



Criminal Justice Diversion Program

20 January 2010

The Criminal Justice Diversion Program (CJDP) provides mainly first time offenders with the opportunity to avoid a criminal record by undertaking conditions that benefit the offender, victim and community as a whole.

The Program commenced as a pilot at Broadmeadows Magistrates' Court in 1997. Although it was limited in the types of cases that could be brought before the program, the results produced a less than 5% failure to complete the conditions required and less than 1% re-offending. Senior police, courts and the legal profession reviewed the pilot and a revised scheme commenced at Broadmeadows and Heidelberg Courts in November 2000. The Program was established at all headquarters courts in 2001 and is now available at all Magistrates' Courts across Victoria, with 14 Diversion Co-ordinators administering the program within the court regions.

In the 2004/05 state budget, the government allocated \$12.3 million to the *Maintaining Community Confidence in the Legal System* initiative. This initiative includes the Court Referral and Evaluation for Drug Intervention & Treatment (CREDIT) Program and the Criminal Justice Diversion Program. The Government's *Growing Victoria Together* plan committed to reducing offending and re-offending rates.

The CJDP provides the following benefits:

- ensures that restitution is made to the victim of the offence if appropriate
- ensures the victim receives an apology if appropriate
- reduces the likelihood of re-offending
- assists offenders to avoid an accessible criminal record
- assists in the provision of rehabilitation services to the offender
- increases the use of community resources to provide counselling and treatment services
- assists local community projects with voluntary work and donations

The CJDP is governed by section 59 of the *Criminal Procedure Act 2009*. The matter must meet the following criteria before Diversion can be recommended:

- the offence is triable summarily and not subject to a minimum or fixed sentence or penalty (except demerit points)
- the accused acknowledges responsibility for the offence

The existence of prior convictions does not disqualify an accused from the program but the Court will take this into account in deciding whether the Diversion Program is appropriate.

Offences under the *Road Safety Act 1986* may be suitable for Diversion, with the exception of offences relating to the driving of a vehicle whilst under the influence of alcohol or drugs.

Demerit points are still recorded with VicRoads for the relevant regulated offences.

Anyone can apply for Diversion throughout the court process. However, Diversion cannot commence without the prosecution's consent. The filing of a Diversion Notice indicates the prosecution has consented to the Diversion process. The Magistrate or Judicial Registrar must then also deem the accused suitable before the matter may proceed by way of Diversion.

Where a charge involves a victim, the Court seeks the victim's view of the matter. This may include:

- whether the victim agrees with the course of action
- the amount of compensation sought for damage to property
- how the crime has affected the victim

Victims are not obliged to respond to the Court's contact. However, the victim is entitled to express his/her view by way of letter or in person on the day of the hearing. The Court will notify victims of the hearing's outcome, if requested to do so.

Evaluation of the CJDP suggests that the program is achieving the primary aim of reducing recidivism committed to by the Government's *Growing Victoria Together* initiative.

Evaluation of the Criminal Justice Diversion Program was completed in November 2004 by Health Outcomes International and Turning Point Alcohol and Drug Centre comprising: a process evaluation that examined the operational aspects of the program using both quantitative and qualitative data; and a legislative and policy review that examined the legislative and policy mechanisms established for the program and its effectiveness.

The evaluation found that a sample of 100 participants indicated that less than 7% re-offended within 12 months of exiting the program. A comparison group indicated 17.5% re-offending. Based upon the 2004-05 results of 5938 accused, only 208 re-offended with the introduction of the CJDP. Without the CJDP, 1039 of the 5938 accused would have re-offended.

For further information, please contact David Christie, Senior Diversion Co-ordinator on 9628 7862.

The Magistrates'
Court of
Victoria

