

Fact sheet

Drug data trends and the criminal justice system

November 2024

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This fact sheet aims to provide a snapshot of drug data trends and the criminal justice system.

Drug use/possession legal actions trends¹

Over the last decade, there has been an overall decline in the number of Person of Interest (POI) proceeded against for drug use and drug possession incidents in NSW.² Figures 1 and 2 (below) depict the downward trend of use/possession legal actions for adults and persons under 18 (**young persons**), by NSW Police Force between 2014 and 2023.

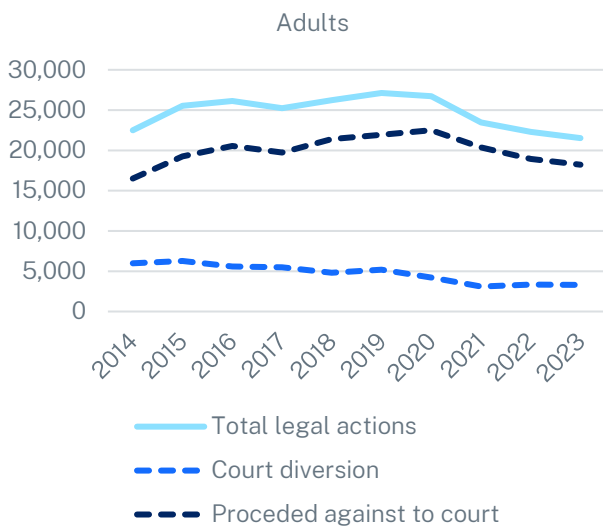


Figure 1 Number of adults proceeded against for drug use/possession incidents and method of proceeding, over time.

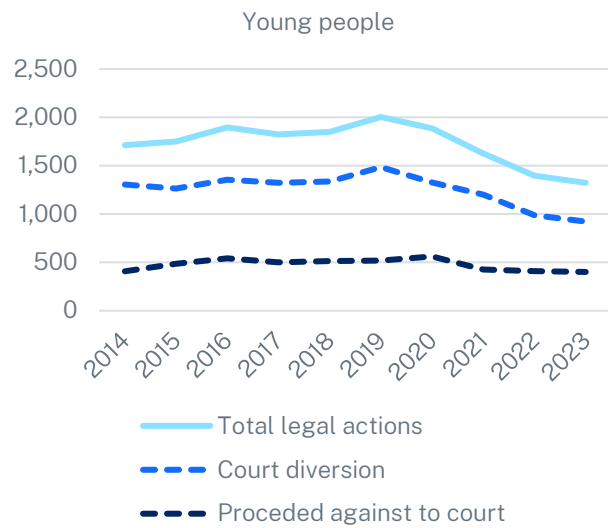


Figure 2 Number of young persons proceeded against for drug use/possession incidents and method of proceeding, over time.

¹ Source: NSW Bureau of Crime Statistics and Research (BOCSAR).

² BOCSAR data on drug use/possession offences in NSW used in this Fact Sheet includes any offences where a non-commercial quantity of an illicitly drug or controlled substance was found.

During this period, the overall number of alleged offenders (adults and young persons) proceeded against for use/possess drug incidents decreased from 24,210 in 2014 to 22,873 in 2023 (6%).

In 2023, 81% of these legal actions (18,615) were proceeded against to court, and 19% (4,231) were diverted from court, compared with 67% (16,914) proceeding to court and 30% (7,286) being diverted in 2014.³

While diversionary pathways and programs typically have eligibility requirements which may preclude some alleged offenders from participating, a decreasing proportion of matters are being diverted from court. Between 2014 and 2023, the proportion of diverted drug use/possession legal actions decreased by 12 percentage points (adults and young persons).⁴

The most diverted drug use/possession offences in 2023 were ecstasy-related offences followed by cannabis-related offences, with a diversion rate of 36% and 32% respectively across adults and young people.⁵ Drugs such as cocaine, amphetamines, and narcotics have a significantly lower rates of diversion at 7%, 0.7%, and 0.5% respectively. The number of diverted use/possession legal actions by drug type is illustrated in Figure 3.

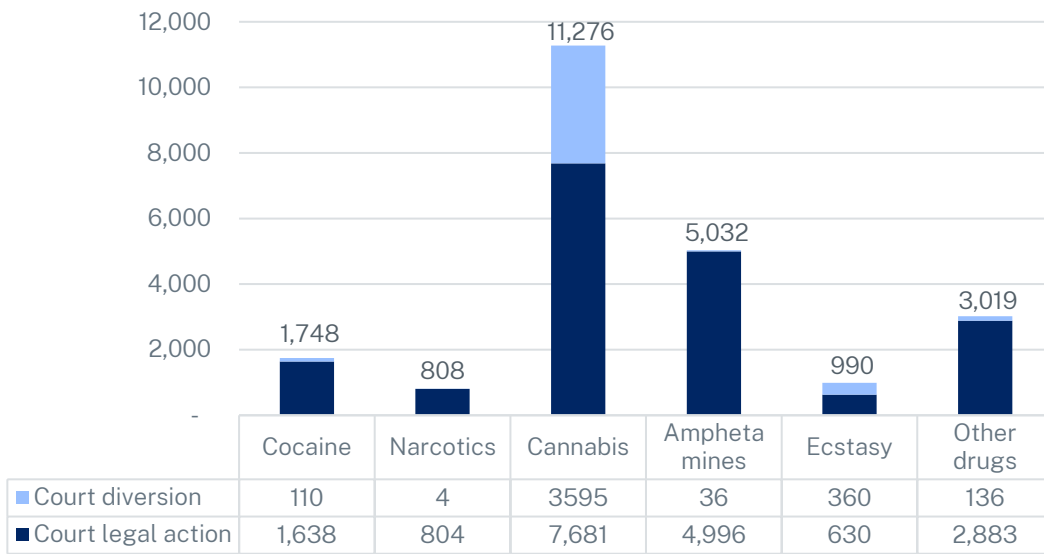


Figure 3 Number of drug use/possession legal actions proceeded against to court and diverted in 2023 (adults and persons under 18), by drug type.

³ Court Diversions include Criminal Infringement Notices and Cannabis Cautions for adults (Figure 1), and Youth Justice Conferences, Cautions *Young Offender Act*, and Warnings *Young Offenders Act* for young people (excluding warnings for transport offences) (Figure 2).

⁴ It is also noted that some diversionary programs commenced during this 10-year period, such as the NSW Police Force CIN program trial for minor drug possession offences at music festivals.

⁵ The data available has limitations. Comparing those who were proceeded to court for drug use and/or possession against the number of court diversions is not the full picture. Not all offenders who are proceeded against to court would have been eligible for a diversion due to eligibility criteria.

Characteristics of alleged drug use/possession offenders proceeded against⁶

Age

In 2023, adult POI consisted of 94% of drug use/possession legal actions. Most of these legal actions related to cannabis.

As previously noted, there has been an overall decline in the number of POI proceeded against for drug use/possession incidents (see Figure 1 and 2 above). Drug use/possession legal actions involving adults reduced by 4% (from 22,488 to 21,523 incidents) between 2014 and 2023, and legal actions involving young persons decreased by 23 % (from 1,712 to 1,323 e legal actions) in this same period. This is seen in Figures 4 and 5 below.

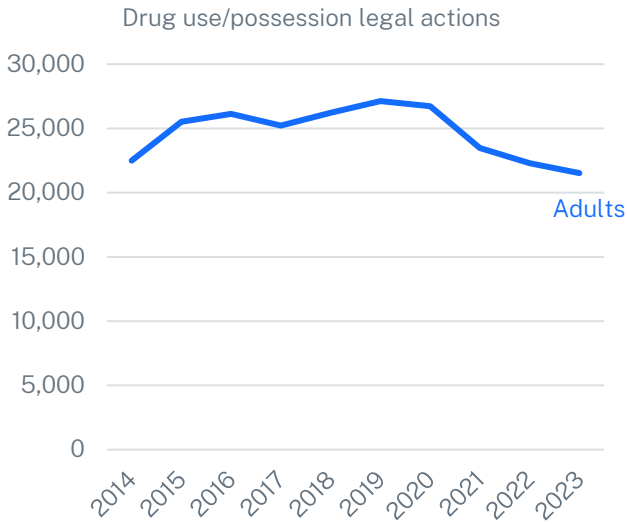


Figure 4 Total adult drug use/possession legal actions over time.

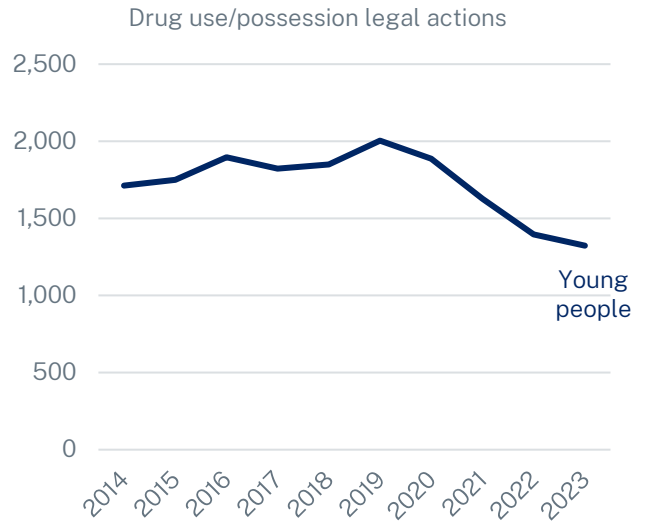


Figure 5 Number of young person drug use/possession legal actions over time.

In the last decade to 2023, the proportion of young persons diverted away from court has decreased by 6 percentage points, from 76% of all drug use/possession legal actions in 2014 to 70% in 2023.⁷ The trend is similar for adult drug use/possession legal actions.⁸ In 2023, only 15% of adults (3,309) were diverted away from courts, which is 12 percentage points lower than the diversion rate in 2014 was 27% (5,981). This is a decline of 12 percentage points.

⁶ Source: BOCSAR.

⁷ Court diversions for young persons are through a Youth Justice Conferences, Cautions (Young Offenders Act) and Warnings (Young Offenders Act) (excluding warnings for transport offences).

⁸ Court diversions for adults are by Criminal Infringement Notices, Cannabis Cautions and other Drug Cautions.

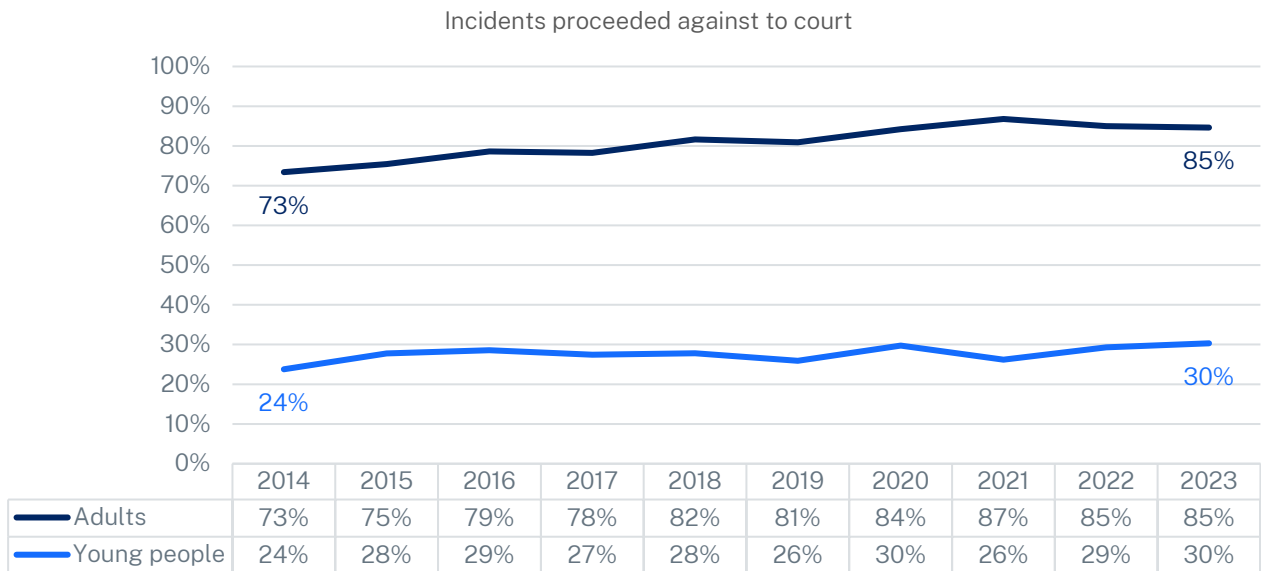


Figure 6 The proportion of legal actions for drug use/possession incident proceeded to court for adults and young people, over time.

Figure 6 depicts the increasing rate of drug use/possession legal actions that are proceeded against to court, for both adults and young people.

Aboriginal people

Despite overall decreases in drug use/possession legal actions in NSW over the last 10 years (for adults and young persons), drug use/possession legal action involving Aboriginal people have increased.

Between 2014-15 and 2023-24, drug use/possession legal actions involving Aboriginal people increased from 2,501 to 4,060. As a proportion of all drug use/possession legal actions, this is an increase from 10% to 19%. In contrast, drug use/possession legal actions involving non-Aboriginal people have decreased from 22,702 to 17,699 (or 90% to 81% of all drug use/possession legal actions). Figures 7 and 8 exhibit this divergence in trend.

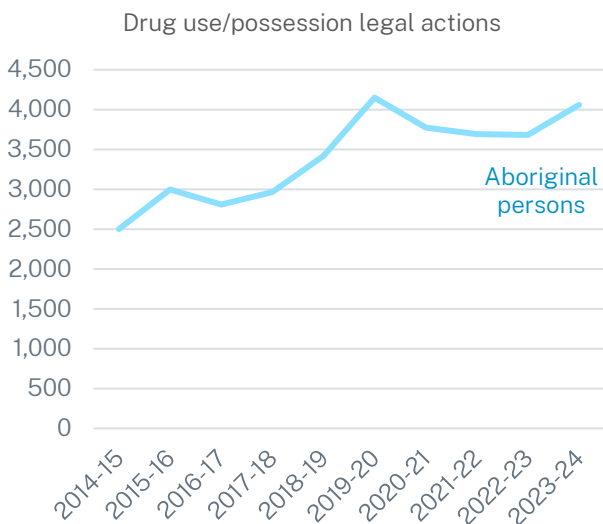


Figure 7 Number of drug use/possession legal actions involving Aboriginal people over time.

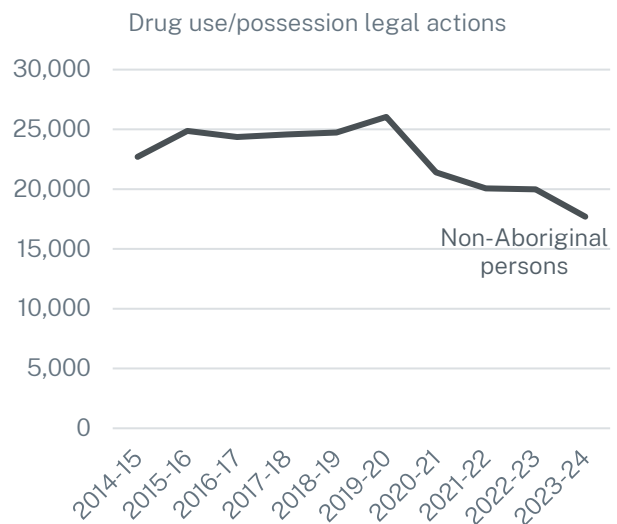


Figure 8 Number of drug use/possession legal actions involving non-Aboriginal people over time.

Aboriginal people are also more likely to be proceeded against to court than non-Aboriginal people. This is especially true for young persons.

In 2023-24, 43% (210) of Aboriginal young persons with a legal action for drug use/possession were proceeded against to court. This is almost double the rate of non-Aboriginal young persons who were proceeded against to court (23% or 206) (see Figures 9 and 10 below).

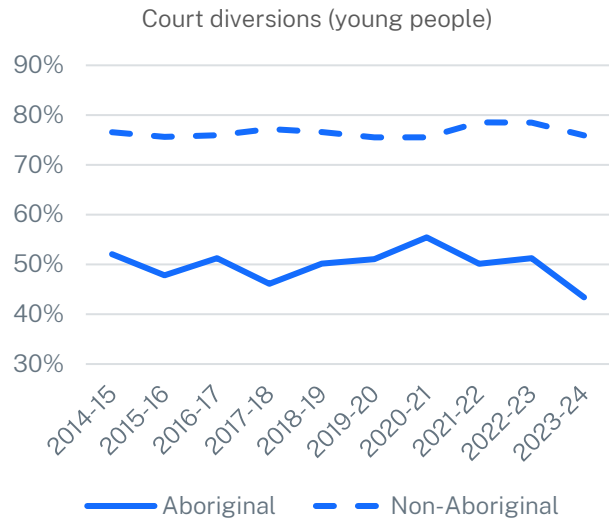
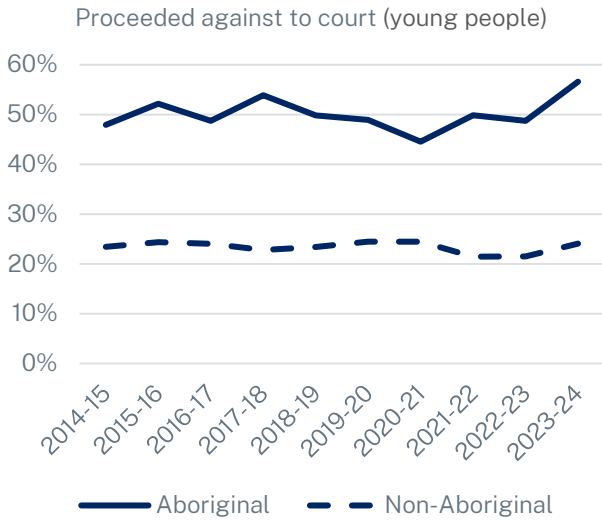


Figure 9 Proportion of legal actions against young persons which are to court over time, by Aboriginality.

Figure 10 Proportion young persons diverted away from court over time, by Aboriginality.

In relation to diversion, in 2023-24 52% (161) of Aboriginal young persons with a drug use/possess legal action were diverted away from court, compared to 77% (650) of non-Aboriginal young persons (see Figure 10 above). This is a decrease of 9 percentage points for Aboriginal young persons, compared to a decrease of less than 1 percentage point for non-Aboriginal young persons between 2014-15 and 2023-24.

As shown in Figures 12 and 13 below, for adults between 2014-15 and 2023-24, the proportion of legal actions involving court diversion decreased from 12% to 7% for Aboriginal adults and from 27% to 17% for non-Aboriginal adults.

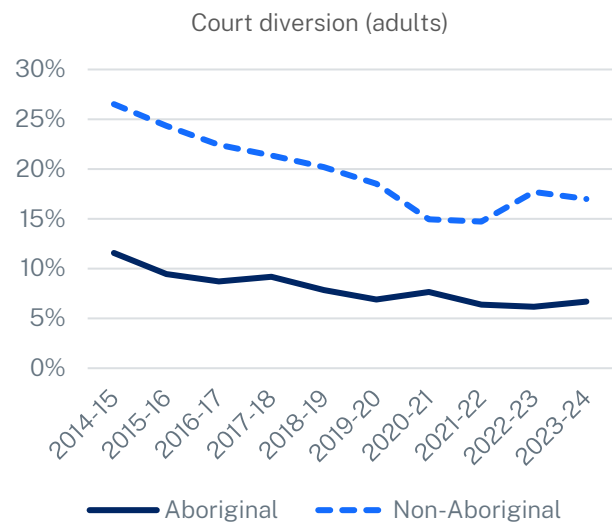
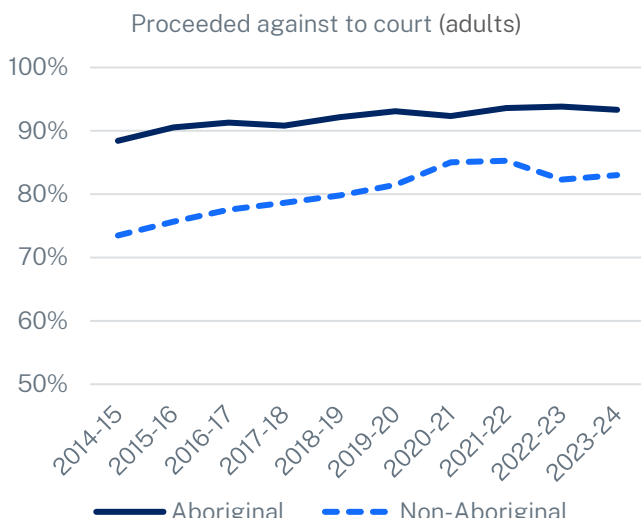


Figure 11 Proportion of legal action against adults which are to court over time, by Aboriginality.

Figure 12 Proportion of adults diverted away from courts by over time, by Aboriginality.

Overview of drug use/possession incidents by rurality

Drug use/possession incidents but not legal actions are available by region. The majority of the drug use/possession incidents in 2023 occurred within Greater Sydney (Figure 13 below), with offences detected in the *Sydney – City and Inner South* area contributing to 13% of all drug use/possession incidents that year.

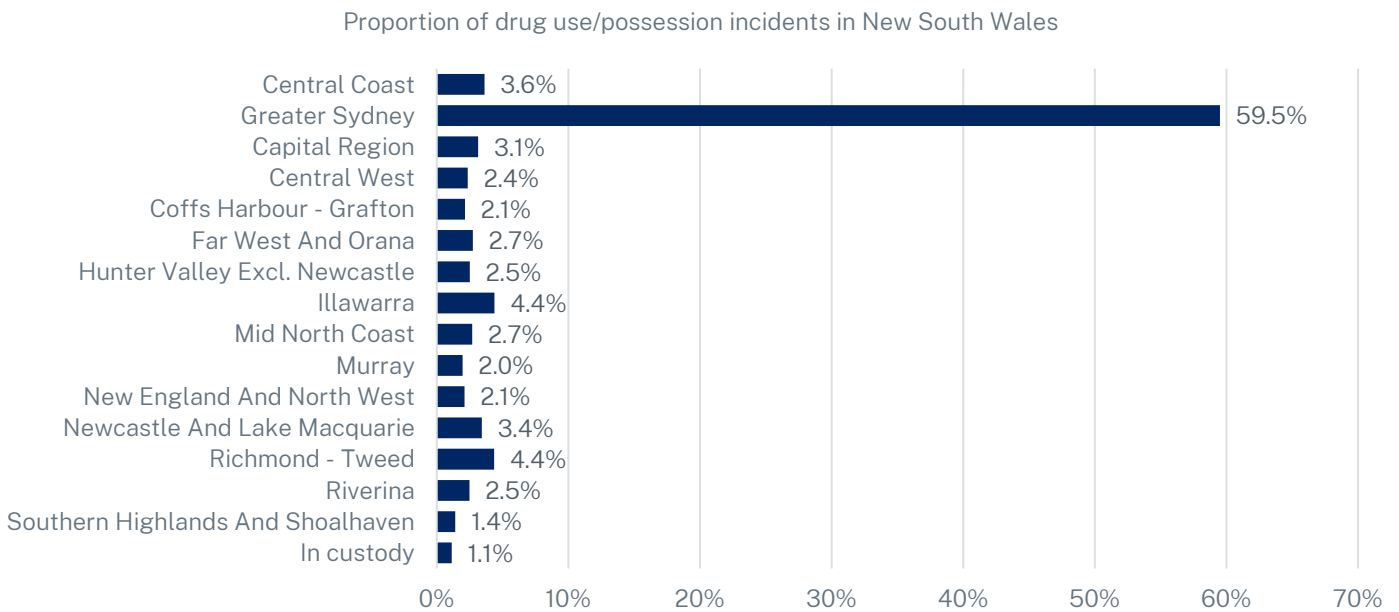


Figure 13 Proportion of all drug use/possession incidents in New South Wales in 2023, by region.

Table 1 below reflects the highest rates of incidents in statistical areas level 4 (SA4) of NSW per 100,000 population,⁹ broken down by drug type.

Cocaine	Narcotics	Cannabis	Amphetamines	Ecstasy	Other drugs
<i>Sydney – City and Inner South</i>	<i>Sydney – South West</i>	<i>Far West and Orana</i>	<i>Sydney – City and Inner South</i>	<i>Sydney – City and Inner South</i>	<i>Sydney – City and Inner South</i>
178.5	70.8	446.5	219	77.9	261.1
Per 100,000 population	Per 100,000 population	Per 100,000 population	Per 100,000 population	Per 100,000 population	Per 100,000 population
<i>Average rate (NSW)</i>	<i>Average rate (NSW)</i>	<i>Average rate (NSW)</i>	<i>Average rate (NSW)</i>	<i>Average rate (NSW)</i>	<i>Average rate (NSW)</i>
27.6	14.2	179.3	79.5	14.2	71.6
Per 100,000 population	Per 100,000 population	Per 100,000 population	Per 100,000 population	Per 100,000 population	Per 100,000 population

Table 1 Regions (SA4) with the highest rate of all drug use/possession incidents per 100,000 population, by drug type.

⁹ As defined by the Australian Bureau of Statistics (ABS).

Diversion trends

Trends in diversion from court generally are explored above including in relation to the characteristics of alleged drug use/possession offenders. Data on specific diversionary programs is below.

Early Drug Diversion Initiative (EDDI)¹⁰

Under EDDI, police can issue up to two Criminal Infringement Notices (CINs), which are on-the-spot fines, to adults for low-level drug use and possession offences. The fine amount is \$400, however the fine is resolved if the individual participates in a health intervention. As EDDI commenced on 29 February 2024, the data on EDDI is limited. BOCSAR will conduct an evaluation of the EDDI program including whether it is meeting its intended objectives.

Between 1 March 2024 to 30 June 2024, there were 3,678 legal actions for drug possession and/or use, excluding cannabis. Of these legal actions, 331 were by way of CINs under EDDI and 3,347 were proceeded against to court.

Of the total CINs under EDDI during this period, 21 (6%) were issued to people who are Aboriginal. Of the total legal actions commenced during this period, 629 (17%) were for people who are Aboriginal.

As at 21 August 2024, 43 people issued a CIN under EDDI had completed the health intervention. Remaining CINs which did not involve the health intervention being completed will be dealt with under the *Fines Act 1996*.

During the same period in the previous year (1 March to 30 June 2023), there were 3,740 legal actions for drug possession and/or use, excluding cannabis. Of these legal actions, 142 were by way of CINs (under a previous scheme which allowed CINs to be issued for drugs at music festivals), and 3,598 were proceeded against to court.

	Method of proceeding	Mar - Jun 2023 (same period pre EDDI)	Mar - Jun 2024 [^] (EDDI)
Drug Possession and/or use (excluding cannabis)	Proceeded against to court	3598	3347
	Criminal Infringement Notice	142*	331
	Total	3740	3678
Drug Possession and/or use where person is Aboriginal (excluding cannabis)	Proceeded against to court	541	608
	Criminal Infringement Notice	0* (0% of all CINs)	21 (6% of all CINs)
	Total	541 (14% of all actions)	629 (17% of all actions)

Table 2 Number of adult persons of interest involved in drug use/possession (excluding cannabis) in 2023, by method of proceeding.

[^] Between March and June 2024, 24 CINs were issued for cannabis possession incidents. These are not included in the count of EDDI CINs given cannabis is not included in the scheme. * CINs issued between March and June 2023 were issued as part of a NSW Police Force CIN program trial for minor drug possession offences at music festivals. These are not considered as part of the EDDI scheme.

¹⁰ Source: BOCSAR. The data available has limitations. Comparing those who proceeded to court for drug possession and/or use with the number of CINs issued is not an accurate way to monitor the operation of the scheme. Not all offenders who are proceeded to court for small quantity drug possession are eligible for EDDI, for example this data does not differentiate between those who have been previously convicted of a drug supply offence (who would be ineligible for EDDI) and those who do not have a criminal history (who would be eligible). Additionally, EDDI participants have 56 days to finalise the CIN, either through payment or participation in the health intervention. The data reflects CINs issued at a point in time, including CINs where the time to pay has not expired, that is the health intervention or payment of the CIN has not yet occurred.

The Magistrates Early Referral into Treatment (MERIT) program¹¹

The MERIT program is a voluntary, pre-plea program for adults in the local court who have issues related to their alcohol and other drug use. MERIT provides access to a wide range of alcohol and other drug treatment services for 12 weeks while court matters are adjourned.

MERIT is being expanded to 29 additional locations and with 12 existing sites being enhanced to incorporate alcohol treatment services. This expansion is occurring over four years (FY2022/23 to FY2025/26). This means that MERIT will become more widely available. Uptake is expected to increase.

In 2023, the program had 2,091 participants across its 72 locations in NSW. 24% (499) of all participants were Aboriginal people.

Over the last three years, program acceptances have averaged 1988 participants per year. Since its commencement in 2000, 43,316 people have participated in the MERIT program.

The Drug Court^{12,13}

The Drug Court is a specialised court which offers drug treatment to drug-dependent adult offenders who have entered a plea of guilty and are facing a custodial sentence.

Commencing its operations in Parramatta in 1999, the Drug Court has been a successful initiative to reduce recidivism rates of program participants.¹⁴ It has since expanded to locations in Toronto, Sydney, and Dubbo.

Figure 15 below demonstrates relatively stable program participation as at 31 December each year, over the last 10 years. The Drug Court had its highest number of participants at 276 program participants across the four locations in 2023, however it is noted that the Drug Court expanded in 2023 to Dubbo.

¹¹ Source: NSW Health, Merit Information Management System.

¹² Source: Drug Court of New South Wales. Annual Reviews 2014-2023.

¹³ Data relating the Drug Court does not include data from the Compulsory Drug Treatment Correction Centre.

¹⁴ BOCSAR and the National Drug and Alcohol Research Centre, 2020, *The long-term effect of the NSW Drug Court on recidivism*.

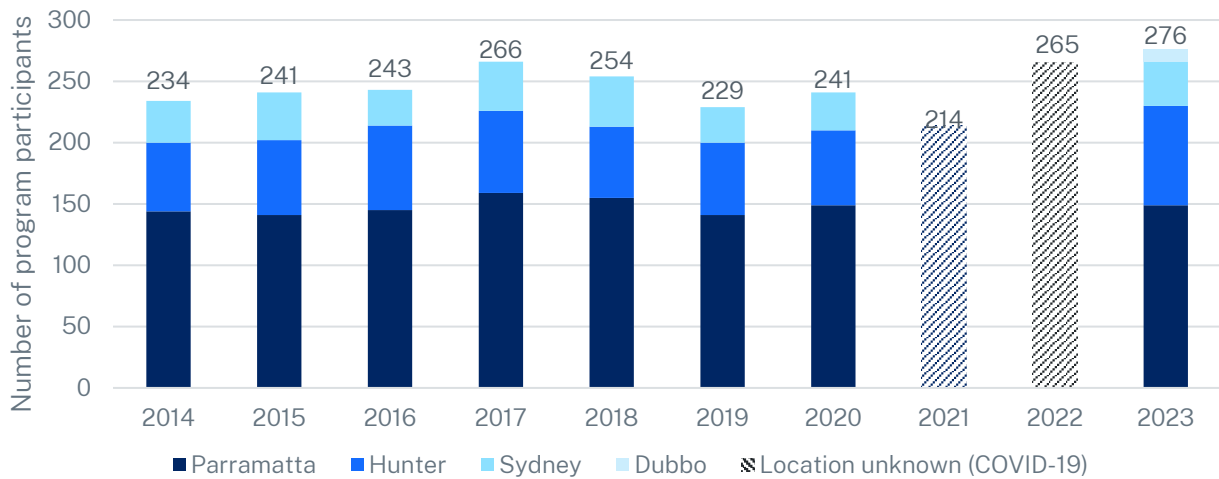


Figure 15 Number of Drug Court program participants as at 31 December, between 2014 to 2023

The number of participants who graduate from the Drug Court have also remained relatively stable in recent years, excluding the COVID years. However, compared to 2014, there has been a significant increase in yearly completion rates through graduation. There were 95 program graduates in 2023, almost doubling the 2014 count of 48 (Figure 16).

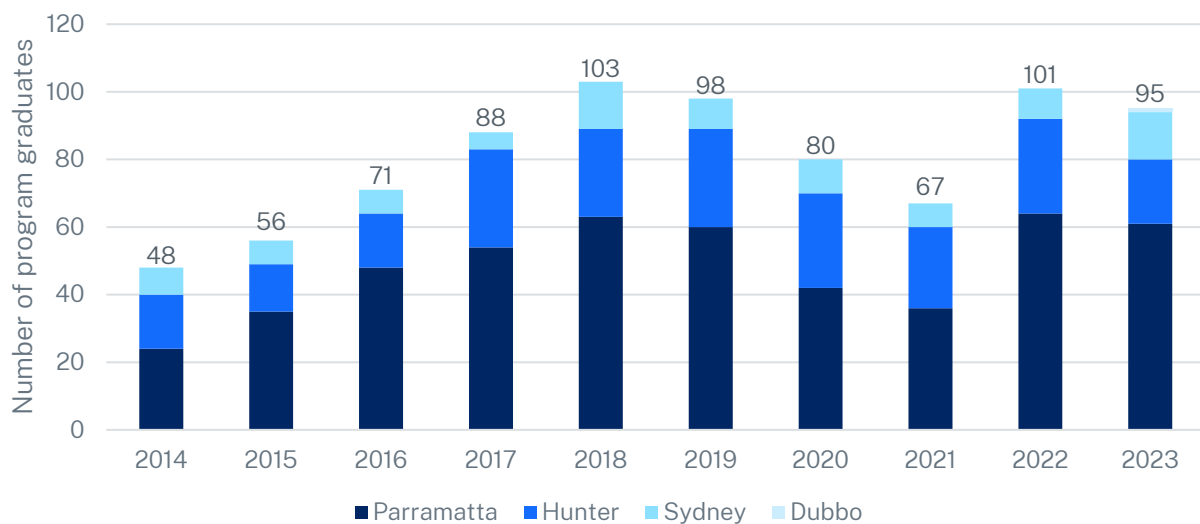


Figure 16 Number of Drug Court program graduates, between 2014 and 2023.

Cannabis Cautioning Scheme¹⁵

The Cannabis Cautioning Scheme diverts people aged 18 years and over with low-level cannabis offences from the criminal justice system and gives them the opportunity to receive health support. Changes were made to the scheme to align with EDDI when it commenced on 29 February 2024. The following data compares the scheme pre and post those changes.

As discussed above, drug use/possession court diversions have trended downwards over the last decade. Between 1 March 2024 to 30 June 2024, there were 2,870 legal actions for cannabis

¹⁵ Source: BOCSAR. The data available has limitations. Comparing those who proceeded to court for possession of cannabis and/or use with the number of cannabis cautions is not an accurate way to monitor the operation of the scheme. Not all offenders proceeded to court for small quantity cannabis possession are eligible for the cannabis cautioning scheme, for example the data does not differentiate between those who have been previously convicted of a drug supply offence (who would be ineligible for the scheme) and those who do not have a criminal history (who would be eligible).

possession and/or use. 808 (28%) of these were by way of a cannabis caution and 2,062 (72%) were proceeded against to court.

Of the total cannabis cautions issued during this period, 73 (9%) were issued to people who are Aboriginal. Of the total legal actions commenced during this period, 586 (20%) were for people who are Aboriginal.

In comparison, there were 3,413 legal actions for cannabis possession and/or use during the same period in the previous year (1 March to 30 June 2023). Of these legal actions, 900 (26%) were by way of cannabis caution and 2,513 (74%) were proceeded against to court.

Method of proceeding		Mar - Jun 2023	Mar - Jun 2024
Possession and/or use of cannabis	Proceeded against to court	2513	2062
	Cannabis caution	900	808
	Total	3413	2870
Possession and/or use of cannabis where person is Aboriginal	Proceeded against to court	552	513
	Cannabis caution	64 (7% of all cautions)	73 (9% of all cautions)
	Total	616 (18% of all actions)	586 (20% of all actions)

Table 3 Number of adult persons of interest proceeded against by the NSW Police Force for a cannabis use/possession, by method of proceeding.