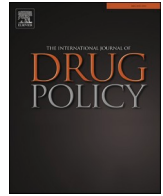




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“No penalties. No arrests. No jails”: Perspectives on drug decriminalization among people who inject drugs in Sydney

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ABSTRACT

The decriminalization of drug possession in varied forms is gaining some traction around the world. Yet prospects for people with lived and living experience of drug use to influence the direction of drug law and policy reform remains bound by stigma and exclusion. This study considers the aspirations for decriminalization of people who inject drugs through 20 semi-structured qualitative interviews with the clients of the Sydney injecting centre. What does decriminalization mean for those most criminalised by drug law and policy? The study found that participants' views of what is possible for decriminalization are mediated by the same structures and experiences of criminalization, incarceration and exclusion that has disrupted their lives. Participants anticipate the need to mobilise incremental and partial changes associated with de facto models, including fines, increased police discretion (and therefore power) and treatment orders. At the same time, participants collective imaginary also exceeds the limits of a police-controlled depenalization. We document people's claims on a future drug policy that speaks to a world without criminal drug offences, punitive controls and the exclusion of people who use drugs from the policy table.

Introduction

When invited to imagine a world without the criminal sanction of drug possession, Michael's first response was, “No penalties. No arrests. No jails.” Michael (a pseudonym) was 66 at the time of interview and a client of the Sydney injecting centre. He grew up in Blacktown, a highly multi-cultural area of South-Western Sydney that has pockets of disadvantage. As a child Michael was exposed to significant amounts of police attention, he left home at age 14 and went in and out of child welfare institutions and juvenile prisons until age 17. Michael started but did not complete several higher education programs and degrees throughout his adult life, which were interrupted by periods of arrest, imprisonment and drug use. He has spent most of his working life doing manual labour in nurseries and as a brick-layer, or as he puts it, “*Nothing academic. All physical*”. Injecting opioid use has been part of Michael's life for 35 years. He has been managing his use with the long acting and injectable opioid agonist medication Buprenorphine® for the last three years. The active ingredient in Buprenorphine is buprenorphine, and it is used in Australia in the treatment of opioid use disorder. This has allowed him to get involved in the peer user community and brought with it a new sense of purpose. The way Michael imagines a world without the crime of drug possession

is no doubt informed by all the ways he has been criminalized by prohibition, and is characteristic of the sentiments of clients of the injecting centre we spoke to about drug decriminalization.

The decriminalization of possession of illicit drugs for personal use has been growing in popularity globally. Following the decriminalization of drug use in Portugal in 2001, more than 25 countries around the world (including in Europe, Central and South America) have decriminalized possession and use, in some form (Drug Policy Australia, 2018), with the 2020 US election seeing the State of Oregon voting in favour of decriminalization and the Canadian province of British Columbia recently establishing a trial of drug decriminalization (Duong, 2023). In Australia, where this study is based, the Australian Capital Territory government decriminalized drug possession for all substances in 2023. In New South Wales, the state where this study is based, the State Coroner and the Special Commission of Inquiry into crystal methamphetamine and other amphetamine-type stimulants (State of NSW, 2020) have recommended that the State Government decriminalize drug possession. Around the same time the major service delivery organization Uniting Care declared in-principle support for the decriminalization of possession and use, though the policy model that should comprise this approach was not specified (Ritter & Maiden, 2020). In October 2023

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the NSW state government introduced an additional police discretion to issue up to two on-the-spot fines for a small quantity drug possession offence instead of charge, with the option of completing a tailored drug intervention program in lieu of fine payment ([Justice Legislation Amendment \(Miscellaneous\) Bill 2023 NSW](#)).

These developments around decriminalization in Australia, and the state of New South Wales, provide the setting against which this research was conducted. Despite representing ostensibly progressive steps in drug policy, these announcements and the surrounding public policy debates have been almost entirely absent of the perspectives of people who use drugs. This is especially so for a group who are arguably the most harshly impacted by drug prohibition: people like Michael, people who inject drugs. This study seeks to address this by speaking directly to clients of the Sydney Medically Supervised Injecting Centre (MSIC), (operated by Uniting Care), about decriminalization to deepen public policy understandings of the kind of drug policy that people who inject drugs support.

Decriminalization and its discontents

Models of drug decriminalization

With the expansion of drug decriminalization across the globe in the last 20 years has come different models for doing so. Drug decriminalization generally falls into two broad categories: de facto or de jure reforms. De facto decriminalization (or depenalization) that maintains the current system of criminal offences but provides the option in policy for police officers (and sometimes judges) to ignore, provide warning or caution rather than charge and arrest ([Hughes et al., 2019](#)). For example, the [Government of Netherlands \(2024\)](#) has a ‘toleration’ policy which states that “the sale of small quantities of soft drugs in coffee shops is a criminal offence but the Public Prosecution Service does not prosecute coffee shops for this offence.” Of course police officers in many contexts regularly exercise discretion of the kind that is formalized in de facto reforms in the normal conduct of their work ([Beckett, 2016](#); [Grewcock & Sentas, 2019](#)) - but such reforms signal that official policy deprioritizes enforcement and allows for cautioning and diversion. In Copenhagen, decriminalization zones established in 2012 have enabled police to desist from punitive law enforcement and adopt techniques referred to as ‘harm reduction policing’, to some extent ([Houborg et al., 2014](#); [Kammersgaard, 2019](#)).

De jure reforms on the other hand are those that explicitly seek to change drug laws by removing criminal sanction from drug possession, most often replacing this with civil/administrative sanctions or diversion to treatment (and sometimes social services). For example, in Portugal possession of small quantities of drugs is no longer a criminal offence, and those who are found with substances such as cocaine and heroine are instead referred to ‘dissuasion panels’ that are comprised of legal, medical and social work professionals. Least common are de jure reforms to decriminalize drug possession that subsequently attract no legal sanction. Examples of this approach are limited to Germany and the State of Vermont in the USA ([Stevens et al., 2021](#)).

Key considerations in the design of non-criminal responses to drug use include the objects of the reform (health, social, legal, etc.); who the policy will apply to, and what (if anything) is to occur when people are found to possess personal quantities of drugs ([Greer et al., 2022](#)). Because drug decriminalization has almost exclusively focused on drug possession, a key policy question has been how to differentiate possession from the selling or trafficking of drugs – which remains a criminal offence. Models include setting the threshold quantity in legislation, establishing or allocating an authority to determine threshold quantity, reliance on prosecutorial or sentencing guidance, deferral to court precedent, and case-by-case determinations ([O’Reilly et al., 2022](#)).

Evaluating drug decriminalization

Much research has evaluated these models of drug decriminalization from public health and social policy perspectives. Public health evaluations have remained tightly focused on legal reform and on prevalence of the use of substances that were once criminalized, consistently showing little change in drug use patterns post decriminalization ([Scheim et al., 2020](#)). Social policy evaluations have covered a more diverse set of reforms and have found for example that depenalization is the least complex option to adopt but also the most exclusionary in practice, while models such as targeted referrals require greater legal change and investment in health infrastructure but deliver better results in terms of less contact with and reliance on the criminal legal system and health systems ([Stevens et al., 2022](#)).

However, much less has been written about how people who use drugs themselves experience and understand these models of decriminalization. In a seminal report by the International Network of People Who Use Drugs on the Portuguese decriminalization model mentioned above, the authors—who themselves have lived experience of drug use—write:

The lived experiences, perspectives, and rights of the drug-using community are equally important, and these considerations are rarely taken into account in assessing the outcomes of decriminalization [...]. Interactions with the state and the police, and issues of violence, social exclusion, stigmatization, and discrimination, are often entirely omitted from discussion and analysis of decriminalization. ([International Network of People Who Use Drugs, 2018](#))

In a follow up report based on interviews with people who use drugs from various international contexts in which drug decriminalization has been implemented, the authors note that:

Although several recent reviews and assessments have sought to measure and compare the outcomes and impact of various decriminalization models, none have specifically included the perspective of people who use drugs in their analyses. ([Madden et al., 2021](#))

The most recent INPUD report documented from the ground up the continued criminalization of people who use drugs under decriminalization models that rely on police discretion or civil sanction; continued stigma, discrimination and social exclusion; increased opportunities for surveillance and social control through quasi-legal bodies and authorities; reduced access to health and social services resulting from the issue being perceived as ‘dealt with’, and; a lack of genuine involvement of people who use drugs in the process of remaking drug laws. A key observation is that models that replace the criminalization of drug possession with the lowering of thresholds for trafficking offences “at best undermine the whole premise of liberalizing punitive drug laws and policies and fail to reduce the negative costs of prohibition, such as incarceration for an aspect of human behaviour and activity that should not be criminalized” ([Madden et al., 2021](#): 18).

Lived experience, drug policy and decriminalization

Despite limited consultation with people with lived and living experience of drug use in the evaluation of drug decriminalization, much drug policy literature calls for their better inclusion in research. This has included acknowledgment that drug policy scholarship and processes have systematically marginalized the voices of people who use drugs ([Lancaster et al., 2013](#)), as well as calls to include lived and living experience perspectives as the expertise of those most directly impacted by drug policy ([Lancaster et al., 2015](#); [valentine et al., 2020](#)) and as a form of participatory democracy ([Lancaster et al., 2018](#)).

A handful of studies have conducted surveys, interviews and focus groups with people who use drugs to conceptualize their contribution to drug policy. For example, [Askew et al., and Bone \(2022\)](#) have explored the values that people who use drugs bring to bear on their views about

drug policy, including collective concern with personal autonomy, forms of paternalism and legal injustice, and neoliberal governance – all of which include a demonstrated conflict with prohibition. Greer and Ritter (2019, 2020) conducted focus group research with diverse groups of people who use drugs about what kinds of reform to drug laws they would support, finding general support for medicalized approaches and concerns amongst participants about the role of government and police in reform processes (Greer & Ritter, 2019, 2020).

There are however some key differences between this literature and the study reported on here. Our study is focused exclusively on the views of people who inject drugs. While the survey and focus groups mentioned above may have included people who inject, if they appear at all they are in the minority. A focus on people who inject drugs is a direct response to the level of criminalization they experience under prohibition. We sought out the views of those who are arguably the most criminalized by drug laws in order to explore the lived knowledge of how these laws impact people's lives and what they therefore support as an alternative. The second key difference from studies that evaluate drug policy from lived and living experience perspectives is that our study is focused on (though was not limited to) decriminalization, as the policy that was receiving the most political attention in New South Wales at the time of interview. Given that a neighbouring state, (the Australian Capital Territory) had recently enacted decriminalization and the NSW Government was speaking directly to the possibility of also doing so, we sought to ground our conversations about drug policy in that which seemed politically and materially possible to our participants.

Methodology

During 2022 and 2023 we conducted 20 semi-structured qualitative interviews with 19 (one person was interviewed twice) clients of the Sydney Medically Supervised Injecting Centre (MSIC) on their views about drug law reform, with a particular focus on decriminalization of drug possession. In keeping with the principles of participatory action research (Lenette & Nesvaderani, 2021), before seeking ethics approval or commencing the research the authors consulted with the MSIC Consumer Action Group (CAG), which consists of 8 clients of the service, and staff are also involved in helping to organise and administer the operation of the group. The CAG was established in 2015 to provide clients of the service with a voice on MISC service delivery and planning. The CAG reviewed the recruitment strategy and research questions of this project, which were finalized with the CAG's approval. The project then received ethics approval from the UNSW Human Research Ethics Committee in 2021, with recruitment delayed due to the COVID-19 pandemic and associated public health restrictions.

Participants were recruited to the study via the display of posters inside the MSIC, complimented by encouraging members of the CAG and staff at the centre to inform clients that the study was occurring. Interviews lasted between 45 and 90 min and comprised of questions related to both participant experiences with prohibition (how they have been criminalized, policing, courts and prisons, etc.) and their views on decriminalization (related to the concept, process and proposals for change).

In developing our approach to the study we reflected on the role of the interview in this research. Our study drew on a range of methodological scholarship in critical drugs studies to inform our approach. For example, Lancaster and colleagues note that “the way PWID [people who inject drugs] feel about themselves and the policies which govern them may be profoundly shaped by their lived and living experience as a stigmatized population and the subject positions made available in policy and practice” (Lancaster et al., 2015). Given that the lived and living experiences of people who inject drugs are “shaped by intense social opprobrium and disadvantage” (valentine et al., 2020: 193), it is unsurprising that “narratives of the self are [therefore] formed by available frames and tropes” (valentine et al., 2020: 199). In our study, we reflected on how such accounts of identity formation and narration

of the self among people who use drugs were likely to have similar impacts on the narratives of social change or law reform that our participants were exposed to or would be willing to take up in an interview. How people who inject drugs understand themselves in relation to legal, medical and political authority is certain to inform the kind of social and policy change they feel deserving of or entitled to ask for.

In navigating the closure of social reproduction, we looked to methodological approaches in critical criminology and social harm, which have critiqued the application of a conventionally conceived ‘scientific method’ to topics such as drug use (Maher & Dertadian, 2018), crime (DeKeseredy, 2018) and harm (Dertadian & Askew, 2024). By emphasizing that ‘drug crime’ is a “moral and political construct; [which] has theoretical and methodological implications”, critical criminology and zemiology have suggested that “technical matters” of method cannot be seen as “separate from theory” (Stubbs, 2008: 6). These critical perspectives advance the position that all research endeavors involve value judgments that impact the evidence produced. With this in mind, the values being deployed in the creation of research evidence should reflect the communities that are impacted most directly by the policy that it will inform (Malbon et al., 2018). The position that those most directly impacted by the research should be reflected in the research design has also been fundamental to participatory action research (Lenette, 2022), southern theory (Connell, 2020), Indigenous intellectual traditions (Nakata, 2007) and intersectional feminist approaches (Gruber, 2023). As it relates to a study about drug decriminalization, we sought to conduct research that did not simply describe existing social worlds, but worked towards “creat[ing] discursive spaces where the marginalized can articulate their lived experience of harm without persistent reference to the notion of ‘crime’” (Pemberton, 2007: 33). This meant seeking the views of those most directly and harshly impacted by drug laws, but also avoiding a sense that participants were required to provide answers to complex policy questions and related issues in a single interaction with the researchers. In contrast to scientific accounts of ‘collecting data’ from participants, our approach was to treat interviews as genuine conversations about the topic of decriminalization, including raising common debates and points of contention with participants as they arose organically. This meant cultivating an interview style that facilitated participants articulating how they are criminalized by current drug laws, outlining how this informs their immediate views on the most urgent kinds of change, but perhaps most importantly, allowing space to imagine social worlds without drug criminalization.

The critical epistemological commitments outlined here also shape how we understood research results. Our approach to the analysis of interview conversations therefore involved iterative forms of reflective practice that are based on “a reflexive conscience about [the research’s] own contribution to... technologies of power” (Hudson, 2000). Our analysis focussed on how participants conceive of, and positioned themselves in relation to, systems and institutions of power (Daley, 2010; Redmond, 2017). Data analysis began during fieldwork through reflection on interview material as part of conversations between both authors, who were both present at most interviews. Once fieldwork was completed interviews were transcribed verbatim, with identifying details removed, and where relevant replaced. The names of the participants that appear in this manuscript are pseudonyms of their own choosing. The resulting transcripts were coded by thematic content related to the questions asked in the interviews and the way responses to these questions related to systems and institutions of power – including groups like peer organisations, harm reduction services, health systems, police and politicians. Both authors then read through each transcript for themes that cut across the material, with the second author focusing on experiences of criminalization and the first author focusing on views on decriminalization. In our subsequent readings, participant views were organised into themes related to the way proposed policy measures position people who use drugs in relation to the systems and intuitions of power mentioned above. These themes included measures which

maintain a punitive dynamic between people who use drugs and regulatory authorities, those that break with punitive approaches to decriminalization, and those that fall outside decriminalization (towards legalization or regulated supply). The first author remained in contact with two participants who agreed to continue to be in touch and periodically discussed the interview material with them, and the way it is organized around relations to power in the manuscript. This approach to thematic analysis is a direct response to the critical epistemologies outlined above, and was chosen to “provide powerful correctives to biomedical and behaviourist” (Maher & Dertadian, 2018: 113) as well as “criminal and carceral paradigms” (Dertadian & Askew, 2024: 6) in the drug policy space.

Findings and discussion

The sample of the study was made up of participants mostly identifying as men, with a quarter identifying as women. The majority of the sample identified as white Australian, a quarter identified as having First Nations heritage (Aboriginal and Māori), and several were second-generation European migrants. Few finished High School, though most had gone on to complete certificates related to trades, social welfare, beauty and sales. A majority of participants had >30 years of experience with injecting drug use, and had seen the evolution—good, bad and indifferent—of the area where the injecting centre is based: Kings Cross, or as participants often refer to it ‘The Cross’. A key historical marker for most was the 1997 ‘Wood’ Royal Commission (into wide spread corruption in the New South Wales Police Service), which exposed police complicity in drug market activity and systemic violence by police towards those who relied on that market. The commission also ushered in a shift in the policing of The Cross – often described by participants as having improved since the ‘bad old days’, though the accounts we describe below make it clear that police violence and harassment remains unabated.

The people we spoke with in this study were universally critical of prohibition and the devastating role of intervention by the criminal legal system in their lives that this has facilitated. All participants told stories about lives disrupted, surveilled and harassed by over policing, and most have been incarcerated for drug and/or violence offences. As a result, many participants made direct and unprompted criticism of prohibition policy (the ‘war on drugs’) that, for example called attention to the human cost of criminalization: “*The war on drugs is not the war on drugs. A war on drugs is a war on drug users as far as I’m concerned*” (Michael, 66-year-old man). All participants strongly supported drug decriminalization in principle, though they remained sceptical of the possibility of it occurring: “*I believe 110 per cent but I - but we’re so far down the road with fucking prohibition. It’s a bit of a pipe dream*” (Allan, man, age unknown)

Our findings and discussion below are organised around four key themes that emerged when participants considered drug policy reform: i) who should be involved in designing and implementing decriminalization, ii) the range of conditional supports offered for different reform models, iii) the possibilities and limits of decriminalization without punishment and iv) the need to go beyond formal decriminalization.

“How could just all straight people decide?”: on who should be involved

In this section we outline how participants understand their relationship to the institutions, systems and communities most relevant to the process of drug policy reform. The theme of who should be involved in designing and doing decriminalization is largely derived from discussion with participants about the process of drug policy reform. Conversations about the way reform should occur revealed much about the way participants understood the possibilities of reform, and how they conceived of those currently considered drug policy experts. There was a good deal of cross-over between who participants indicated should be involved in the processes of changing drug laws and who should be involved in administering the form of decriminalization that would

emerge from such processes. Participant views on who should be involved in the process included an expansive list of groups and organizations – some with broad support, and others with minimal and more contested support. For example, there was broad agreement that people who use drugs should be involved:

I definitely think [people who use] should be involved (Ken, 53-year-old man)

This interview today could form part of the case (Loranne, 55-year-old woman)

The users with the government, both together. Sit down and work it out. (Taz, 53-year-old man)

The repeated rationale for involving those with lived and living experience, was that they know what the issues are and what would, and would not work in response to those issues, or as participants put it:

But there will [often] be nobody at that table that’s lived that life and walked in those shoes and [that] at least deserves an ear at that table because they can give those people so much more information. (BJ, 43-year-old man)

Drug addicts themselves need to have a say. How could just all straight people decide? When they have no idea what it’s like. (Notvile, 49-year-old man)

A similar level of broad support existed for harm reduction services to be part of drug law changes, such as the injecting center itself, as well as representative peer user organizations. These were often the first groups and organizations that came to mind when participants were asked who should be involved in the process:

Definitely harm reduction services because the government is too much about abstinence and not enough about harm minimization. (Ken, 53-year-old man)

The people that run the MSIC and places like that. (Paul, man, age unknown)

All our services, like NUAA [New South Wales Users and AIDs Association] and all those, fucking for sure. (Mel, 49-year-old woman)

Like Wayside [outreach centre] and that. (Taz, 53-year-old man)

This was reinforced by discussion of harm reduction services, which were held in high regard: “*They’re actually wonderful too. They’re heaps good actually too. They keep a close eye on you too, and they know they worry about, if you’ve got marks on your arms and your track marks, if they’re infected*” (Kym, 66-year-old man). Beyond harm reduction, a range of the other health and social service professionals were also mentioned by participants, including nursing and other medical professionals, drug treatment specialists, the housing sector, social workers and so on. Though each of these sectors was not mentioned by every participant, broad support for health and social service involvement was consistent across the interviews.

Suggestions which received less support, and were decidedly more contentious, was the involvement of politicians and police. There was considerable skepticism about the role politicians might play in law reform, alongside an acknowledgment that they must play some role, by necessity, though not one that participants had much confidence in: “*Politicians are just too scared to do it*” (Mel, 49-year-old woman). One participant for instance responded to the question of who should be involved in the process, by saying: “*Well, definitely not Dominic Perrotte*” [then Premier of the conservative NSW Liberal Government] (Terry, 50-year-old man). Others said:

Well, it has to be – it has to come politically. It has to be changed – political change. (Loranne, 55-year-old woman)

I mean politicians, that’s who it’s up to, I suppose. So, yeah, if one of them could just get the balls to start doing it. (Mel, 49-year-old woman)

Participants frequently noted that the material limits placed on their access to the political system meant that their own advocacy, and that of peer organizations and harm reduction services could only go so far, and that political figures need to ‘pick up the slack’.

Politicians, in the sense that someone is going to have to pick up the ball. (Greg, 64-year-old man)

It's got to be taken to a politician that has to push through it – really push it. (Loranne, 55-year-old woman)

Relevant context to this discussion includes the way participants were highly skeptical of the motivations of political parties, who they see as ‘corrupt’ and ‘dishonest’, at least in part because they see the political system as having abandoned sensible approaches to drug policy out of political self-interest. Some participant answers to the question of who should be involved spoke more directly about the *politics* of (rather than the politicians involved in) the issue. For instance, several participants said that ‘everyone’ needed to be involved in changes to drug laws, because a significant barrier to desirable change was public understandings of people who use drugs as ‘bad’ and ‘criminal’.

A1: What do you mean by everyone?

P: You know, obviously the community - in every suburb and every community. (Kym, 66-year-old man)

However, the most contentious discussion among participants was about the involvement, or not, of police in the processes of drug policy change. For many, the answer was quite straightforward, and sounded something like an emphatic statement that the police should “*stay out of it*” (Terry, 50-year-old man).

Coppers. No, because they'll just set it up to benefit them (Ron, 63-year-old man)

It's not even a legal matter anymore, it's a health matter. You're [police] not required anymore (Paul, man, age unknown)

Other participants noted that police should be involved but described this not in terms of any official role as state police, and instead in relation to a more universal principle around democratic participation:

A1: Why do you think it's important that police have their say, like you said?

P: Because they're part of the community. Yeah. They've got to have a say too. We've all got to have a say and weigh it all up. (Taz, 53-year-old man)

They should have a little say I guess, because at the end of the day they're human beings, and I guess when they're not in their uniform, they're just like us anyway.” (Kym, 66-year-old man)

Finally, a minority of participants recommended reducing the role of police in dealing with drug use, with one interviewee suggesting that police should only be involved: “*if the drug use is causing problems for other people, or the person themselves*” (James, 43-year-old man). Where participants suggested limiting the role of police in relation to drug use, this generally involved a desire to shift from a punishment to a ‘helping’ role involving referral to services: “*pretty much the same players, with just - with a different game plan*” (Allan, man, age unknown). Those who supported some level of involvement by police in drug law reform tended to also see a role for police in a world post-decriminalization – and this was largely based on occasional positive encounters with individual officers, or having personally experienced arrest and/or imprisonment as an opportunity to moderate their drug use. For example, one participant recalled: “*I got to dry out. Get off the drugs. Get fit again. Yeah. Jail saved my life a few times, I believe from drug use*” (Taz, 53-year-old man). This does not of course mean that this and other participants who tacitly supported *some* level of police involvement in drug use experienced police as unproblematic facilitators of moderating people’s personal

drug use. The same participant recalled the following story of one of his arrests:

They weren't friendly. They were aggressive. Yeah, really aggressive... They said, we know who you are and you're coming with us, and they just put their hands on me, which I didn't like. So I let them manhandle me out to the car, then I tried to fucking get away. There was three of them... from where I was to get to the police station is only about a minute in a car. They just took me down there and they smacked me in the head a few times. (Taz, 53-year-old man)

Stories of police violence during arrest for everything from drug related-theft to petty drug offences were ubiquitous among the sample. Participants noted that while those who are drug dependent might want or need an intervention in their drug use, criminalization by police and imprisonment was not the most desirable way to receive that kind of intervention, and consistently explained that it was also often harmful.

Police were never positioned as the ideal institution to provide help or address the genuine needs of those who experience problems with their drug use, and they were consistently presented as deeply unsuitable and conflicted in playing any kind of service or therapeutic role. The practical concerns of participants around the political power of police (Vitale, 2017), provides important context to the different levels of support offered by participants to the involvement of police in proposed reform processes (and in policy post-decriminalization). These ‘real politic’ concerns animated participants suggestions for limiting or changing the role of police, rather than eliminating the role of police altogether. Participants generally held the position that police would never let go of involvement in drug use as an issue, with one participant noting that “*they base their lives and careers on prohibition*” (Allan, man, age unknown), and another saying:

I just can't see the cops going for it. I can see them going for it if they're involved and they've got a little bit of control over things... That's why I think they're going to have to be involved because, [they think] "we're the law. We can't have you discussing laws without us." (Ken, 53-year-old man)

These concerns with political and police involvement in decriminalization mirror those expressed by previous studies with people who use drugs. For example, studies on drug policy reform that have consulted people who use drugs have noted that “participants uneasiness toward the government’s role in the regulation of drugs came from a lack of trust and beliefs about corruption within government” (Greer & Ritter, 2020: 3) and that “a shift in law enforcement towards more discretionary power among police... concerned participants” (Greer & Ritter, 2019: 42).

That the involvement of state bodies like police and political parties are seen by participants as *more* ‘controversial’ provides a clear indication that for people who inject drugs, the problem they are trying to solve with reform is harmful intervention by the state – and by extension the criminal legal system itself. Importantly, variation among participant views on the role that police and politicians should play consistently fall along the lines of strategy – state authorities are never positioned as welcome participants in the process: if their involvement is supported, it is reluctantly, it is with hesitation and caveat. General support for the involvement of health and social services nuances this position, as these also tend to be run by the state. Though some scepticism around state-based health authorities come through in the interviews, the broad view among participants is that *some* people who use drugs will experience drug-related harm (whether related to criminalization or not), and that they deserve to have their needs met. By contrast, there is complete consensus that people who use drugs, peer organizations and harm reduction services - who can also respond to health and social needs through mutual aid (Hassan, 2022; Spade, 2020) - are essential to the process of reform, and this only reinforces that its purpose is to interrupt state violence.

This section has outlined where there is consensus, and where there

is tension, in people who inject drugs' view of the legitimacy of a range of actors being involved in decriminalization. This exploration of the relational dynamics between people who inject drugs and the peer, health, criminal and carceral sectors is necessary in understanding the systems of power that they have to contend with, and how this informs/is inseparable from the kind of policy options they support and why.

"It's either jails or fines": on models that maintain a punitive approach

This section covers interview material related to participant views on reform models that replace criminal sanctions with other measures to signal disapproval of drug use, and therefore maintain a commitment to deterrence. It covers the kind of support these models of decriminalization receive, under what conditions, and for what reasons. Participants were knowledgeable of the alternative options that are often proposed as models of decriminalization in public policy discourse, and raised a range of options for replacing criminal sanctions without prompt, including fines, police cautions and drug treatment orders. The Portuguese model, for example, was raised by each participant as proof positive that the 'sky won't fall in' if drugs are decriminalized: "They think that everyone's going to become drug crazed. Well, it's been proven in Portugal that they don't" (Mel, 49-year-old woman). In the initial stages of the conversation about decriminalization, little was mentioned about the way continued reliance on police discretion, civil sanctions and treatment referrals tend to maintain a punitive approach to drug use. Indeed, most often participants were eager to support these kinds of incremental changes to drug policy, with one participant outlining an example alternative model:

first offence, get a warning, get the drugs given back you get a warning. Second time, you get maybe a fine and get your drugs taken off you, and third time maybe you got to go into a treatment facility for a certain number - a certain amount of time. (Taz, 53-year-old man)

Fines were the most discussed alternative to incarceration, with participants expressing generic support for the idea:

A fine's preferable to jail at anytime. (Loranne, 55-year-old woman)

You know what, they [fines] are [better], yes. To a certain degree, do you know what I mean. (Kym, 66-year-old man)

Some participants put more boundaries around initial expressions of support for fines. This often involved drawing figurative lines around the potential harm of drug use in public space: "I reckon that having the fines, I think that seems appropriate to me. Like in a public place that's all right. I mean I wouldn't be surprised, I wouldn't even be angry if someone gave me a fine for bloody carrying drugs in the streets" (Raymond, 47-year-old man). Others spoke about dependent or harmful use as a threshold for what would be appropriate to respond to with fines, while indicating that decriminalization should mean that personal use should not involve fines.

Replacing criminal charges with some form of referral to treatment was also raised by many participants, who generally showed surface level support: "That would go a long way into keeping it as medical bloody issue" (Raymond, 47-year-old man). Yet, most indicated support for referrals to treatment by comparison to criminal charges and imprisonment:

[Referral to treatment] It's better than going to jail, as far as I'm concerned. (Sash, 24-year-old woman)

It's a great idea. They get caught selling drugs or using drugs, yeah, instead of going straight to jail you go drug court or something. (Ron, 63-year-old man)

This aligns with other studies in which people who use drugs back medical models, which have found support for drug law reform "on the basis of [the] helpfulness [of] drug regulation through the medical system" (Greer & Ritter, 2019: 45).

However, when asked how effective or appropriate proposals like fines and treatment referrals are as a response to drug use on their own merits, none were rated highly by participants. Here, fines received scathing critique.

How would I ever pay a fuckin' \$500/\$1000 fine. (Notvile, 49-year-old man)

If you're doing it tough, you're doing it tough as it is, I'm on the pension. I can't afford to pay fines. (Terry, 50-year-old man)

Everything seems to be driven by money these days. If I'm doing the wrong thing then punish me, but what's this stuff always wanting money all the time (Paul, man, age unknown)

Some participants criticised fines as a regressive and inequitable approach to drug use.

It's just stupid... the people that get them [fines] are already economically challenged anyway... Like rich people they can drive as fast as they want and that - they just would pay it - wouldn't even affect them, a drop in the ocean. Whereas 260 bucks for me is like my whole dole, you know" (Mel, 49-year-old woman)

Most of us are on the dole that use drugs. If you can afford it, yeah fine them. [It's all right] but when you're getting unemployment, can just give you a caution, do a bit of community work or something. (Taz, 53-year-old man)

These critiques by participants also have a strong evidence-base, which has demonstrated that fines often have a criminalizing effect that is felt most acutely by First Nations communities (Anthony et al., 2023), young people (O'Brien, 2021) and among the economically marginal (Walsh, 2005). In the most recent example of the expansion of a system of fines by the New South Wales Government during COVID-19 lockdown restrictions, it has been found that "fines subtly expand[ed] executive power and disproportionately penalise the most vulnerable and marginalised" (Mabin, 2023: 1)

When asked about the merits of referrals to treatment, most called into question the effectiveness of this kind of approach and highlighted that in practice it is often highly coercive.

You can't be forced into treatment. It's not going to work. (Michael, 66-year-old man)

If you drag an addict to a rehab or you divert an addict to a rehab, your success rate is so minimal. Do you know what I mean? (BJ, 43-year-old man)

One participant noted that the reasons they had agreed to a treatment program had little to do with the need or want to receive medical care, and was only about avoiding prison: "I'm only doing MERIT because I don't want to get jailed and jail is not a good place to be for a person my age" (Terry, 50-year-old man). Here too the criticisms of treatment referrals are aligned with a growing evidence-base that these are coercive (Sullivan et al., 2008), and that 'compulsory' treatment programs can cause harm, given that they are associated with an increased likelihood of (fatal) overdose post-release (Ledberg & Reitan, 2022). In accounting for the difference in surface level support for mainstream decriminalization policy among participants and their general agreement that these are not appropriate responses to drug use, interviewees indicated that any opportunity to move in the direction of non-carceral responses was worth seizing upon: "a little [change] is better than nothing" (Kym, 66-year-old man). This tension illustrates that people who inject drugs do not enjoy the luxury of simply having views on 'what works' in drug policy, as their experiences of criminalization require them to constantly be negotiating the powers dynamics. Though each participant expressed different levels of support for or resistance to specific policy proposals, all agreed that the removal or reduction of the role of the legal system in their lives and the lives of people they know who use drugs would be beneficial.

"What are they doing wrong?": on imaging decriminalization without punishment

After participants had provided their views on mainstream decriminalization models on their own merits, and not as proposals that needed to be 'palatable' to the public, the interviews began to consider the potential punitive logic of many of these approaches. This section therefore outlines the more imaginative thinking of participants, especially as it relates to ways they might be liberated from the power dynamics covered so far. Most often this was an organic progression in the discussion directed by the participant. One interviewee for example questioned the idea that fines represent a genuine form of decriminalization, asking what the fine is 'punishing' if drug use is no longer illegal: "What are they doing wrong?" (Terry, 50-year-old man). Others questioned the effectiveness of these approaches: "a mandatory treatment order is just ridiculous. [laughs] I don't think that's worked for anyone ever" (Mel, 49-year-old woman)". Another participant went on to frame fines and treatment orders as a way to continue to control the lives of people who use drugs:

I don't think that stuff works, like fines, ordering someone to go to a fuckin' program. So you want me to fuckin' drop my life and go do a program I don't want to do? Then they want to brainwash me into how they fuckin' think [about drug use]... If you don't agree with it, you're fuckin' ostracised, then made to feel like shit. (Notvile, 49-year-old man)

Other times the researchers prompted for participants' views on different debates and critiques about the models being discussed. For example, in one interview the first author invited the participant to respond to the proposition that "some people say that with fines you're taking the criminal sanction off it, but you're still saying that you did something bad or wrong by using". In another example, the first author and participant discussed the topic of decriminalization with fines:

P: Well, that's just saying it's alright, go and do it.

A1: I mean, is it alright? In your view, is there anything wrong with people using drugs?

P: No, I don't think so. I think if using drugs wasn't illegal it would be so much more [safe]. (Notvile, 49-year-old man)

It was these kinds of interactions in the interviews, whether directed by participants or prompted by the researchers, which opened up opportunities for participants to imagine what a world where drug possession is decriminalized *should* look like. These conversations moved well outside conservative ideas about drug use which often rest behind the most common models of decriminalization – models that replace criminalization with forms of deterrence. As one participant put it, decriminalization should mean providing people who use drugs with options other than "jails, institutions, or death" (Loranne, 55-year-old woman)

This also often involved challenging overly simplistic narratives about drug use always involving harm, inevitably translating to problematic patterns of use, as well as linear narratives about recovery and/or treatment. For example, there was a strong sense among participants that people have different kinds of relationships with their drug use: "There's people who aren't addicts, who just would have it now and then. That's fine, what's wrong with that?" (Notvile, 49-year-old man). For many, this also meant that decriminalization needed to take seriously the idea that some people use drugs without harm or with minimal harm that they are personally comfortable with: "We should be allowed to have our own personal stash. As long as we're not selling it or giving it away [or that]" (Taz, 53-year-old man). While criminalization and imprisonment was understood as harmful in general, it was seen as particularly counterproductive for those who use drugs recreationally and occasionally:

I think, yeah, as adults you should be able to make that decision, without being a criminal. (Mel, 49-year-old woman)

I don't believe that making a mistake by getting caught with a bit of marijuana or let's say one cap of heroin should be enough to block you from a career, send your life on wrong paths that [you] really isn't going to recover from. (Megan, 50-year-old woman)

You turn 18 and you've got a gram of pot on you, that just fucked your life, completely. (Taz, 53-year-old man)

Participants noted that alternatives to criminalization which respect personal consumption should be supported by ensuring information about drug use is non-stigmatising and making sure it is more widely available: "Information should be available to anyone who wants to use it. If they decide they want to shoot up drugs and stuff like that" (James, 43-year-old man)

In a similar vein, participants outlined how genuine decriminalization should involve integrating people who use drugs into the social fabric through whole-of-community involvement and investment:

You know, obviously the community - in every suburb and every community. Obviously, they have community things down at the gallery [MSIC], everyone that goes to there, including everyone else that lives around here, you know what I mean?... They care, I guess. (Kym, 66-year-old man)

Participants also spoke about decriminalization needing to involve broad social change:

It'll have to be a change of bloody perception and a change of sort of identity and association on a society level. (Raymond, 47-year-old man)

My only worry would be the general public's opinion. Because that's what's going to affect how the laws change and if they change. (Notvile, 49-year-old man)

Change in public opinion was understood to be especially needed around addiction: "You need to change their concept of what drug addiction actually is, and what happens in someone's life" (Notvile, 49-year-old man). In this way, for many participants decriminalization should not be limited to the removal of laws or introduction of policy alternatives – it should also be about introducing a politics of care for people who use drugs (Dertadian & Yates, 2023; Farrugia et al., 2019). This means things like supporting people into stable housing: "Homeless people don't get moved on. If there's a guy sleeping – could be two or three months sleeping on the main road. They're protected" (Loranne, 55-year-old woman). Here drug treatment services still featured, but their place in the policy landscape is mostly detached from state policing and the need to sanction people for personal use. The following exchange illustrates this point well:

P: You would have to still have services – treatment services for people that want to stop. Yeah, for sure.

A1: What about people who don't want to stop?

P: Well, they'd just be able to use, without having to worry [laughs] about cops all the time. (Mel, 49-year-old woman)

Participants often made comparisons to the way police and prison funding is abundant but counterproductive, and the way funding for harm reduction and treatment is helpful but scarce:

We keep increasing the police budget to get more coppers on the police force and building bigger jails to house all the fucking crims... Most of them only on drug charges and shit. We don't need to put up prisoners like that. We could build facilities so people can get help. That would be much more productive for society than fucking jails. (Taz, 53-year-old man)

[Use the money to] make better Australians. Making people happy and healthy and productive (Paul, man, age unknown).

Put it in a mental health and a personal health sort of area [of funding], instead of a troublesome antisocial area. (Raymond, 47-year-old man)

There was strong support among the participants for non-carceral, non-punitive and destigmatising methods that redistribute policing and prisons resources towards health and social services that respect the right to bodily autonomy and the right to seek pleasure among people who use drugs (cf. Dennis et al., 2023). This approach aligns closely with critiques and evaluations of decriminalization regimes around the world in the last 20 years, and especially the INPUD (2018; 2021) reports mentioned above, which “highlight the potential for negative impacts and serious rights violations” of models of decriminalization that maintain punitive components to drug laws (Madden et al., 2021: 18). Participants in this study were most supportive of what is often referred to as transformative justice in drug policy (Walker & Netherland, 2019), described as processes that “move beyond the dominant focus on criminalization and medicalization” (Walker & Netherland, 2019: 4) and “lift the silence on talking freely about illegal drug use practices—especially with regard to pleasure—and as a matter of social justice” (12).

"It should be like buying a loaf of bread": on thinking beyond decriminalization

Many participants emphasized the need to go beyond decriminalization, including discussion of safe supply programs and government regulated supply of substances now deemed illicit. For example:

The government creates the problem by making it go underground. (Mel, 49-year-old woman)

The government can take it, they'll make more money there than they would in taxes for fucking pokies and alcohol and tobacco. Hands down, the drugs would get better, there'd be a constant supply, you could go and get dosed every day in the fucking chemist. (Taz, 53-year-old man)

If drugs are going to be legalised, I think the government is going to have to take over the supply route. That's the only way I can see legalisation happening. Because then you're going to need quality control, quality assurance. (Michael, 66-year-old man)

For some participants, going beyond decriminalization was essential to address issues in the drug supply that would likely be unaffected by simply removing drug possession from the criminal law. This included the need for a reliable and regulated supply to replace the unpredictable and unknown elements of the drug market under prohibition: *"It should be like buying a loaf of bread, to me. You pay your money and you get a good loaf of bread, or you pay your money and you get some good drugs"* (James, 43-year-old man). Support for forms of legalization (or the legal regulation of drug supply) were not without caveats. Participants were conscious of the risks posed by unthoughtful regulation of drug supply, and were strongly opposed to the commercialization of the supply of substances that are currently criminalised: *"I wouldn't like it if it was big business running it"* (Paul, man, age unknown).

Lastly, participants noted that on many occasions when they are dealing with police, they may not be charged with a drug offence (like possession), but their policing is justified by prohibition in a number of ways. This could be because the participant is known to police as someone who uses drugs, or who has a criminal record. Police frequently follow, stop and search people they know to have used drugs in the past and see them as ‘trouble-makers’ to be monitored. Participants explained that interactions with police are often initiated by officers claiming they have stopped them because they are in a ‘known drug area’:

They say they're allowed to because it's a well-known drug area... But I've lived here my whole life sort of thing, people live here. Hundreds of thousands of people live here. (Paul, man, age unknown)

If you're going to go to the fuckin' Woolies [grocery store] and I get pulled up and searched... [The police will say] it's a known drug area - there's not a suburb in Sydney you couldn't say that about. (Notvile, 49-year-old man)

Here the issue is less the specific charge of drug possession, and more the significant amount of police attention and harassment that follows from the social stigmatization of drug use and the way it has come to be associated with criminality.

Conclusion

In this article we have explored the way people who inject drugs discuss decriminalization, what versions of it they support, and why. In direct contrast to those who are most likely to ‘be in the room’ when the work of drug law and policy reform is being done, participants believed that people who have lived the issues, and those who care for them (through service provision), are best placed to design good drug policy. It was unsurprising then, that we also found strong skepticism about the political will to decriminalize drug possession for the genuine purpose of making the lives of people who use drugs better. We also heard different responses to a consistently held view among participants that drug interdiction is foundational to the modern enterprise of police power – something the police will not let go of lightly.

The limits that these social and political realities place on people who inject drugs meant those we spoke to were supportive of incremental changes to drug laws, even if they knew them not to be effective ways of understanding and responding to drug use. This social realism also underscored the nuanced ways that respondents distinguished between the purported harms of drug use, as counterposed to the harms of drug criminalization they have lived through. Yet, when participants engage with more imaginative thinking around what would make their lives better, support for these more conventional forms of decriminalization (fines, treatment orders, etc.) come apart quite quickly. When asked to consider what would work best for them, the answer was never criminal, civil or social sanction.

CRedit authorship contribution statement

George Christopher Dertadian: Writing – review & editing, Writing – original draft, Project administration, Methodology, Investigation, Formal analysis, Data curation, Conceptualization. **Vicki Sentas:** Writing – review & editing, Formal analysis, Data curation, Conceptualization.

Declaration of competing interest

The authors declare that they have no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.

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