. It provides a 'window of opportunity' that otherwise or previously did not exist.
- Actual use of cannabis - 13/19 reported less cannabis use. Intentions to continue using cannabis - 4/19 did not intend using cannabis again, whilst 4 / 19 intended reducing their cannabis use.
- Attitudes to police were described as generally favourable by 10/19 and unsure or it depends by 7/19.
- As a result of experience with cautioning, 5/19 reported more respect or trust of police, and 7/19 reported no change from initial respect or trust of police. There is a belief that this will have a flow-on effect of providing more respect for police who are seen to be fair.
- It provides police with more options to resolving matters.
- Police timesaving provided by the system.

Conclusion

Finding initiatives that work to both reduce the demand for drugs and prevent future drug use is the challenge that is faced by all those involved in the struggle against drugs. There is evidence emerging from recent studies, which indicate that by providing good knowledge and education, through a system that affords the best opportunity to influence and change a person's behaviour, positive results in moving people away from using drugs can be achieved. The Western Australian CCMES is achieving this. The independent evaluators of the pilot reported, that indeed it is the potential of the education session to provide a 'space' for review, reflection and learning that is seen to be a strength of the system by staff from the CDST, the Police and even by some participants (Penter, Walker and Devenish-Mears 1999).

With the push for greater diversion and intervention for the 'harder drugs' gaining more momentum, it is important not to shift all our focus, and allow ourselves to become apathetic towards the so called softer drugs. Cannabis is still the first drug of choice for most of our youth who choose to experiment with illegal drugs. Efforts towards preventing future cannabis use will flow-on towards preventing future use of other illegal drugs. Therefore all efforts towards preventing cannabis use must be as great and as committed, as efforts towards all other drugs. In the British Drug Strategy it stated that:

“We need to ensure that young people have all the information they need to make informed decisions about drugs; that we follow up tough words with decisive action; and that there really is proper partnership to tackle the problem. If we can make our vision a reality, we have the chance to make ... a better place”.

In Western Australia we believe that we have a system of CCMES that *IS* producing results.

Case Example 1

A routine traffic stop on the Eyre highway by Eucla police identified a young female in possession of a small quantity of cannabis. Previously she would have either been returned to the Eucla town site to appear in a hastily convened court or a summons forwarded to her home at some later time, for a future appearance in court. From this remote location on the highway, the person was given a caution notice to attend an educational session in Northam, which she completed within the mandatory two weeks. This matter was finalised very efficiently saving police an enormous amount of time.

Case Example 2

A middle aged male person was detected in possession of a small amount of cannabis for personal use in a rural country centre. Instead of being charged he was cautioned and attended the education session. During discussions with the counsellor about his cannabis use he explained how he had been using cannabis extensively for many years and was a regular smoker. He described how frequent cannabis use had sneaked up on him and how he had forgotten about or pushed away all the reasons not to smoke it. He admitted that the education session had reminded him how harmful cannabis really was and had given him new resolve to at least reduce his cannabis use in the future with an aim to quit all together.

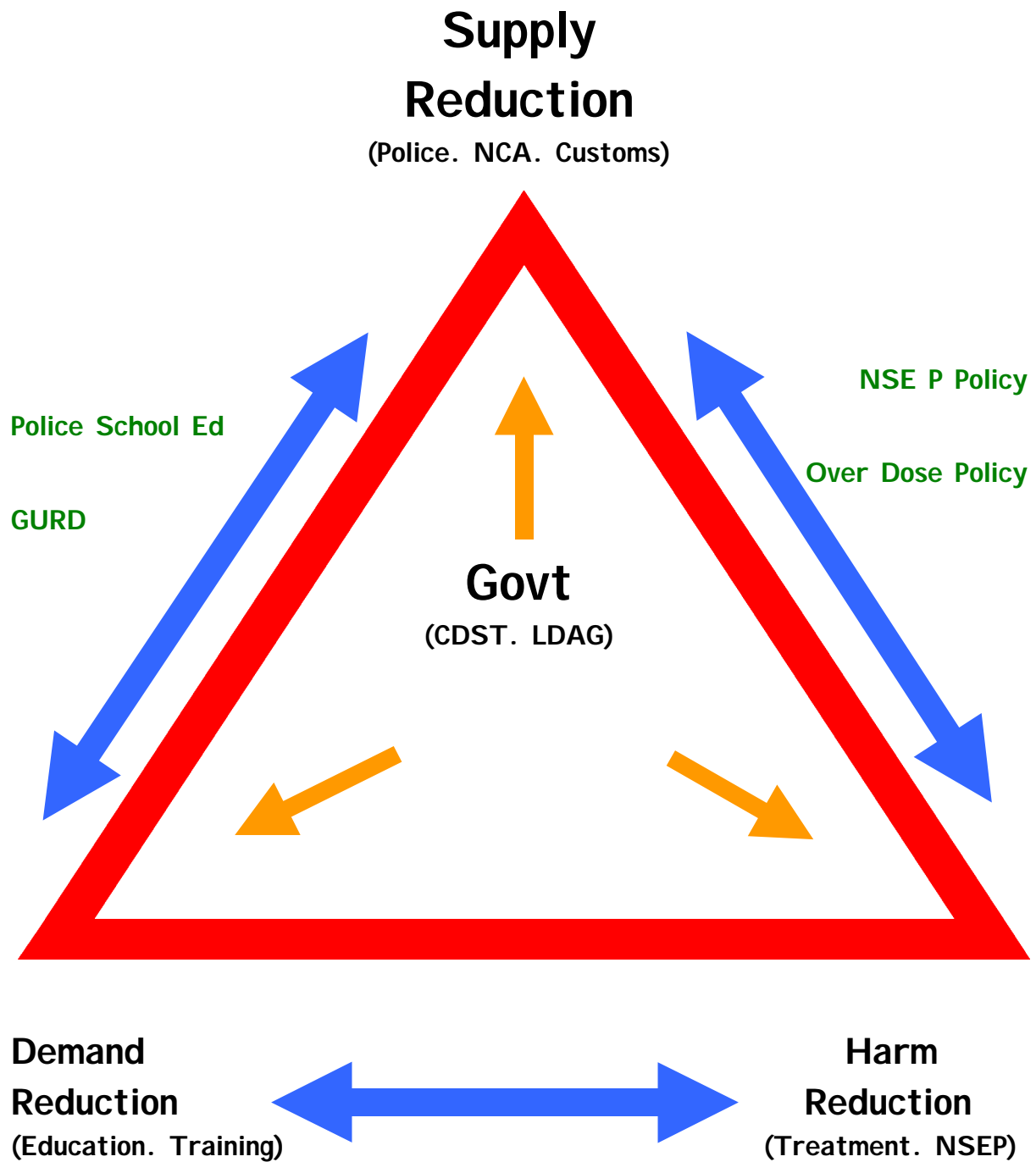
Case Example 3

A young 19 year old male was detected in possession of a small amount of cannabis in a rural mining centre in the North West of WA. When he attended the education session the counsellor described him as someone with an attitude of, being cool and not giving a dam. During initial discussions he was laid back about proceedings and just wanted to get the session over and done with. However the counsellor was able to identify and focus in on the fact that he was attending TAFE to gain qualifications for future employment in the mining industry. She directed her attention towards his aspirations and future goals, relating it back to his cannabis use. At the end of the session she reported that his attitude had changed completely, and that he was more understanding about how harmful behaviours such as cannabis use, could affect his future plans and aspirations.

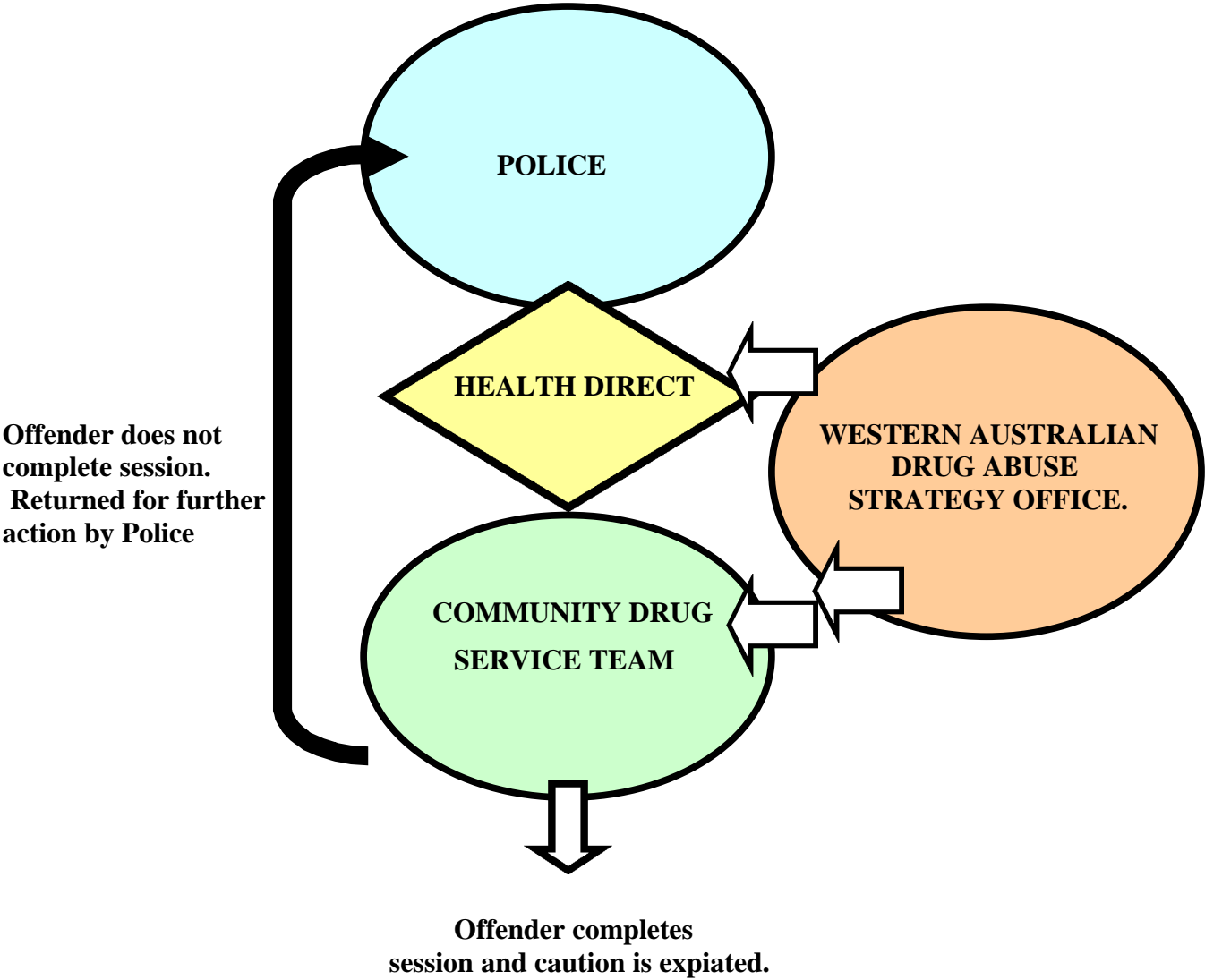
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Drug Enforcement Model



WA Cannabis Caution & Mandatory Education System.



**Police Use of Discretion
Issue a Caution**

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**Motivational
Interviewing**

**Education
Session**

Sure, Swift and Severe

=

**Cannabis Cautioning &
Mandatory Education System**

Education Session Format

Welcome

Video (Candidly Cannabis)

Review Video – Brainstorm and Discussion

Decision Making/Motivational Exercise

Goal Setting and Action Planning

Information & Cont. Treatment & Support

Summary & Close

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