

ADCA is reviewing its policy positions which were first published in 2003. While the principles behind ADCA's policy positions remain extant, the supporting statistics and references now need to be updated. For information on the policy updates, please contact Brian Flanagan, ADCA's Strategic Communications and Policy Officer, on 02 6281 0686 or brian.flanagan@adca.org.au

2.5 Law enforcement and harm minimisation

Summary

Successive drug policies in Australia have been built upon the principle of harm minimisation. Law enforcement has a critical and increasingly diverse role to play in pursuing this goal by protecting both individuals and the wider community from the harm associated with the consumption of licit and illicit drugs. Over the life of Australia's National Drug Strategy, law enforcement strategies and policies have started to incorporate harm minimisation principles and certainly most of those involved in drug law enforcement see themselves as involved in minimising at least some of the harms associated with drug use (Weatherburn, Lind & Forsythe 2000). ADCA welcomes the commitment to harm minimisation increasingly reflected in law enforcement practice, particularly in the discretionary actions that are such an integral part of street policing.

Law enforcement has often been viewed as an alternative to health-based policies addressing drug related harm. However, evidence suggests that it is a multifaceted, partnership approach which recognises and utilises the mandates and competencies of all stakeholders that is likely to be most effective in minimising harm. This is one of the identified strengths of the National Drug Strategy; it brings together health and law enforcement in a partnership approach that recognises the valuable contribution that both sectors, working together, can make to reducing alcohol and other drug related harm. Law enforcement personnel must be supported in this collaborative effort through education and training, improved communication mechanisms and recognition.

Resources and investments must be balanced across a range of harm minimisation measures and directed to those initiatives that evidence shows are effective, taking into account the harm that drug misuse causes the community as well as the individual. Towards this end, comprehensive performance indicators must be developed to provide an accurate picture of the outcomes of harm minimisation initiatives, including law enforcement measures. In this way the contributions of such measures to attaining the goals of the National Drug Strategy may be recognised and refined.

Background

Drug law enforcement measures have traditionally received strong political support and substantial funding in this country. In the 2003-04 Federal Budget

the Commonwealth Government allocated funding of \$41 million over the next four years which it stated would guarantee the ongoing operational effectiveness of Commonwealth law enforcement by supporting:

- international liaison, cooperation and assistance
- telephone interception capabilities
- the targeting of high risk financial dealing
- the improved integration of financial intelligence into major drug and money laundering investigations (Ellison & Worth 2003).

Also announced in the 2003-04 Federal Budget was a further \$12 million to develop key new supply reduction measures. At the time of the announcement, the Commonwealth Government indicated that these measures would:

- prevent chemicals being diverted into illicit drug manufacture
- support national monitoring of illicit drug use, markets and criminal activity
- tackle money laundering associated with drug trafficking, particularly the production and distribution of psychostimulants (Ellison & Worth 2003).

Despite the resources devoted to measures under the National Drug Strategy, including law enforcement, drugs are still readily available in our community.

The fluidity of drug networks and displacement

The hierarchical model of drug supply that many drug law enforcement initiatives traditionally relied upon has been questioned in the light of continued availability. Green and Purnell (1996) cite a strong body of evidence which indicates that drug networks are loosely formed and relatively fluid. Each part of the network exists independently and operates on an opportunistic basis with criminal network roles and personnel changing regularly. Researchers argue that the fluid and regenerative nature of illicit drug markets reduces the opportunity for enforcement activities to affect supplies in the long term. Essentially, if one supplier or importer is eliminated, there are plenty of other organisations able to quickly fill the gap and therefore targeting one major organisation may simply enhance the opportunities for others (a summary of research cited in Green & Purnell 1996).

This view is supported by Kendall (1996) who notes that while the market for illicit drugs can only be sustained if there is a demand for their consumption, organised crime groups are quick to capitalise on social vulnerability and to establish market niches over and above meeting existing demand. This can be seen in the increased availability of amphetamine-type substances in Australia over recent years. In this context, it may be both unrealistic and naïve to consider that organised crime will dissipate if the market is diminished (Kendall 1996).

Caulkins (2002) agrees that drug markets are resilient and adaptable, but believes that this resilience can be turned to advantage by drug law enforcement when considered in terms of overall harm rather than harm per unit. He gives the example of a street market that is operating in a residential area near a school, a treatment centre and a playground. One could argue that if, through law enforcement measures, this market was pushed to relocate and then reappeared in an abandoned industrial area not far away, the total harms reduced might be considerable even if there was no discernable reduction in actual use. Caulkins rationalises that there may be an argument for using law enforcement measures to disadvantage those sellers who employ particularly noxious selling tactics such as violence, using children as 'lookouts' and evading enforcement by corrupting officials.

Other researchers may counter that the effects of displacement are unlikely to be positive. In reporting on the impact of intensive street-level interventions within a prime drug market in Sydney, Maher and Dixon (1999) noted adverse consequences associated with a number of forms of displacement, including the displacement of drug markets. They reported that such movements by drug markets could make drugs available in neighbourhoods where they had previously been in short supply. They also showed that when police pressure was applied, some dealers that had previously conducted their business on the street began to operate in shopping malls and others that had once operated in the town centre moved their business within the vicinity of a primary school (Maher & Dixon 1999).

While historically both Australian and international evidence indicates that supply control measures in particular have a very limited impact on the availability of drugs and associated harms, recent evidence suggests that this may not always be the case. The reduced availability of heroin in Australia which commenced in December 1999 resulted in reductions in opioid related arrests and overdose deaths. Although researchers agree that the causes of the heroin shortage are likely to be complex, undoubtedly contemporary law enforcement interventions have played a role. This issue is discussed in greater detail below.

Unintended harms

While the effectiveness of law enforcement supply side initiatives in reducing the availability of drugs has often been questioned, also of concern is evidence that law enforcement initiatives may result in unintended harms for drug users and the wider community, particularly in terms of increased crime and public health risks. Some researchers have argued that public health considerations should be a key determinant of police drug law enforcement activity and that until this is the case, positive outcomes of police interventions on drug markets are likely to be achieved at a significant cost (Maher & Dixon 1999).

A case in point is law enforcement activities that precipitate increases in the price of illicit drugs at the street level. It is thought that the demand for illicit addictive drugs may be weakly price elastic; that is, increasing the cost of a substance may not proportionately reduce the demand. In this situation,

increases in the cost of certain substances may serve only to benefit traffickers and dealers as users commit more crime to fund their addiction or move to other potentially more harmful substances (Weatherburn et al. 2003; Weatherburn, Lind & Forsythe 2000). That said, it should be noted that the evidence on price elasticity to date is limited and often inconsistent. Some studies show that, particularly in the longer term, drug prices may affect rates of use as they impact not just on those already using the drug but also on those who may consider using it (Weatherburn, Lind & Forsythe 2000).

Still, if certain substances are only weakly price elastic then restricting the supply of a drug and making it more expensive can be associated with a number of unintended harms. Increased price may impact upon public health as drug users turn to more dangerous injecting practices to maximise the effects of their purchases. Further, price rises have implications for drug related crime as people dependent on drugs try and meet the costs of supporting their use through activities such as theft and prostitution (Australian Drug Foundation 2002). Increases in price may also create an environment conducive to corruption (Australian Drug Law Reform Foundation n.d.). The Royal Commission into the New South Wales (NSW) Police Service identified linkages between police corruption and drug law enforcement. It referred to corruption in the form of bribery and protection; theft and supply of drugs by police officers; and 'process corruption' such as evidence fabrication and the use of unnecessary physical force (Cowdery 1997 cited in Alcohol and other Drugs Council of Australia 2002).

There is the additional risk that the benefits associated with a shortage of one drug may be offset by an increase in the use of other drugs. This is evidenced by the apparent shift of many heroin users to the use of cocaine, amphetamine-type substances and pharmacotherapies following the reduced availability of heroin in Australia (Australian Bureau of Criminal Intelligence 2002). Such repositioning is of particular concern due to the even greater challenges experienced in treating dependence on cocaine and amphetamines relative to the treatment of heroin dependence.

In short, law enforcement has a reputation, deserved at least in part, for sometimes increasing the harms experienced by some sectors of the community. This highlights the complexities of the task before law enforcement and the need to weigh up the potential benefits and harms of law enforcement measures so as to ensure a net gain. Just because law enforcement can be employed in a way that increases harm does not mean that it cannot be pursued in ways that reduce harm (Caulkins 2002).

Defining a role for law enforcement

It is fair to say that the role of law enforcement in a harm minimisation paradigm is not clearly defined and may never be so. Still, some commentators have addressed the issue including Caulkins who illustrates how some harm reduction perspectives are more receptive than others to a prominent law enforcement role. He outlines five specific roles for law enforcement:

- partnerships with treatment and other interventions
- constraining supply
- time-focused intervention early in an epidemic
- reducing control costs and associated harms
- exploiting drug markets' inherent adaptability (Caulkins 2002).

Caulkins also discusses the concept of defining harm reduction in terms of goals rather than programs and shows that, generally speaking, enforcement is more likely to reduce total harm (macro harm) than harm per user or per kilogram consumed (micro harm). Further, Caulkins recognises that enforcement is more likely to reduce accountings of harm that include harms from all sources and suffered by all people than it is to reduce the harms suffered by users or caused by use.

Some researchers would argue that any definition of the role of law enforcement should include the making of informed and well considered choices if practice is to reflect the harm minimisation approach of agency policies. Citing Scarman (1981), Maher and Dixon (1999) reiterate that exercising discretion is critical to successful policing and argue that public health should be one of the factors that are taken into account when making these choices.

Targeting major offenders

Drug laws in Australia distinguish between those who use drugs and those who supply or traffic drugs. Cultivation and trafficking are considered to be major crimes while possession and use are considered to be the lesser offences (Australian Drug Foundation 2002). One of the specific aims of drug law enforcement in Australia is the targeting of major as opposed to minor offenders. However, doubts have been expressed as to whether this goal is reflected in practice.

Green and Purnell (1996) undertook research to map the enforcement activities of Australia's drug laws and found that it is comparatively minor offenders that feel the greatest impact of these laws. They believe this is largely because the majority of drug related apprehensions are made at the street level, by non-specialist police officers. They suggest that specialist drug law enforcement agencies experience considerable difficulties in uniquely defining and targeting major figures in the illicit drug trade and that as a result their investigations often involve relatively minor offenders (Australasian Centre for Policing Research 2003). With the definition of a major offender likely to remain contentious, it may be useful to reassess whether the principle of targeting major offenders is sufficient to guide policy on illicit drug supply reduction approaches (Green & Purnell 1996).

Other researchers support the findings of Green and Purnell in showing that most illicit drug arrests are related to simple possession or use of drugs rather than provision (for example, Wardlaw & Deane 1986). Also of note is that

while the community remains primarily concerned about drugs such as heroin and cocaine, the vast majority of drug offences in Australia actually relate to cannabis. The most recent figures available at the time of writing show that 72% of all drug offences in Australia in 2001-02 were cannabis offences (Australian Crime Commission 2003).

Cost effectiveness

The enforcement of Commonwealth, state and territory laws relating to the production, importation and distribution of illicit drugs represents a significant investment for Australian society. However, not a great deal is known about returns achieved (Sutton & James 1996). Further, the costs arising from unintended harms associated with these measures are difficult to ascertain.

Law enforcement approaches to drug problems generally enjoy political popularity, although some measures may not be the most cost effective use of funds. Kendall (1996) cites a US example that shows that in terms of cocaine use, a dollar spent on treatment is seven times more cost effective than a dollar spent on domestic law enforcement. Kendall argues that scarce resources must be spent wisely and reduction in drug use, which may have a considerable lead time, must not be sacrificed for short-term political gains.

Assessing cost effectiveness necessarily relies upon accurate information on the outcomes of drug law enforcement, both planned and unintended. This is an area in which appropriate performance measures and subsequent data have been lacking. In the absence of accurate information and assessments, drug law enforcement remains a costly enterprise with limited capacity to demonstrate its achievements (Sutton & James 1996).

Clearly, while some inroads have been made in evaluating law enforcement effectiveness and efficiency (for example, Weatherburn 2000) considerable work remains to be done in the development of indicators and collection of data. Many researchers stress the need for this data to be inclusive of the wider harms associated with drug use as well as unintended harms resulting from law enforcement measures. The issue of drug law enforcement evaluation is discussed further below.

Supply reduction

Reducing the supply of drugs is one of the key components of Australia's harm minimisation approach to the use and misuse of licit and illicit drugs. Supply control strategies involve legislation, regulatory controls and law enforcement and, as such, are an area in which law enforcement agencies and personnel make a major contribution. Targeted supply reduction strategies in respect of various substances are discussed in more detail later in this paper.

In the case of illicit drugs, supply reduction strategies aim to disrupt the supply of substances entering Australia as well as the production and distribution of illicit drugs within the country. The key agencies involved in reducing the supply of illicit drugs into the country are the Australian Customs Service (which has primary responsibility for the detection of illicit drugs at Australia's border) and the Australian Federal Police (AFP) (which has primary responsibility for the conduct of investigations arising from the detection and seizure of illicit drugs). State and territory police services are the lead agencies in implementing supply reduction measures within each jurisdiction and the Australian Crime Commission also has a role in reducing the supply

and production of illicit drugs in Australia (Ministerial Council on Drug Strategy 1998).

While the use of supply reduction strategies in respect of illicit drugs has a high profile, supply reduction strategies are also used to limit access to, and the availability of, licit drugs. Law enforcement agencies have a role to play in partnership with other stakeholders in developing, implementing, complying with and enforcing supply reduction strategies for licit drugs (Ministerial Council on Drug Strategy 1998).

In isolation, supply reduction initiatives have a limited capacity to reduce drug related harm. However, their potential is increased when part of a range of balanced and evidence-based measures. They can also enhance the effectiveness of other approaches. As noted by Palmer (1998), interventions to reduce demand are unlikely to be as effective in an environment of uncontrolled supply and there is general consensus that the most appropriate way to target drug problems is through a balanced program of measures which addresses both supply and demand.

Good practice strategies for harm reduction

Tobacco

The smoking of tobacco products is the single largest cause of premature death and disease in this country and, as such, activities aimed at minimising tobacco related harm have great potential to benefit the Australian community. Law enforcement agencies are involved in a number of initiatives that aim to reduce the harm associated with tobacco use. Some of these are outlined below and the topic is discussed in greater detail in the ADCA policy paper on tobacco.

Supply reduction

Research indicates that smoking behaviour is firmly established during the teenage years (Commonwealth Department of Health and Aged Care 1999). More than 90% of Australians who currently smoke took up the habit as teenagers and more than 70 000 Australian schoolchildren each year continue to take up smoking (VicHealth Centre for Tobacco Control 2001). It follows that reducing young people's access to tobacco products is likely to help reduce the overall prevalence of smoking (Commonwealth Department of Health and Aged Care 1999).

Reducing the illegal sale and supply of tobacco to minors through legislation, penalties, monitoring and enforcement is one of the aims of Australia's National Tobacco Strategy. Efforts to reduce children's access to tobacco products in this country to date have included increasing the minimum age of purchase to 18 years in all jurisdictions (with penalties imposed on those selling, or in some cases supplying, to minors) and restricting the location of vending machines in most jurisdictions (Commonwealth Department of Health and Aged Care 1999). However, findings from the National Drug Strategy

Household Survey show that in 2001, 82.6% of underage smokers reported purchasing their last cigarette from a shop or retail outlet (Australian Institute of Health and Welfare 2002). Such evidence suggests that strategies need to be developed to better educate vendors and enforce supply legislation across all jurisdictions.

Another area of tobacco supply reduction in which law enforcement agencies have a key role is the investigation and prosecution of those involved in producing and selling illegal unbranded loose tobacco known as 'chop chop'. Research conducted in 2001 showed that almost one in five Australians aged 14 and over had come across chop chop and that the majority of smokers and ex-smokers who had come across this form of tobacco had smoked it at least once (Australian Institute of Health and Welfare 2002).

Loose tobacco is either stolen from tobacco farms or is sold to illegal distributors by tobacco farmers. Either way, the excise due on the tobacco is avoided and it is then sold on the black market. Given that this activity has considerable implications for levels of taxation revenue, many of the operations designed to curb the supply of chop chop are conducted jointly by the police and officers of the Australian Tax Office.

Alcohol

The misuse of alcohol is one of the leading causes of preventable death in Australia. In addition, alcohol consumption plays a direct role in a range of crimes and many Indigenous communities are experiencing especially high rates of serious alcohol related crime (Alcohol and other Drugs Council of Australia 2002). Certainly alcohol is implicated in many of the situations that police in particular have to deal with every day and the potential for measured police intervention to reduce alcohol related harms is therefore considerable.

There are many drug law enforcement measures that may significantly reduce alcohol related crime, violence and other harms by providing controls over the availability of alcohol, the way that it is consumed and the actions people take when they are intoxicated. Some of these are outlined below and this topic is covered in more detail in the ADCA policy paper on alcohol.

Licensing laws

The heaviest consumption of alcohol occurs in licensed establishments. As such, the enforcement of liquor licensing laws has great potential to prevent alcohol related crime and other harms (National Expert Advisory Committee on Alcohol 2001). While licensing laws vary between jurisdictions, they generally provide controls over:

- who can be served alcohol
- the opening hours of licensed premises
- the ways in which alcohol can be served

- security measures (National Expert Advisory Committee on Alcohol 2001).

There have been concerns expressed over the enforcement of liquor licensing laws, especially in regard to consistency and expertise, with evidence showing that licensed premises continue to provide alcohol to people who are underage or intoxicated (National Expert Advisory Committee on Alcohol 2001).

Findings from a NSW study showed that over a six year period less than 2% of all licensed venues in that state were prosecuted for serving alcohol to an intoxicated person or allowing an intoxicated person to remain on their premises. Further, in 2001, only about 4% of infringement notices issued by police for liquor offences were against licensed venues for serving alcohol to an intoxicated person or allowing an intoxicated person to remain on their premises. The researchers noted that much of the enforcement activity in respect of liquor laws in NSW focuses on patrons rather than on owners, managers or staff of licensed venues. On releasing the report of the study the researchers indicated that stricter enforcement of liquor licensing laws is critical to reducing levels of alcohol related crime and violence (New South Wales Bureau of Crime Statistics and Research 2003).

It has been suggested that effective enforcement of liquor licensing legislation is limited by a number of factors including constraints on resources, legislative complexities, competing policing priorities and a preference for self-regulation by the hospitality industry (cited in National Expert Advisory Committee on Alcohol 2001). The enforcement of legislation in respect of sale of alcohol to minors has been identified as a particular area in which improvement is encouraged (National Expert Advisory Committee on Alcohol 2001).

Licensing accords

There is some evidence to suggest that the establishment of licensing accords may reduce alcohol related harm. Accords are voluntary agreements between licensees, police, health, local governments and community organisations to establish responsible serving practices in a local area. It has been noted that for the responsible serving of alcohol to become the norm there needs to be training in responsible serving practices, cooperation between the various sectors and enforcement of the relevant legislation (Hawks et al. 1998). That said, issues have also arisen about the sustainability of accords and the degree to which such voluntary agreements can withstand the pressure of potential short-term economic gain (National Expert Advisory Committee on Alcohol 2001).

Supply control

The implementation and enforcement of supply control strategies is a key measure to reduce the harm associated with alcohol misuse in Australia. Supply control strategies include restrictions on the sale and service of alcohol to intoxicated people and those who are under 18 years of age as well as local restrictions at the request of Aboriginal and Torres Strait Islander communities (National Expert Advisory Committee on Alcohol 2001).

Alcohol misuse in Indigenous communities is a major public health concern. In 2001, while a higher proportion of Indigenous people abstained from alcohol compared to the general community, the percentage of Indigenous people who reported drinking at risky/high risk levels for long-term harm was more than twice as high as non-Indigenous alcohol consumers (19.9% and 9.7% respectively) (Australian Institute of Health and Welfare 2002). Further, the proportion of deaths related to alcohol misuse is three to five times higher than among the non-Indigenous community (Commonwealth Department of Health and Aged Care 1999b).

In this context, some communities have established local restrictions on the availability of liquor including 'dry' areas, conditions on trading hours/days and restrictions on types of 'take-away' alcohol such as limits on cask wine. In order to maximise their effectiveness, these controls require significant community support and limited alternative sources of alcohol supply. Evaluations of such restrictions in rural and remote areas of Australia have demonstrated a reduction in alcohol related harm (National Expert Advisory Committee on Alcohol 2001b). However, as with general liquor licensing laws, enforcement can be problematic.

Supply control can also apply to the types of products that are available on the market. A recent example is the ban on sale and supply in two states (and proposed bans in other jurisdictions) of an emerging flavoured alcoholic milk drink. This product appeared to be targeted at a young demographic and therefore at risk of increasing the already considerable harms associated with alcohol misuse among young people. Supply side legislation has also been passed in respect of other products targeted at young people such as alcoholic ice confections.

Reducing drink driving

Alcohol intoxication is the primary cause of road fatalities in this country, being implicated in approximately one third of all Australian road deaths (National Expert Advisory Committee on Alcohol 2001). A number of strategies have been implemented to address this problem including drink driving legislation, mass media advertising, and monitoring and enforcement. Law enforcement agencies and personnel have played a pivotal role in the success of these strategies.

Random breath testing was introduced in all jurisdictions by 1989 and Australia now maintains one of the most extensive programs in the world for mass breath testing of drivers (Australian Bureau of Statistics 2002). Random breath testing has been a very effective prevention/deterrence program that has significantly reduced alcohol related morbidity and mortality. The success of drink driving programs is strongly related to the perceived risk of being apprehended and the subsequent penalties being inevitable and severe. Programs therefore appear to have been most effective in those jurisdictions where drink driving laws are highly publicised and vigorously enforced (National Expert Advisory Committee on Alcohol 2001).

Data published by the Australian Transport Safety Bureau (2001) shows that between 1981 and 1998 the percentage of fatally injured drivers and motorcycle riders who were intoxicated dropped from 44% to 26%. The bureau attributes this reduction to strengthened legislation and enforcement in conjunction with high profile media and public education activities, noting that these efforts have had a significant impact on people's attitudes to drink driving.

While clearly drink driving legislation and enforcement have been very successful in this country, repeat drink driving offenders remain of particular concern. As such, the identification of effective criminal justice and law enforcement interventions to reduce recidivist drink driving has been identified as an area for targeted action in Australia's National Alcohol Strategy.

Illicit drugs

Law enforcement plays a key role in protecting the community from illicit drug related harm while also working to minimise harm for users. Law enforcement agencies and personnel deal on a daily basis with crimes relating to importation, trafficking and consumption of illicit drugs as well as those crimes committed while intoxicated by illicit drugs or to support an illicit drug habit (Alcohol and other Drugs Council of Australia 2002; Siggins Miller Consultants 2001). Law enforcement efforts in respect of illicit drugs are based on such principles as:

- ensuring public safety
- reducing drug use through a deterrent effect
- reducing demand through pushing up the price of drugs
- controlling supply by stemming, suppressing and disrupting the flow of drugs into the country
- reflecting social norms
- punishing offenders
- supporting treatment and harm reduction strategies at a local level (Siggins Miller Consultants 2001).

Calls for illicit drug use to be treated as a health issue rather than purely a law enforcement issue have increased in recent years and Palmer (1998) identifies increasing recognition from many areas of law enforcement that the personal use of illicit drugs is more of an issue for the health system than the legal system. Further, there is a growing recognition that while drug use can be harmful, so too can the systems which aim to restrict it (National Drug Research Institute 2000 p. xxvi). This situation provides many challenges for law enforcement agencies in terms of adjusting to changes in their roles and meeting the need for improved education and collaboration.

While drug law enforcement may have traditionally been focused on supply control and interdiction, there is increasing acknowledgment of the role that legislative and regulatory initiatives may play in reducing demand for drugs

such as through encouraging drug users into treatment. While not condoning drug use per se, it is fair to say that new approaches to law enforcement based on harm minimisation aim to reshape rather than totally suppress illicit drug distribution and consumption (cited in National Drug Research Institute 2000 p. xxvii). As noted in the National Action Plan on Illicit Drugs:

Building on traditional policing responses and adopting a proactive problem solving approach ensures that law enforcement plays a crucial role in minimising the harms caused to the community by illicit drugs. An example of an enhanced role for law enforcement is demonstrated by the way policing organisations have reviewed many operating procedures to minimise the harms caused through illicit drug use (Siggins Miller Consultants 2001).

Such modifications include police non-attendance at overdoses, supporting needle and syringe programs, facilitating the operation of the medically supervised injection facility in Sydney and participating in diversion measures.

Street-level law enforcement

It can be argued that the threat of sanction is a real incentive for some people to resist using drugs. Further, the impact of law enforcement measures may encourage an existing user to seek formal treatment or to try to cease use on their own or with the help of family and friends (Caulkins 2002).

Recent research into drug law enforcement and its effect on treatment experience and injecting practices supports the role of drug law enforcement in encouraging users into treatment. A study involving face to face interviews with over 500 heroin users in Sydney showed that while the most important reason for users entering treatment was keeping their relationship/family together, more than 60% of respondents who were in methadone treatment rated avoiding trouble with the police/courts as an important or very important reason for entering treatment. Further, those who were not in methadone treatment at the time of interview were more likely to say they wanted to enter treatment if they had been imprisoned for a drug related offence (Weatherburn & Lind 2001; Weatherburn, Lind & Forsythe 2000).

In terms of impact on injecting practices, the researchers found that a large majority of respondents usually use heroin in a place where they feel safe from the police and, in that context, law enforcement cannot be said to be responsible for any unsafe injecting practices that they engage in. However, those users who inject in a place where they *do not* feel safe from the police were more likely to discard and/or share injecting equipment (Weatherburn, Lind & Forsythe 2000).

In view of these findings, the researchers suggested that ready availability of access to methadone maintenance treatment would make street-level drug law enforcement more effective in reducing drug related property crime. They also reflected the concerns of many alcohol and other drug workers and researchers in recommending that police and health authorities need to work

more closely together to minimise the risk that policing activities may pose to public health (Weatherburn, Lind & Forsythe 2000).

There are a number of studies that have found a link between *aggressive* street-level law enforcement and potentially harmful activities on the part of drug users. One such study examined the impact of street-level law enforcement on a principal heroin market in Sydney during a time when this area was the focus of a number of intensive and sustained policing interventions (Maher & Dixon 1999). The researchers found that such concentrated operations encouraged a number of activities by users and user/dealers that carry considerable risk such as the oral and nasal storage and transfer of heroin. They also reported reluctance on the part of users to carry injecting equipment which resulted in them being more likely to share equipment with others or use equipment that had been discarded by others. The threat of being interrupted while injecting and the police destroying needles found on a person were also liable to result in risky injecting practices including users being less likely to 'taste' their heroin or measure their dose. Unsafe disposal was a further activity that was shown to be related to aggressive policing.

Supply control

As noted above, supply reduction is a major component of the National Drug Strategy and considerable sums have been allocated for this purpose, most notably in respect of illicit drug supply. The role of supply control measures in reducing the harms associated with illicit drug use is articulated in a number of key government strategies including the *National Action Plan on Illicit Drugs 2001 to 2002-03*, the *National Heroin Supply Reduction Strategy* and the *National Supply Reduction Strategy for Illicit Drugs other than Heroin*.

Palmer (1998) states that Australia employs numerous interventions to counter illicit drug supply such as legislation covering extraditions, money laundering and proceeds of crime. Australia is signatory to a range of United Nations anti-drug protocols and is an active member of Interpol. Additionally, Australia has extended action against drug trafficking offshore through the AFP's overseas liaison officer network and law enforcement officers are increasingly working in multi-agency teams (Palmer 1998).

As noted above, the AFP and the Australian Customs Service carry much of the responsibility for Australia's supply control efforts. The detection and deterrence of illegal goods such as drugs is a high priority for Customs (Australian Customs Service 2003) and much of the AFP's effort is directed towards detecting illicit drugs before they reach Australia. In so doing, the AFP actively seeks opportunities to target drug syndicates in source or transit countries. The intended benefits from these activities include:

- greater opportunities to arrest the leaders of criminal syndicates
- larger seizures
- greater disruption effects

- limiting the availability of safe havens for syndicates to operate from
- increasing the skill levels of developing law enforcement agencies through working alongside the AFP
- reinforcing levels of international cooperation (Australian Federal Police 2003).

However, historically supply side initiatives have been relatively ineffective with only an estimated 10% of imported drugs being intercepted (New South Wales Drug Summit 2002). In 1997 it was revealed that only 3 in every 10 000 cargo containers were searched by police and customs officials and in 1998 only 2% of all international flights entering Sydney were searched for illicit drugs (New South Wales Drug Summit 2002). Such data indicated that investments in defending Australian borders needed to be made more strategically and additional resources were allocated for this purpose under the National Illicit Drug Strategy.

While in 2003 we still don't know what percentage of drugs entering the country is being intercepted, it must be noted that in the last couple of years the efforts of agencies involved in supply control have stopped considerable quantities of illicit drugs from being sold on the street. In 2002 the Commonwealth Government reported that since the commencement of the National Illicit Drug Strategy in 1997, there has been an unprecedented increase in the detection and seizure of illicit drugs by the AFP and other law enforcement agencies in Australia and overseas. Between 1997 and 2002 over seven tonnes of drugs were prevented from reaching Australian streets including 2126 kg of heroin, 2667 kg of cocaine, 1412 kg of MDMA (ecstasy) and 932 kg of amphetamines (Ellison 2002). A number of seizures have subsequently been made including a shipment of 100kg of heroin which was stopped in Sydney in July 2003 (Ellison 2003).

Clearly agencies are having some success in disrupting the supply of illicit drugs to this country. What is less clear is whether such interdictions actually reduce the availability of drugs at the street level and whether they ease drug related harms.

As summarised by Weatherburn et al. (2003), there are good reasons to suggest that successful supply side drug law enforcement should help reduce the collective harm caused by drug use. While arrest, imprisonment and the confiscation of assets may not stop trafficking, they make it more risky and therefore more expensive. As those involved in importation and distribution seek to compensate themselves for the risks and costs involved, the resulting demand for higher profits is passed on to users in the form of higher illicit drug prices. It seems a logical step that this should, in turn, suppress illicit drug consumption and therefore minimise drug related harm. Whether such outcomes are reflected in practice, however, is a topic of much debate. Certainly evidence exists that supply side initiatives can have little effect on drug prices (for example Reuter 2001 and Weatherburn & Lind 1997 cited in Weatherburn et al. 2003).

Research into the effects of illicit drug supply reduction strategies have been hampered by the rarity of large and abrupt shifts in price, purity and availability (Kleiman 1992 cited in Weatherburn et al. 2003). In this context Weatherburn et al. (2003) report that the shortage of heroin in Australia which commenced at the end of 1999 provided a unique opportunity for research to examine some of the key issues around supply control policy. When studying some of the effects of the shortage they found that while the fall in overall heroin use at this time was accompanied by a considerable reduction in overdose rates in NSW, the health benefits associated with this fall may have been offset by an increase in the use of other drugs. They also noted that the heroin shortage did not appear to have had any enduring impact on crime rates. The researchers concluded that while supply control has an important part to play in reducing drug related harm, proponents need to be aware of the adverse consequences that may flow from successfully disrupting the market for a particular illegal drug (Weatherburn et al. 2003).

The question of whether there is an optimum period during the cycle of a drug epidemic where supply control efforts may be most effective has also been examined. Caulkins (2002) cites findings that interventions early in an epidemic of use can have a much greater impact on total consumption than comparable efforts later in the epidemic. For example, the removal of sellers at the start of an epidemic can have a significant impact on availability due to the lack of an established distribution chain and the comparatively smaller number of sellers at this stage of the cycle. Such measures are likely to at least delay or soften the peak of an epidemic. In view of this evidence Caulkins believes that law enforcement has a critical role in controlling the early stages of a drug epidemic where other measures such as treatment and prevention may not be so effective. He also suggests that law enforcement may be best directed at the fastest growing markets rather than the largest markets (Caulkins 2002).

Diversion

In recent years, numerous programs to divert alcohol and drug offenders from the criminal justice system into treatment and other helping services have been established in Australia and overseas. Such programs aim to increase incentives for drug users to identify and treat their illicit drug use early thereby decreasing the impact of drug use both on the individual offender and the wider community. Additional to the material provided here, ADCA has published a separate policy paper on diversion which includes discussion on the rationale supporting diversion initiatives.

There are currently diversion programs for drug offenders being run in every state and territory for cannabis and other drug offences. These programs operate at various stages of the criminal justice system, from the pre-arrest stage right through to the post-imprisonment stage. The offenders targeted by diversion programs generally include those facing use and possession charges; those whose use has led to property offences while intoxicated; and those who have committed offences in order to support a drug taking habit (Alcohol and other Drugs Council of Australia 1997).

The 2002 evaluation of the national Illicit Drug Diversion Initiative highlighted that for diversion programs to be effective it is vital that police and magistrates accept that the diversion of offenders is worthwhile and commensurate with their roles. They noted that gaining such acceptance requires both organisational and cultural change and is therefore neither a simple nor rapid process. While the researchers reported increased acceptance of the value of diversion in recent years, they noted the need for ongoing training and reinforcement among new and existing police officers and court personnel, along with the establishment of mechanisms for feedback (Health Outcomes International 2002). ADCA believes that this must include providing magistrates, judges and court officials with current and accurate information regarding the services provided by alcohol and other drug agencies and the evidence regarding effective treatment interventions. This will enable individuals to be referred to the type of treatment that is most appropriate to their needs.

Another essential component of an effective diversion system which was identified by the evaluation researchers is communication between police and providers of treatment services. While noting an increase in such communication since the implementation of the national diversion initiative in 1999, they identified a need for ongoing interaction on a systemic and regular basis (Health Outcomes International 2002).

Communication and collaboration

As with demand reduction and treatment strategies, traditional law enforcement and interdiction strategies have limited success on their own (Siggins Miller Consultants 2001) and these approaches must therefore work in partnership rather than being viewed as competing alternatives. Newer measures involving law enforcement agencies – such as responsible serving practices, police non-attendance at overdoses, legislative support of prevention measures, diversion initiatives and drug courts – rely on communication and a collaborative approach across sectors in order to maximise their effectiveness (Caulkins 2002; Kendall 1996; Ministerial Council on Drug Strategy 1998).

Collaboration within the law enforcement sector is also imperative. Drug trafficking and distribution networks cross borders and jurisdictions and there are numerous examples of federal and state/territory agencies, as well as international law enforcement agencies, cooperating on joint operations. This approach should be further encouraged.

As well as cooperating on projects and operations, jurisdictions should continue and extend the practice of sharing information and resources. National databases like the Australian Crime Commission's *Australian Criminal Intelligence Database* (ACID) and the *Australian Law Enforcement Intelligence Net* (ALEIN) exist to aid the sharing of intelligence and all drug law enforcement agencies should be active participants in such endeavours.

National Drug Law Enforcement Research Fund

The National Drug Law Enforcement Research Fund was established by the Ministerial Council on Drug Strategy on 10 June 1999 and commenced operations in August 1999. At the time of writing this paper the Australian Government Department of Health and Ageing had called for tenders to evaluate the fund. The fund encourages the development of projects that trial innovative law enforcement strategies and establish data collections to inform decision making by law enforcement agencies. Also encouraged are projects involving the development of materials to assist law enforcement officers in the execution of their current or future roles. One of the key aims of the fund is to facilitate the research, evaluation and review of drug law enforcement as it relates to licit and illicit drug markets and this is certainly an area that ADCA agrees requires further effort. The fund also aims to assess the impact that the policies and practices of the law enforcement sector and other stakeholders have on each other and on law enforcement and drug harm reduction outcomes (Commonwealth Department of Health and Ageing 2002).

Evaluating the effectiveness of law enforcement

Clearly the way in which drug related crime is policed carries both benefits and harms which need to be closely examined. However, evaluation and analysis of the role of law enforcement in reducing drug crime is an aspect of Australia's drug policy that requires improvement. ADCA believes that there are very few indicators for determining the effectiveness of drug law enforcement. Further, those indicators that do exist may be misleading. For example, the efficiency and effectiveness of law enforcement strategies is often measured by the number of arrests, convictions, drug and asset seizures and the crime clear-up rate. However, some researchers claim that these measures are no guarantee that the organised criminal activity being targeted has been stopped, reduced or displaced (cited in Green & Purnell 1996). Nor do such measures take account of unintended negative outcomes to drug users and/or society in general.

Wardlaw & Deane (1986) caution not only about the quality of indicators but also the biased and unscientific manner in which data may be used to illustrate particular points of view. They claim that one of the principal problems with drug law enforcement statistics is that they are largely a measure of police activity and may bear no direct relation to changes in the magnitude of drug use. That is, the more effort police devote to drugs the more drug offences will be detected.

The lack of quality data that results from inadequate measures may foster the view that drug law enforcement has neither rational justification nor a meaningful role to play in harm minimisation (Weatherburn 2000). In this context, ADCA believes that far more work needs to be done to develop realistic and comprehensive indicators that will inform policy makers and the community of the extent and nature of law enforcement initiatives, their impacts and their efficiency and effectiveness.

See also

Tobacco	1.1
Alcohol	1.2
Cannabis	1.5
Heroin	1.6
Diversion	2.10

ADCA policy recommendations

ADCA recommends that:

- law enforcement should be maintained and promoted as an active key partner in reducing drug related harm in Australia
- the Ministerial Council on Drug Strategy should develop more comprehensive performance indicators for drug law enforcement nationally
- appropriate harm reduction education and training should be systematically included in the pre-entry and in-service programs of agencies involved in the law enforcement and criminal justice system.

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