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The role of diversion in responding to drug related harm

What is Diversion


CAUTION
WATER ON ROAD
DURING
RAIN

What is Diversion

- Usually refers to diverting someone from criminal to health system - after
  - detection of an offence but before being charged
  - being charged while being processed by courts (postpone adjudication until treatment completed)
  - conviction, before sentencing (e.g. condition of suspended sentence)
  - part of sentence completed (e.g. parole)

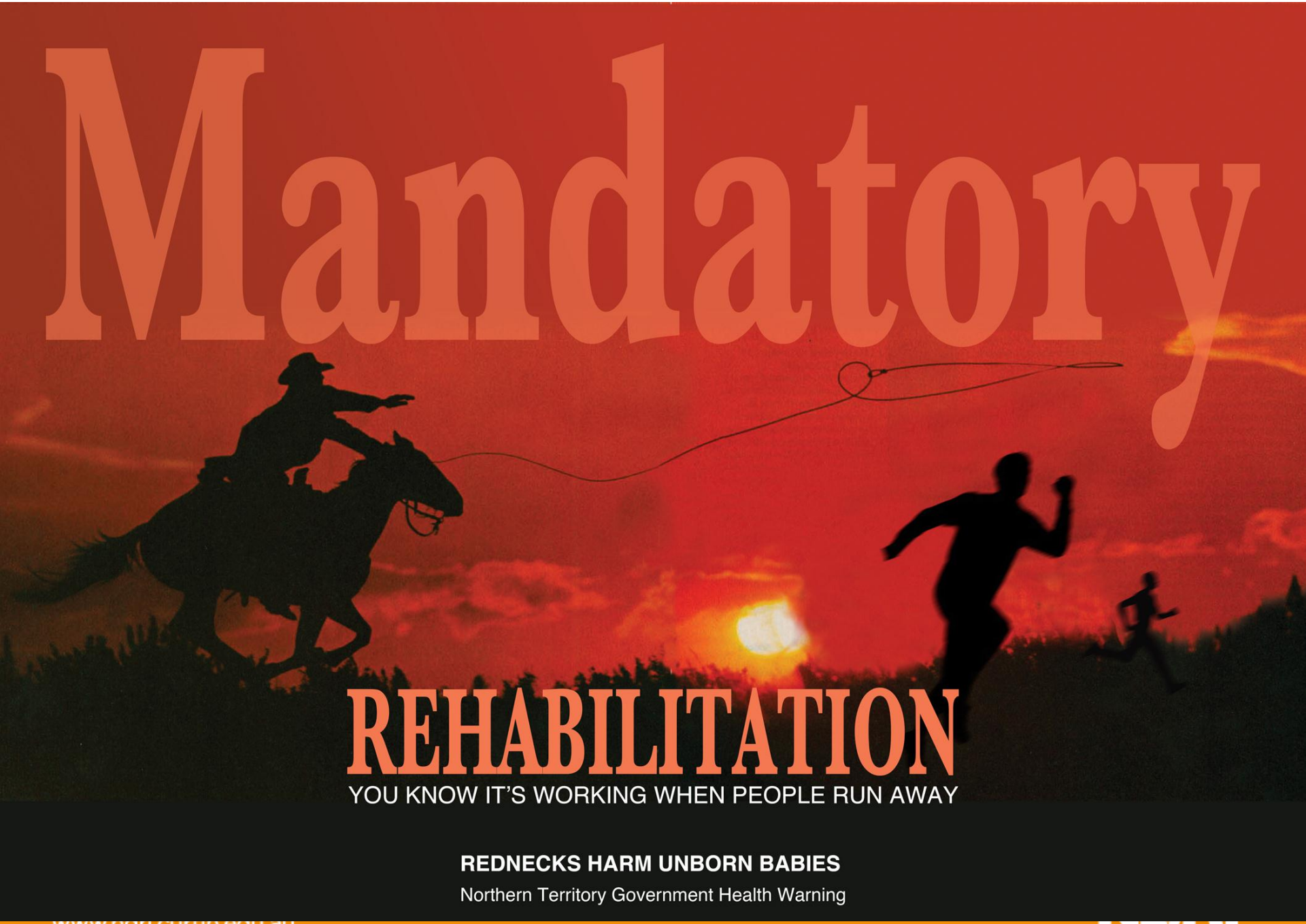
Diverse models exist in different countries

For example:
historical UK Models

- Information model - police provide people in custody information about treatment
- Proactive model - police work in close collaboration with drug workers who attend users in custody
- Incentive model - more formal coercion into treatment

What is the rationale?

- Supposedly:
  - cost effective and humane alternative response
- But not always:
  - in some communities used as punishment (Wild 1999)
  - sometimes more onerous than the criminal sanction
  - some people perceive it as punishment


Mandatory
REHABILITATION
YOU KNOW IT'S WORKING WHEN PEOPLE RUN AWAY
REDNECKS HARM UNBORN BABIES
Northern Territory Government Health Warning

What is the rationale?

- “The most important reason to consider these and related schemes … is not that coercion may improve the results of treatment but that treatment may improve the rather dismal record of plain coercion - particularly imprisonment” - Gerstein and Harwood (1990)

But some cautions expressed …

- Civil libertarian arguments
  - The benefits of freedom from government intrusion outweigh any health or social assistance that might be derived from enforced treatment
- WHO (1986) - only legally and ethically justified if rights of individuals protected **and** effective treatment provided
  - Coercion may leverage entry to treatment, prior to the development of the therapeutic alliance but if contact with therapy does not bring its own rewards, potency of coercion will decline and work against treatment goals (Marlowe et al 1996)
- When resources are scarce, choice between rehabilitative and custodial goals are often resolved in favour of latter.

When is it coercion?

- Subjective interpretation on what is coercion
- Some service users perceive non-legal pressure as coercive and more influential
  - legal entanglements rated lower than emotional disturbance, health problems, social and familial conflicts and employment problems

When is coercion?

- Coercion accounts for approximately 30-40% of expressed reasons for entering drug treatment, operating in a number of psychosocial spheres (eg Marlowe et al 1996)
- Wild et al (1996) - 37% of self-referrals felt coerced and 35% of court referrals perceived no coercion
- Referral source does not exhibit any precise or unique correspondence with client perceptions that treatment is a coercive imposition (Wild 1999)

When is it coercion?

- What is important is what is done in treatment, not so much the coercion itself
  - i.e. coercion is not a treatment – it is a means to getting you to the door of treatment
- Main influences on change?
  - Predominantly psychological, financial, social, familial, medical - in that order - irrespective of whether legally referred or not

Does it work?

- Wild (1999) found that 81% of literature was opinion, legal, ethical etc. Little research about relative impact of various models
- Conservative conclusion was that those who enter treatment under coercion do no worse than those who were not coerced
- Evidence is improving but overall - mixed. Some suggest programs
  - Reduce drug use, relapse risk and reduce criminal behaviour
  - Improve physical and mental health and relationships
  - Reduce policing, court and prison costs (e.g. Pritchard et al 2007)
- Meta analysis of DUI programs - reduced DUI recidivism by ~ 10%
- Success/failure of programs related to characteristics of people referred to the programs, and quality of treatment

Does it work?

- Unintended outcomes
  - Net widening
  - Equity in terms of access (e.g. Indigenous people; rural vs urban)


EMERGENCY
174 KM AHEAD

Does it work?

- Unintended outcomes
  - Net widening
  - Equity in terms of access (e.g. Indigenous people; rural vs urban)
  - Poor adherence to due process (e.g. referring someone to treatment when there might not have been sufficient evidence to proceed with a charge; but to not proceed could limit access to a service that might be beneficial
  - Displacement of voluntary clients
  - Challenges for staff in responding to unwilling clients and complying with formal procedures
- Often results in low adherence/retention/completion rates

Does it work
Illustration of CREDIT

- Court Referral of Eligible Defendants into Treatment
  - Court based program aimed at motivated adult defendants (excluding certain crimes etc)
  - Aims to refer to education and treatment and assist access to welfare
  - Assess needs, prepare intervention plan, refer to services matched to need
  - Includes, but not restricted to, drug related harm

Does it work
Illustration of CREDIT

- Key aim to reduce offending
  - Recent evaluation compared to control group produces no supporting evidence
    - "...being referred to the CREDIT program is no more effective than court in reducing re-offending rates" Donnelly et al 2013
- A key challenge is that the quality of services in the community can vary and this may interfere with ability to detect/have impact
  - If poorly resourced treatment services, likely to have poor outcome

Features of Effective Programs

- Some authors suggest key features include:
  - Timely access to **quality** (well resourced, evidence-based and flexible) treatment
  - Capacity to match treatment to individual needs - enabling informed choice of treatment (and not blaming individual for inappropriate referrals)
  - Strategies to respond to inappropriate referral and unrealistic treatment expectations by criminal justice and treatment staff
  - “Voluntary interest” of clients
  - Care to avoid police and court referrals overwhelming ill-equipped treatment agencies
  - Some recent US literature suggesting careful monitoring and graduated immediate response to breaches is effective

Key research questions

- How effective is diversion?
- For whom is diversion most and least effective?
- How do we ensure effective referral and management and quality of treatment provided?
- If they do work, what are the key elements?
  - Do the specific features of different programs have impact/matter?
  - Are there components that can be left out?

Australian Diversion: A brief history

thanks to excellent report by C Hughes and A Ritter

- Police discretion to charge or not has operated for many years
- Also - strong feature of many juvenile justice systems where police might be encouraged to adopt informal or diversionary approach – ie charge 'as a last resort' (Morrison and Burdon 1999)
- Variety of more formal versions commenced in the 1980s and 1990s
  - e.g. in South Australia, expiation system for cannabis
- A new national system agreed at end of 1990s
  - Illicit Drug Diversion Initiative (IDDI) – Resulted in:
    - A more systematic national approach, fostered by
      - A national framework, increases in funding, development of 'best practice principles' etc
    - An increase in treatment services/places
- Subsequently diversity and number of programs have grown
- Programs might include
  - Police diversion
  - Court diversion (for minor and more serious offences) and/or Drug Courts
  - Some have a focus on cannabis others on all illicit drugs

Key feature

- Predominantly used for therapeutic intent
  - to divert people TO education/treatment as opposed to simply out of the justice system
- Eligibility criteria to try and match access in general and type of intervention in general to need and type of offence
  - (e.g. eligible by virtue of amount of drug? severity of offence or dependence?)

The diverse categories of diversion

- Pre arrest
  - e.g. fines and cautions
- Pre-trial - before matter is heard in court
  - e.g. treatment as a bail condition
- Pre-sentence - deferred sentence
- Post sentence – substitute or condition of sentence
- Pre-release
  - e.g. condition of parole

Hughes and Ritter (2008)

- Australia offers all these categories but there is some apparent preference for the those at the 'front end' – also most commonly (and perhaps sometimes less contentiously) for cannabis (Hughes and Ritter 2008)

Eligibility criteria

- Different systems embrace diverse criteria including:
  - Age
  - Criminal history
  - Context of drug offence
  - Amount of drug
  - Type of drug
  - Some approaches (e.g. court diversion to treatment) might include evidence of drug dependence

Cannabis “diversion” options
Varies by jurisdiction

- Formal warning or caution, might include
  - provided with warning, simple information on health and legal consequences and provided with telephone number (evidence suggests very few use this service)
- Fine/Expiation fee
- Referral to face-to-face education
  - take up rate influenced by factors such as Aboriginality, proximity to service, capacity to enforce
  - might include option for further referral (not usually a condition)
- Some jurisdictions arrest, then discontinue process if they agree to attend assessment/counselling/education session
- Under 18’s often excluded and referred to Juvenile Justice
- Most commonly there is an upper limit on number of referrals for any individual

Is cannabis diversion effective?

- Strong argument that it is a better option than criminalising consumer
- Limited evidence of impact, particularly on cannabis use
- Concerns about impact on treatment services (distorts client base?)
- Some systems have poor take-up rate
- Risks of net widening and net deepening
  - Consequence of attending service more ‘costly’ than consequence under criminal system
- Anticipated savings not always realised
  - may depend on system (e.g. on the spot decision vs taking back to the police station)
- We end up with a focus on a small minority of consumers
  - e.g. some estimates suggest that 3-4% of consumers come to attention of law enforcement – what about investment in responses for others?
  - Initiatives potentially exclude those most in need of treatment (eg. recidivists)

Future tasks

- Don’t rely excessively on legal mandates to enforce treatment adherence
  - (don’t just tell them to ‘change or else’ –


Worth1000.com

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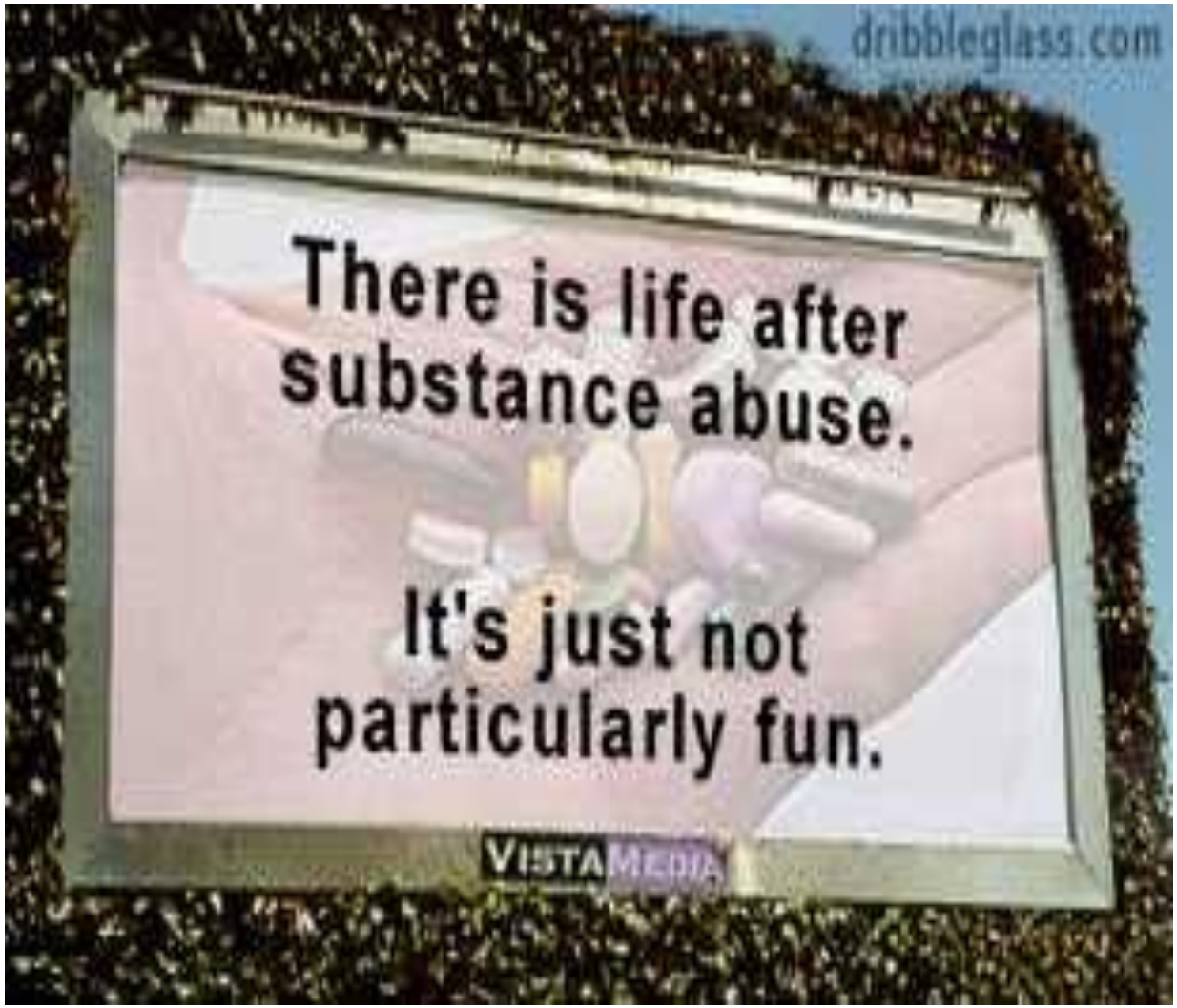
- Don’t rely excessively on legal mandates to enforce treatment adherence
  - (don’t just tell them to ‘change or else’ – making a difference requires good treatment)
- Threat without quality treatment can breed reactance & negative affective states which themselves predict poor outcome
- Also need to invest in building quality of life outcomes:
  - Miserable abstinence not likely to be sustained


dribbleglass.com
There is life after substance abuse.
It's just not particularly fun.
VISTA MEDIA