

12. Treatment associated with the criminal justice system

12.1 General considerations

The 1987 WHO guidelines (Curran, Arif & Jayasuriya, 1987) noted that legislation establishing a national treatment programme for drug and alcohol dependence will not be complete without provisions for the diversion of drug-dependent persons from the criminal justice system. This is necessary because so many of those with either type of dependence almost inevitably become involved with the law-enforcement (and drug-control) agencies and the police at some time. Such diversion is consistent with the three international conventions on narcotic drugs and psychotropic substances¹.

Drug or alcohol dependence is a significant factor to be considered in the administration of the criminal justice system. It is important to identify the ways in which various countries manage the drug- or alcohol-dependent offender. The use of illicit dependence-producing drugs frequently makes the user subject to severe criminal penalties, including imprisonment or fine. In a few jurisdictions, less severe administrative penalties apply for persons who can demonstrate that the drugs in their possession were intended solely for personal use, at a dose level appropriate to their daily consumption levels and dependence. Alcohol is also a dependence-producing drug, but in most countries its consumption does not constitute an illegal activity. The alcohol abuser nevertheless frequently becomes involved in the criminal justice system, because alcohol can lead to behaviour that is dangerous to others, e.g. driving while under the influence of alcohol.

Some drug- and alcohol-dependent persons become involved in illegal activities for reasons that may be related to their dependence. The legislation of many countries provides for the treatment of drug- or alcohol-dependent offenders. In many instances, this involves managing them in the criminal justice system by placing them in a treatment setting, sometimes suspending punishment or providing treatment while they are in confinement.

For example, Judicial Standards, designed to guide courts and judges, in responding to criminal offenders and civil litigants who abuse substances have been adopted in some jurisdictions. For example, the Standards on Substance Abuse approved 28 April 1998, by the Justices of the Massachusetts Supreme Judicial Court,

¹ See Chapter 5 for a detailed discussion of these conventions: the 1961 Single Convention on Narcotic Substances, as amended in 1972; the 1971 Convention on Psychotropic Substances; and the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.