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# Cannabis and the criminal justice system

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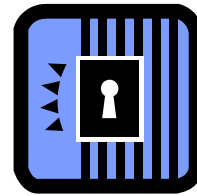
# Overview of presentation

- **Criminal justice system in Australia**
- **Cannabis use in the general population and among regular drug users**
- **Responses to drug use and offending**
  - Australia's National Drug Strategy (and National Cannabis Strategy)
  - drug diversion



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# Overview of the Australian criminal justice system



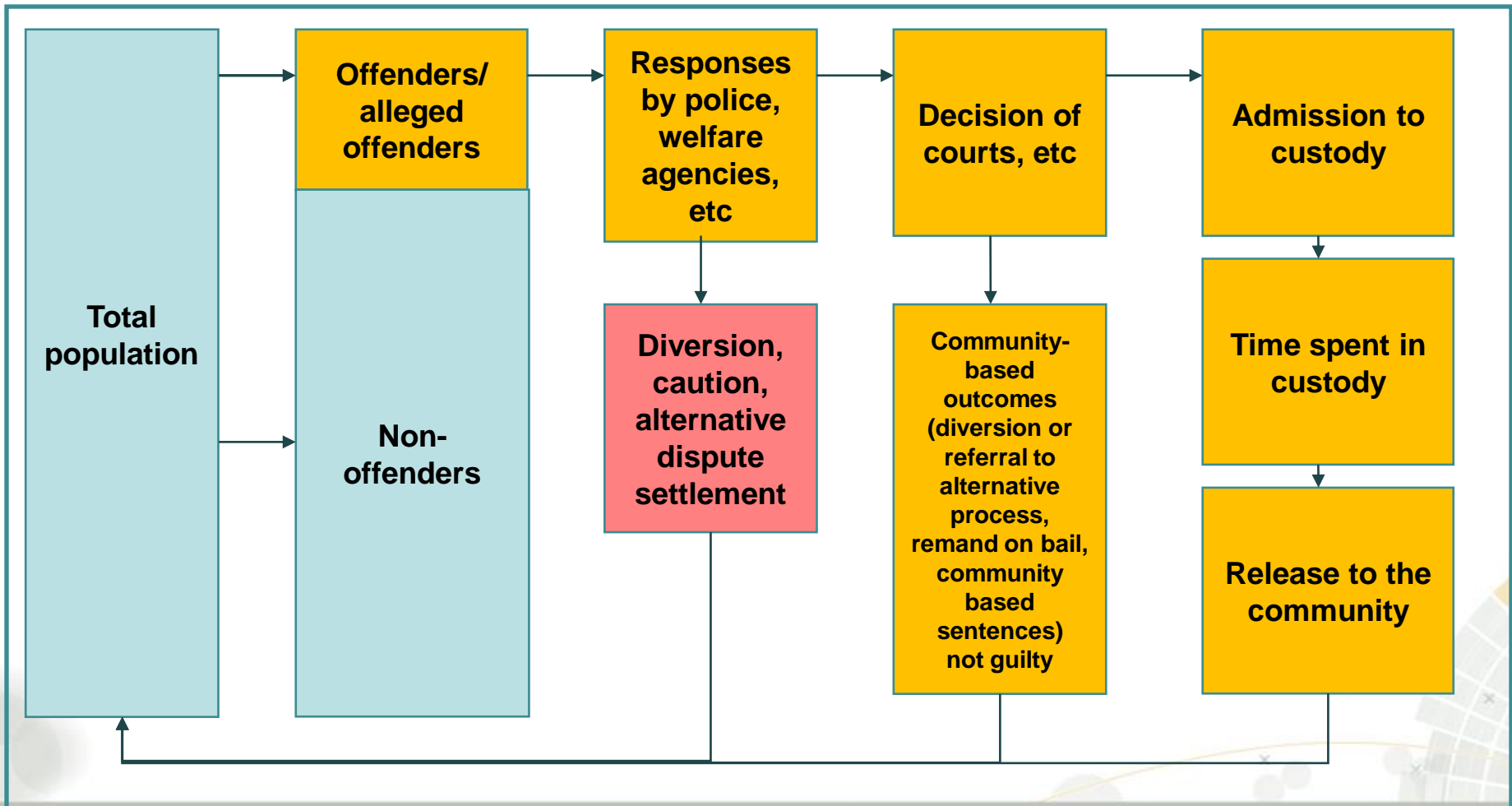


# The criminal justice system in Australia

- **States/territories assume responsibility for the administration of criminal justice**
- **No single system for police, courts, prisons or other corrective/treatment services**

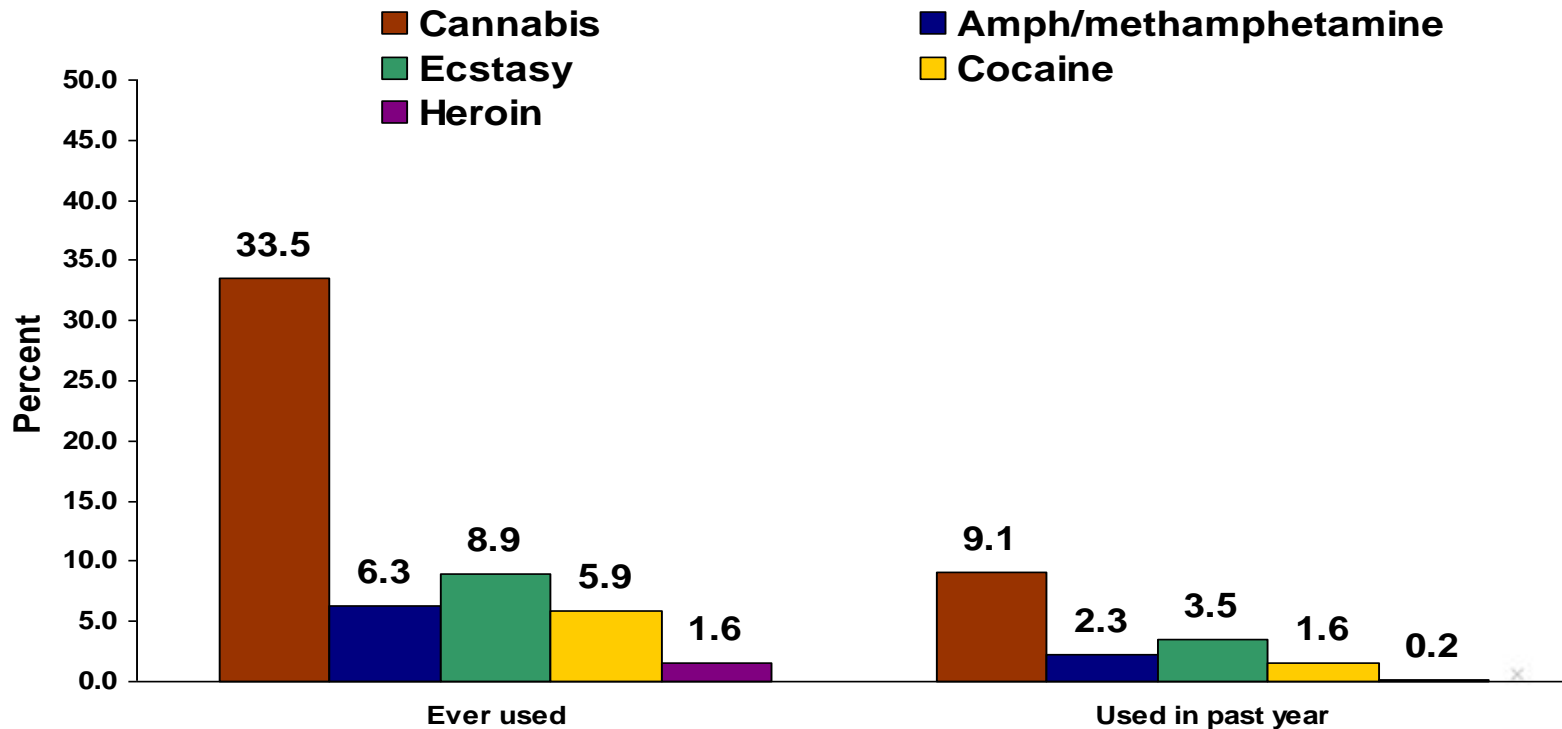


# Schematic overview of the Australian CJS





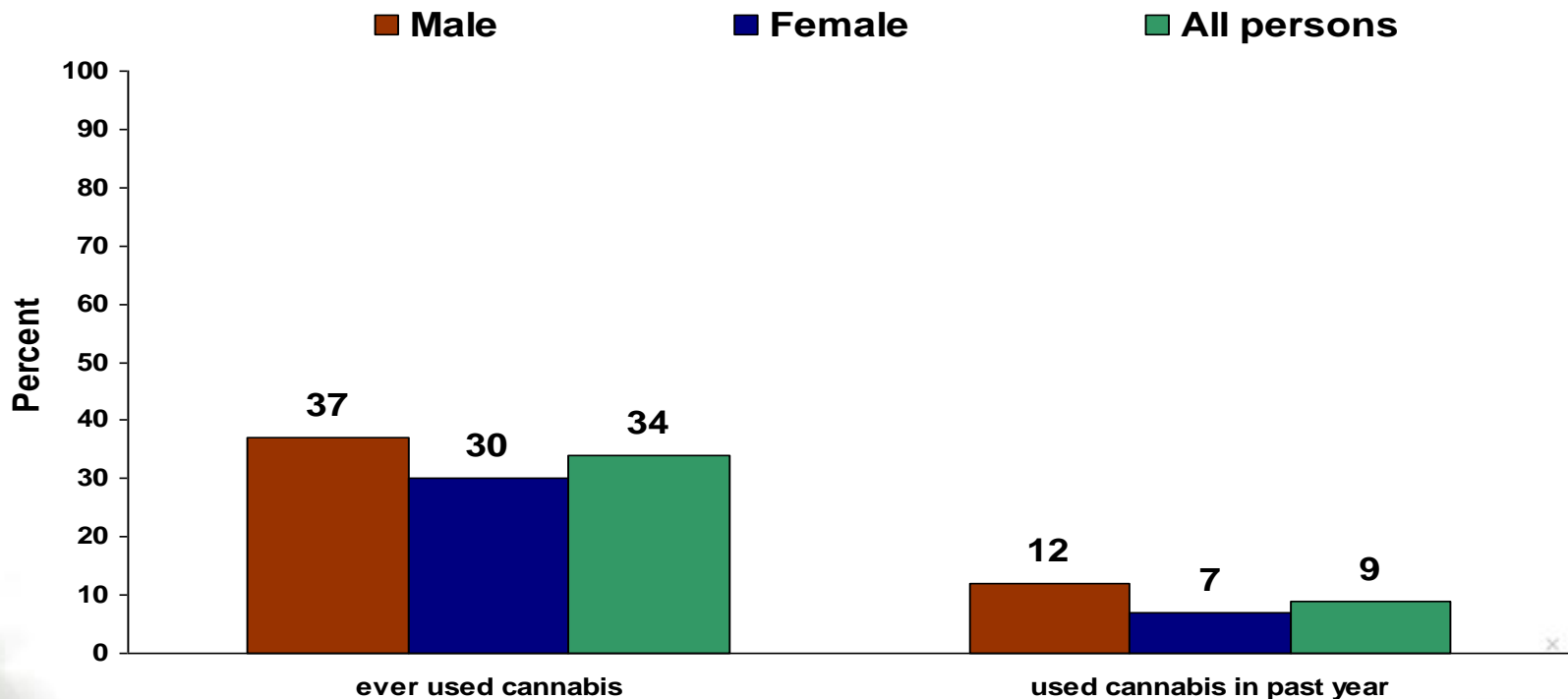
# Cannabis (& other drug) use in the general population





# Cannabis use in the general population

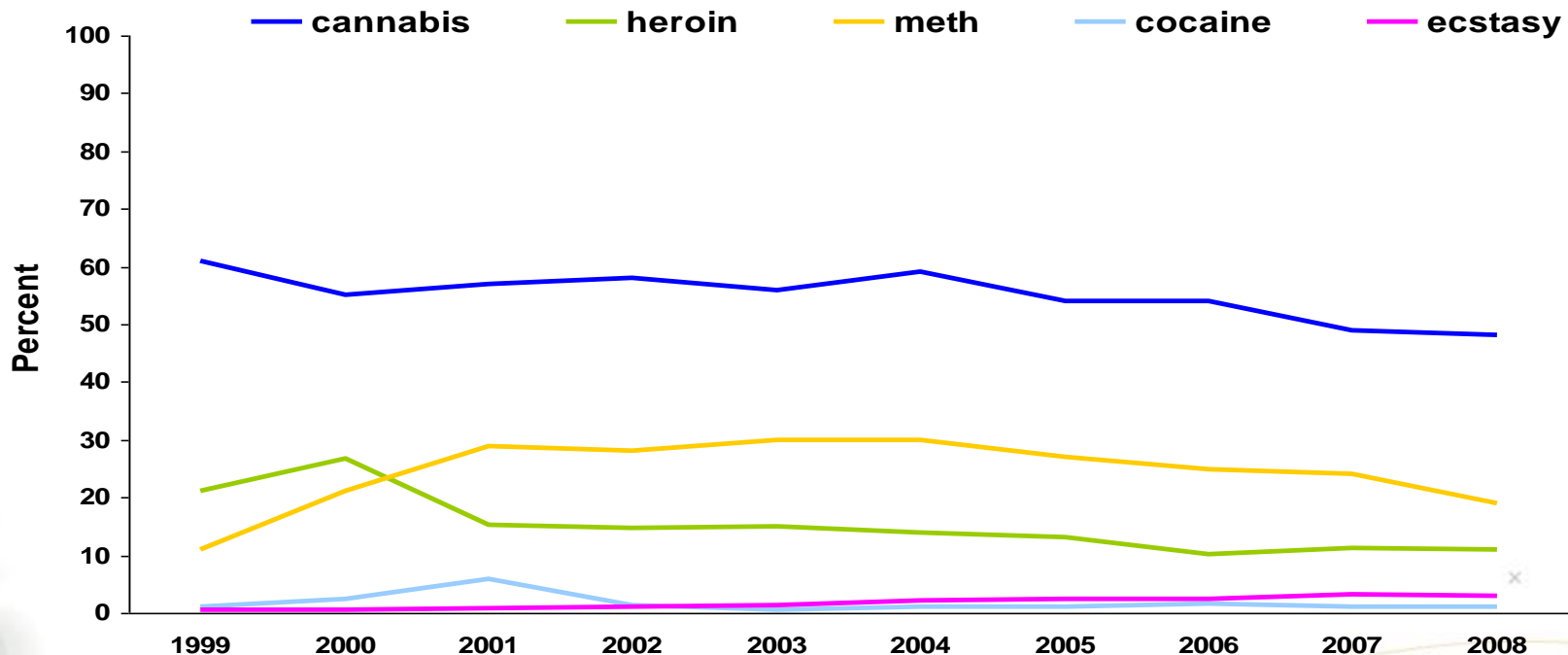
## Use of cannabis in the Australian population by gender





# Cannabis (& other drug) use among offenders in police custody

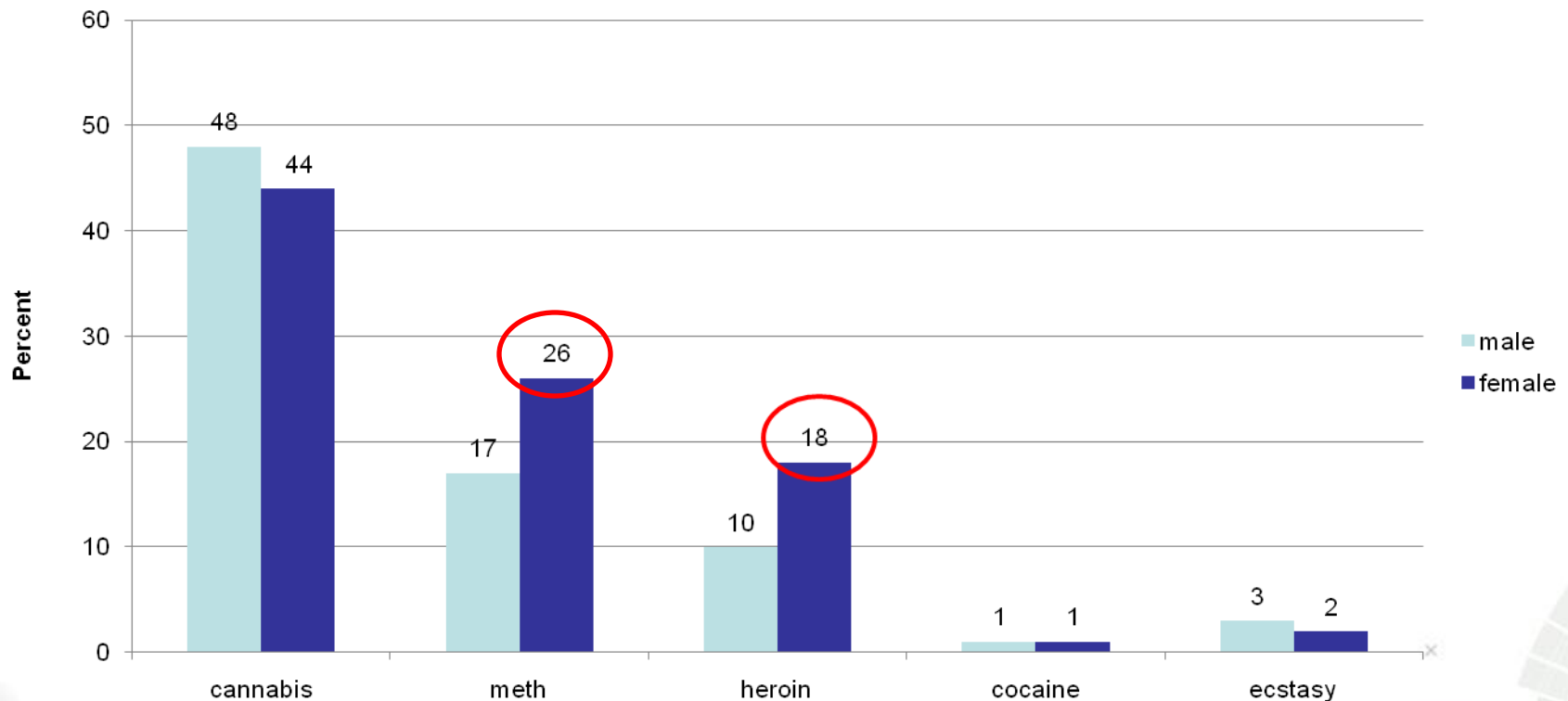
Percent of police detainees testing positive to drugs by year & drug type





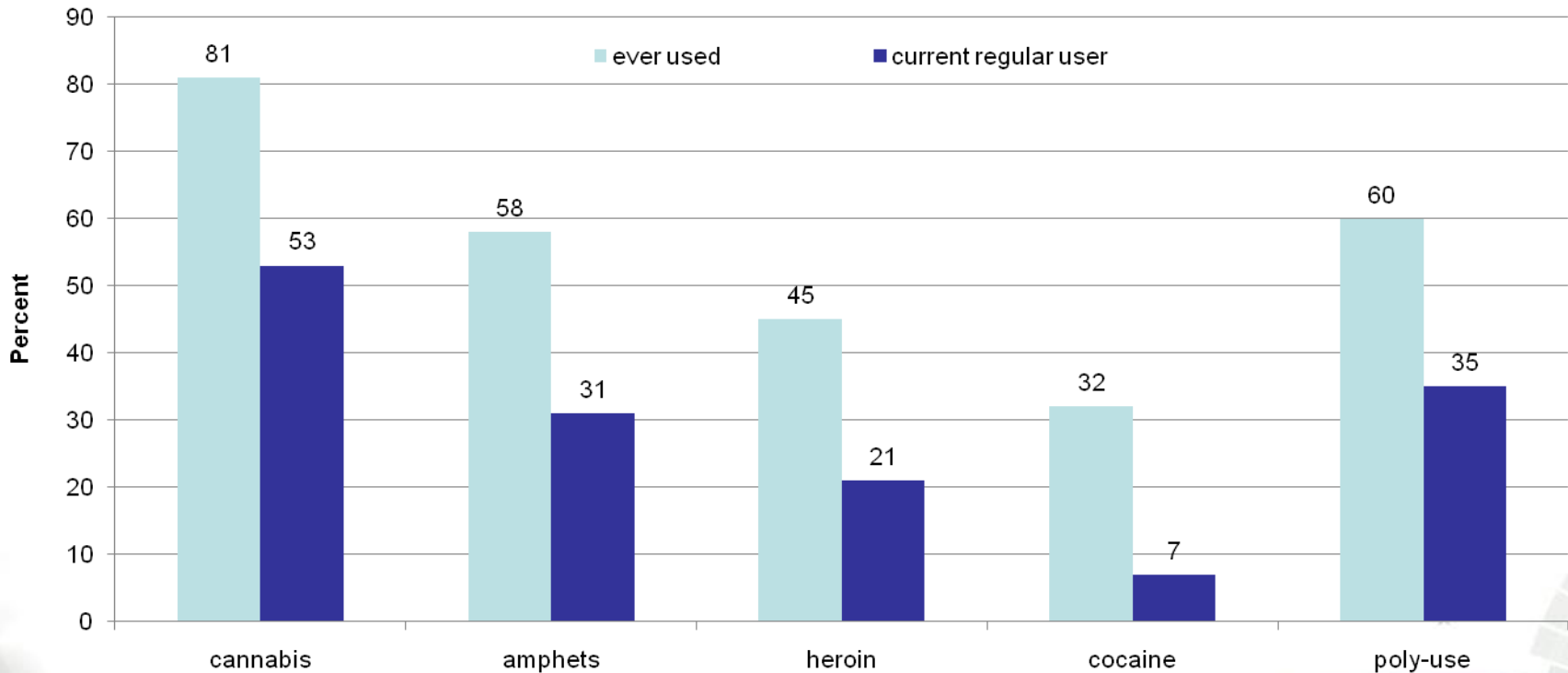


# Percent of police detainees testing positive to illegal drugs, by gender (2008)



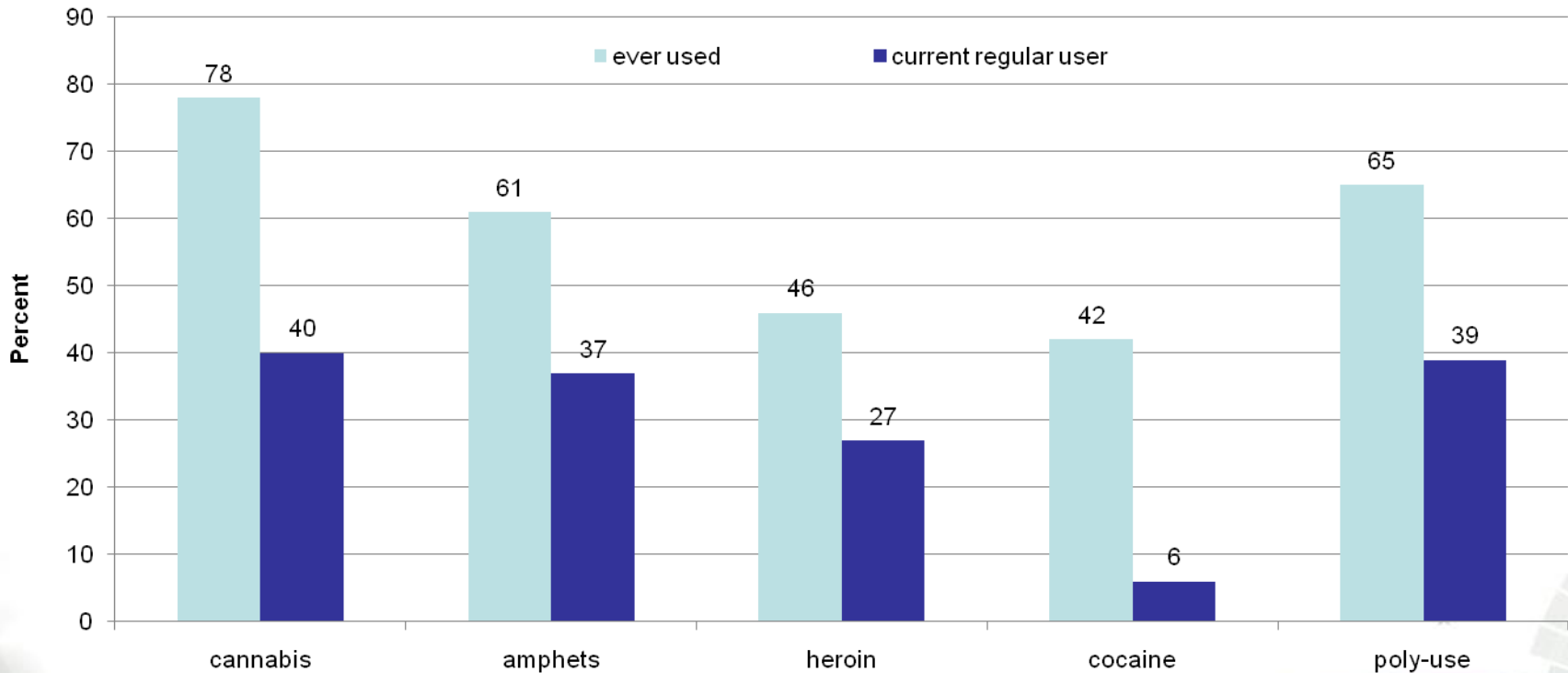


# Drug use among offenders in detention facilities: males





# Drug use among offenders in detention facilities: females





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# Responses to drug use and offending



# National Drug Strategy

- **operated since 1985**
- **a cooperative venture between the Commonwealth and state/territory governments as well as the non-government sector**
- **aimed at improving health, social and economic outcomes for Australians through development of strategies and allocation of resources for the prevention and reduction of the harmful effects of substance use on Australian society**
- **A principle of ‘harm minimisation’**
  - A balanced approach between the reduction of supply, demand and harm associated with the use of drugs across sectors and jurisdictions



# National Cannabis Strategy

## Priority areas

- community understanding of cannabis
- preventing the use of cannabis
- preventing problems associated with cannabis
- responding to problems associated with cannabis



# Drug diversion from the CJS

## Why have it?

## Different types of diversion in Australia

- police
- court-based
- specialist drug courts

## Characteristics of each type of diversion



# What is diversion and why have it?


- **traditional criminal justice responses (imprisonment) relatively ineffective in dealing with drugs-crime link**
- **criminal justice system provides gateway to drug user groups who might not otherwise seek treatment**
- **problematic drug use just as much a health issue as it is a criminal justice issue – health agencies play an important role in broader crime prevention agenda**





# Three levels of diversion in Australia

## The continuum of drug diversion services

- 
- police-based drug diversion programs
  - intermediate court-based diversion (also referred to as court mandated 'referral into treatment' programs)
  - specialist drug courts



# Primary aims of drug diversion programs

- **A reduction or cessation in drug use**
- **A reduction or cessation in drug or drug-related offending**
- **An improvement in the general health and well being of drug users**
- **A reduction in workloads at particular points of the criminal justice system**
- **Cost effectiveness**



# Common characteristics of police drug diversion

- **While there are differences between the various programs, they generally share the following features:**
  - police are the referral source
  - possession of minor amounts of drugs and/or drug implements
  - all involve an educational component, although the degree varies
  - the majority of those targeting illicit drugs other than cannabis include assessment and, where appropriate, treatment



# Common characteristics of police drug diversion

## Characteristics (cont.)

- most have clearly defined eligibility/exclusionary criteria which determine who can or can't be referred
- there are usually restrictions on the number of diversions that a person may receive
- in most cases, the individual must plead guilty and in all cases, consent to being diverted
- most are targeted at adult offenders
- most are state-wide programs



# All states have police drug diversion

## NT

- Illicit Drug Pre-court Diversion Program/Cannabis Expiation Notice Scheme (cannabis & other illicit drugs: infringement & referral – discretionary)

## Qld

- Police Diversion Program (cannabis: referral – mandatory)

## WA

- Cannabis Infringement Notice/All Drug Diversion: cannabis & other illicit drugs (infringement & referral – discretionary)
- Young Persons Opportunity Program: cannabis & other illicit drugs (referral – discretionary)

## NSW

- Cannabis Cautioning Scheme (cannabis: caution – discretionary)

## SA

- Police Drug Diversion Program (cannabis and other illicit drugs: referral – mandatory)

## ACT

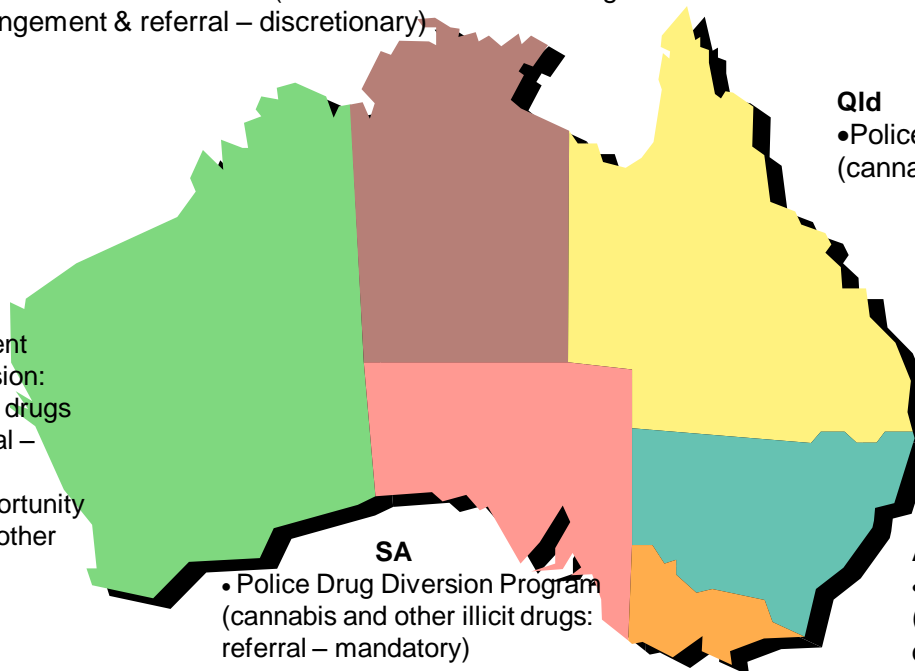
- Police Early Intervention & Diversion Program (cannabis & other illicit drugs: referral – discretionary)

## Tas.

- 1<sup>st</sup>, 2<sup>nd</sup> & 3<sup>rd</sup> level diversion (cannabis and other illicit drugs: caution and referral)

## Vic.

- Cannabis Cautioning Program/Drug Diversion Program (cannabis & other illicit drugs: caution & referral – discretionary)





# Common characteristics of intermediate court-based interventions

- **While there are differences between the various programs, they generally share the following features:**
  - located in Local or Magistrates Court
  - target minor to moderately serious offenders whose criminal behaviour is linked to their use of illicit drugs
  - referral can usually be made from a variety of sources
  - defendants must consent and at least indicate their intention to plead guilty to the offence
  - exclusionary criteria generally apply



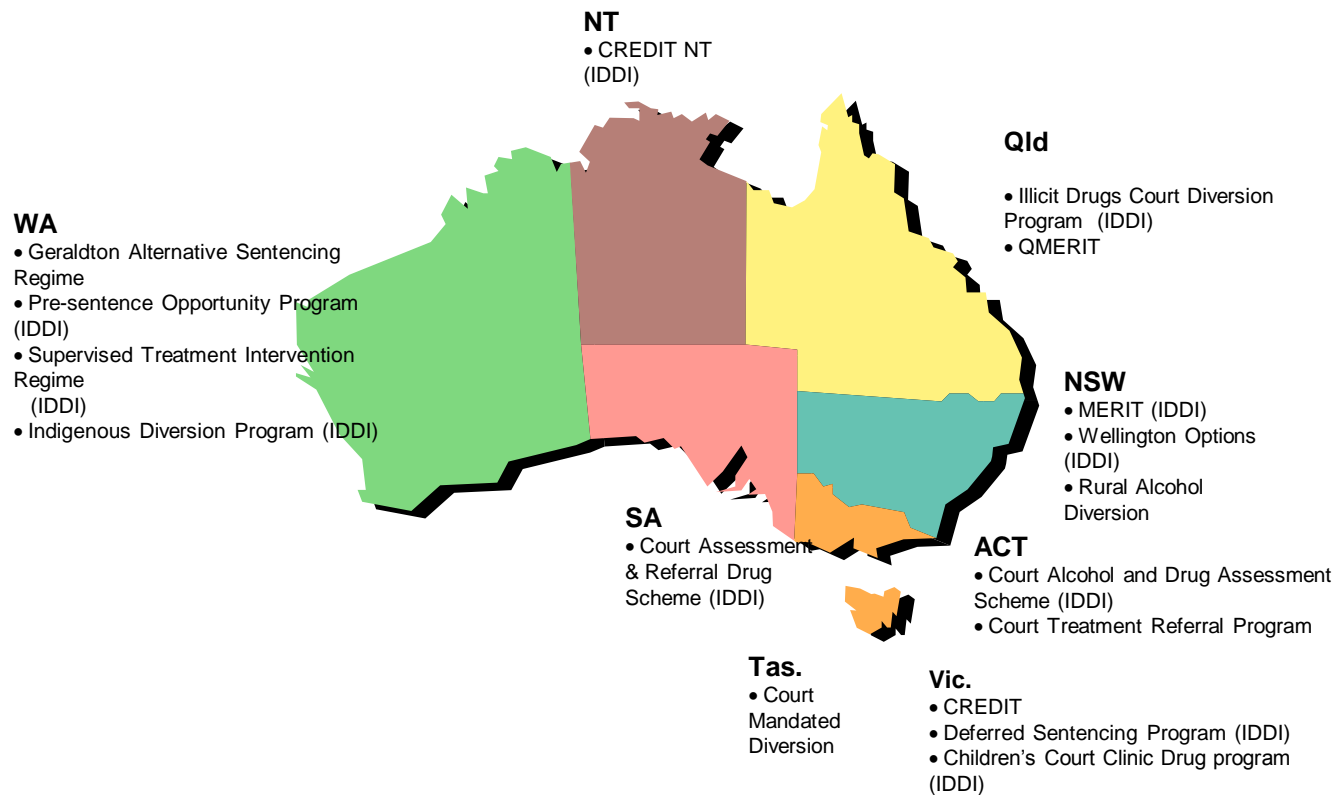
# Common characteristics of intermediate court-based interventions

## Characteristics cont.

- usually two distinct components: an initial clinical assessment followed by engagement in a treatment program
- most operate at the pre-sentence stage of the court process
- most require monitoring of defendant progress and compliance
- most require the Defendant to re-appear before the Magistrate at least once prior to sentencing in order for his/her progress to be assessed
- successful adherence to the program will be taken into account at the point of sentencing



# Intermediate court-based interventions





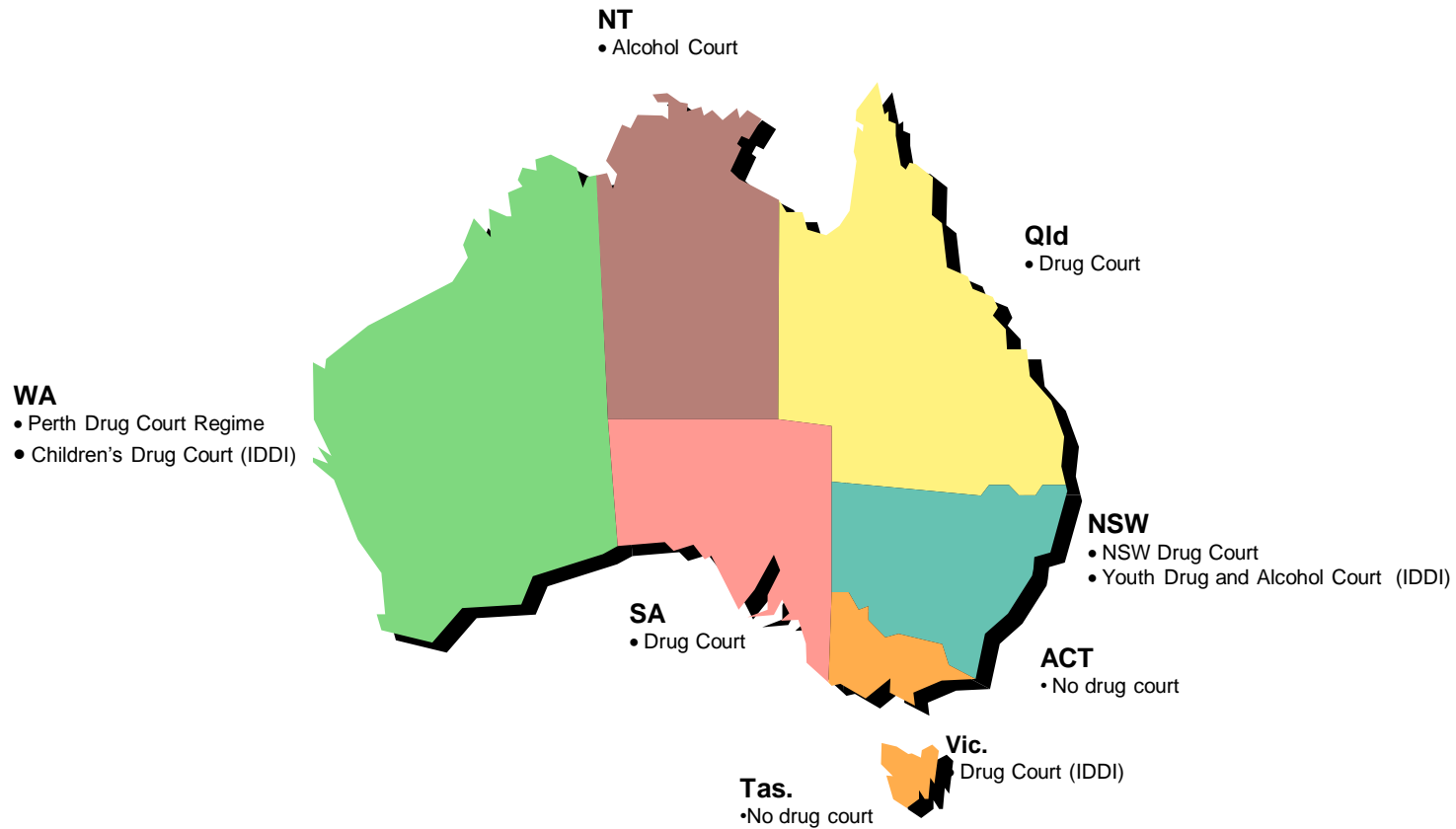


# Drug courts

- **While there are differences between the programs, they generally share the following features:**
  - target serious high-end offenders with significant drug dependency issues that are linked to their offending
  - respond to individuals who are facing a likely custodial sentence
  - engage the offender in intensive treatment, as well as provide access to additional support services
  - run for 12 months or longer (juveniles 6-12 months)
  - involve intensive judicial supervision
  - have an inter-disciplinary team of specialists appointed to assist the court
  - require close working relationships between the judicial officer, the prosecution and the defence lawyers
  - have in place a graduated system of rewards and sanctions
  - require participants to undergo frequent and random urinalysis testing for drug use



# Drug courts





# Does drug diversion work?

## Overall findings

- results generally positive, although some are ambiguous (eg. small samples, contradictory results)
- difficult to compare outcomes across programs because of differences in program design/eligibility criteria and evaluation approaches
- most evaluations undertaken in early phases of program (programs evolve over time, tell little about how currently functioning)



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# Thank you

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