

Drug offending and criminal justice responses: practitioners' perspectives

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Received February 2000; received in revised form 22 February 2002; accepted 24 April 2002

Abstract

This paper describes the perspectives of 35 senior criminal justice professionals from Melbourne, Canberra and Sydney who were interviewed in 1998/99, as part of a much larger study that examined illegal drug issues in the context of a multicultural community. Key informants worked across a range of areas within the criminal justice sector—national intelligence, inter-agency drug task forces, state and federal police, corrections, juvenile justice, judiciary, and academic—each observing illegal drug issues from different perspectives. Despite being from different areas within the criminal justice sector there were many similarities in perceptions about illegal drug use and current policy approaches to the problem. Many had private views that were at variance with the policy position adopted by their agencies. The majority of those interviewed believed that the response to drug users—many of whom also sell drugs—should primarily be one of health, and most were in favour of imaginative and liberal approaches designed to minimise the harms associated with illegal drugs. © 2002 Elsevier Science B.V. All rights reserved.

Keywords: Illegal drugs; Harm reduction; Criminal justice; Ethnicity; Race; Youth; Drug policy

Introduction

There is considerable debate within Australia—as elsewhere—about how illegal drug offending should be addressed in the context of criminal justice. A national policy of harm minimisation has been a key principle underpinning Australia's drug strategy since 1985 (Ministerial Council on Drug Strategy, 1998). Harm minimisation does not translate into support for illegal drug use or for fundamental policy reform. It is the middle ground, where people with differing views on drug policy can agree upon practical, immediate ways to reduce drug related harm (Single & Rohl, 1995). There is still, however, a public expectation of police that they will uphold the law and proceed against drug offenders, although it is widely recognised that street-level policing can actually lead to harm to both the drug users and society (Australian Bureau of Criminal Intelligence, 1997). For example, intensively policed drug markets: cause the price of heroin to increase, which may in-

crease the rate of crime as users seek to pay the higher prices; encourage more risky user practices such as oral and intra-nasal storage, reluctance to carry clean injecting equipment and hasty injecting that increases the likelihood of spread of blood borne viruses; and disperse the drug market making it more difficult to supervise, increasing the likelihood of more sophisticated ways of dealing being developed, and a strengthening of the relationship between seller and buyer (Brown & Sutton, 1997; Maher, Dixon, Lynskey & Hall, 1998; Edmunds, Hough & Uriquia, 1996; Van de Wijngaart, 1997).

The criminal justice sector in Australia is, therefore, faced with the paradox of being expected to adopt a harm minimisation approach while also being expected to pursue the traditional punitive approach which arguably, increases harms. This paper seeks to consider professionals' experience of working within this policy paradox. This paper is derived from a much larger study, which was commissioned by the Victorian State government to examine illegal drug issues in the context of Victoria's multicultural community. The objective of the main study was to provide a framework in which the cultural attitudes, experience and expectations of

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Victorians could be understood and taken into account in policy and other decision making (Beyer & Reid, 2000).

Victoria is one of six states and two Territories, that make up Australia. Victoria and New South Wales (NSW) are the most densely populated states. As at June 2001, Victoria has a population of 4.8 million people within 227 420 km² and NSW a population of approximately 6.5 million people, within 800 640 km². Overall Australia's population is approximately 19.4 million, within an area of 7 692 030 km²—an area about the size of Europe (Australian Bureau of Statistics, 2002). About one quarter of the Australian population live in Victoria.

Each state and territory (except the Australian Capital Territory, which is policed by Australian Federal Police) has its own police force and state and territory laws. Within the context of illegal drugs, the Federal law enforcement agencies are responsible for upholding laws to do with the importation of illegal drugs, because these are federal offences, while state police are responsible for upholding laws to do with drug offences that occur within their state or territory boundaries. Where offences involve more than one state or territory, or where there is a mix of federal and state law violations, police may work together in joint task forces or in other ways.

The Victorian population has a diverse mix of cultures, comprising people from 208 countries, speaking 151 languages (Multicultural Affairs Unit, 1997). The majority of the population lives in or near the capital city, Melbourne.

This paper reports on the perspectives of 35 senior professionals working within the criminal justice sector in Melbourne (capital city of Victoria), Canberra (capital city of Australia, located in the Australian Capital Territory) and Sydney (capital city of NSW). Key informants were interviewed as part of the key informant component of the main study. An equal number of health professionals were also interviewed and, although it is not the purpose of this paper to make comparisons, it was clear that many of the health sector workers' views corresponded with those in the justice sector (Beyer & Reid, 2000).

The justice sector in Australia, as in most other countries, is diverse. It includes state and federal law enforcement, the judiciary, prison and other correctional institutions, juvenile justice and national criminal intelligence. Participants in the key informant interviews were selected to cover all parts of the justice sector, with the exception of legislative/policy makers. They included senior magistrates, managers within corrections and the juvenile justice service, senior police from state and federal law enforcement agencies, officers in charge of inter-agency task forces, and senior academics.

The views expressed by the key informants were primarily their own personal views rather than those of their organisations and most spoke on the basis of their first-hand observations and experiences. Many of the opinions expressed are contrary to the position of their organisations and many of the key informants considered themselves to be unusual in holding their 'liberal' views—not realising that such views were actually widely (but privately) held by others throughout the justice sector. A number of the key informants expressed pleasure in being able to say what they really thought without having to compromise their jobs or reputations and were keen for their private views to be known. Despite coming from a wide range of different criminal justice areas there were many consistencies in perceptions on many key concerns relating to illegal drug use and related policy responses.

Methodology

It was not the aim of the research to select a representative sample from which generalisations could then be made, but rather to select information rich cases for study in depth. That is to choose participants: '... from which one can learn a great deal about issues of central importance to the purpose of the research...' (Paton, 1990). Thus a purposeful sampling technique was used. Participants were interviewed between September 1998 and April 1999. All had been working in the same criminal justice field for 5 years or more and many had done so for two or three decades. Almost all had had practical experience in the field prior to their managerial/executive role. Individuals were chosen on the basis of their high level positions, their experience and their ability to comment on trends and issues within their area of expertise.

Several people were from national criminal intelligence areas, including the National Crime Authority (Canberra), Australian Bureau of Criminal Intelligence (Canberra), Office of Strategic Crime Assessment (Melbourne), Australian Federal Police (Canberra), inter-agency national drug task forces (Sydney) and Australian Customs Service (Canberra). Several police personnel working in key drug law enforcement positions within the NSW, Victoria and Federal police were also interviewed, and a number of people who held key positions within the Victorian state court system, juvenile justice service and adult prison system, also participated. Four academics from the University of Melbourne and the Australian Institute of Criminology (Canberra), who had a special interest in illegal drug issues, were also interviewed.

The interviews consisted of one on one, or sometimes one on two questioning using semi-structured questions. Probing questions were used to elicit more infor-

mation on issues raised by the interviewees. Interviews were tape recorded in all but one interview (police). A copy of the write up of the interview was sent to each participant for their comments and any additions. All participants agreed the transcripts were a true account of their comments.

The interviews were analysed using cross-case analysis to identify significant patterns and construct a framework for communicating the essence of what the interview data revealed. For reasons of confidentiality, none of the interview extracts are attributed to individuals, and are identified only by the criminal justice area in which the person works.

Findings

An area of unanimous agreement among the key informants was how unhelpful it was for the media, the community, politicians and indeed some aspects of the criminal justice system, to ‘demonise’ street level drug selling and using by discussing such behaviours within a context of moral depravity or decay.

Inequity in sentencing

Sustained media ‘demonisation’ and sensationalism, particularly during the early to mid 1990s in Melbourne, arguably led to the introduction of more severe sentences for drug sellers (Sentencing and Others (Amendment) Act, 1997). As the vast majority of those arrested by police are the most visible, low-level street sellers (Beyer, Reid & Crofts, 2001), the legislation has had greatest impact at this level. The harsher legislation has had a number of negative outcomes, including less flexibility in sentencing for magistrates and incarceration of non-violent young people at comparatively early points in their offending careers. There has also developed an inequity in sentencing—sentences for people choosing to sell drugs to support their habit are often more severe than for those choosing to commit violence and property crime to support their habit (Beyer et al., 2001).

Several key informants mentioned the harshness and inequity of the current sentences given to street level drug sellers. On the scale of harm, selling drugs to willing buyers was seen as less harmful than offences involving violence and trauma to a victim:

“I sometimes think that the criminal justice system is so driven by moral panic over illegal drugs that it loses sight of the level of actual harm, which is happening. Having interviewed victims and perpetrators of serious offending including rapes, assaults and armed robberies... I have seen first hand the devastating effects violent crimes have on the lives of the victims. The sentences given for crimes

where someone has been horrifically hurt and their lives ruined, are very often less than for someone who has sold drugs to willing buyers and where you would have to say the level of harm is considerably less than that for violent offending. This is not to trivialise the offence of traffic illegal drugs, but the sentences involved appear to be unbalanced when viewed in the context of the sentences given for crimes which have affected the victim to the extent that they cannot work again or are suffering permanent psychological and or physical damage” [Criminal intelligence agency key informant].

Blaming ‘others’

The heroin problem has been characterised in Australia as one primarily concerned with people of Asian background (Twitchin, 1993; Elliott, 1996; Soo-Lin Quek, 1997; Rodd & Leber, 1996). In other countries too it has been the pattern for ‘foreigners’ or ‘others’ to be blamed for crime and or drug problems (Martens, 1997; Killias, 1997; Palmer, 1997). Key informants were concerned about the tendency in Australia to blame street level dealers of Asian background for the drug problem:

“Young Vietnamese males are falling through the cracks in Victoria and their situation is exacerbated by their being projected in the media and considered by the general population as evil. They need to be brought together and assisted to become part of the community—part of us—and not treated in any separate or specialist way because they have exactly the same needs as any other young person and they are no different from anybody else” [Criminologist].

Patterns in drug offending

In the view of some of the key informants, street level drug users/dealers of Asian background were considered to be practising a form of harm minimisation. They were tending to consciously choose to sell drugs to support their habit and, in doing so, were considered to be creating less harm than their Anglo background peers who have a greater propensity to commit violence and property offences to support their habits.

Asian background street sellers were considered to be less likely to commit violence or property crimes to finance their drug habit and often had no previous history of offending, other than the drug offending. It was considered rare for them to have charges related to assaults or property crime. They tended to be detected by police directly as a result of their drug offending,

rather than as connected with any other crime. This perception was supported by subsequent analysis of prison and offence data that showed that concurrent violence and property offending was rare for prisoners of Vietnamese birth place and that the more acquisitive and violent drug offenders were those born in Australia (Beyer et al., 2001).

A number of young people of Asian appearance sell drugs in the same geographic areas and in public places in Australia and thus tend to be much more visible than other groups who may be involved in illegal drugs. The street selling drug offender has a greater chance of being detected by police and thus have become a prominent group within the criminal justice statistics—from police to courts to prisons. Their visibility in the statistics is further highlighted by use of ‘country of birth’ as a variable to denote ethnic background. Whether drug offending by youth of Asian background is any more frequent than is the case for other segments of the population is impossible to know, although the key informants did not believe this to be the case. Illegal drug use appears to be associated with age group rather than ethnic background. Since the young people of older migrant groups are more usually born in Australia, they become invisible in the statistics (Beyer & Reid, 2000). Unfortunately, community perception on this issue has had a significant stigmatising affect on some sectors of the Australian community.

“Mainstream media are biased in their reporting. This has caused enormous distress and problems for Vietnamese people. People feel really stigmatised. People feel embarrassed and labelled... Vietnamese people are now very sensitive to what is said about the drug problem.” (Vietnamese consultation participant cited in Beyer & Reid, 2000).

Lack of flexibility for complex problems

There was general agreement among the key informants that people who are dealing drugs at street level to fund their own drug use, and who have committed no other crime, should be subject to lesser sentences than a person selling for commercial purposes. However, even commercial selling was pointed out by some to be not as straightforward as it might first appear. In the case of Asian background youth, the explanation for drug offending often relates to disintegrated family. Commonly there is no traditional male at the head of the home and the eldest son is endeavouring to fulfil the role of bringing money into the house. Drug dealing is one way of doing it. Others are selling drugs to pay their parent’s gambling debts or to get money to buy drugs for their parent’s drug addiction—which often originated in the refugee camps. Young people of Asian

background are also sometimes coerced into selling drugs:

“The loan sharks or the ‘stand over men’, have either lent the parents money to set up businesses or are claiming protection money from the parents. Part of the deal to keep safe... is that the children must shift drugs for these characters.” [Senior judiciary]

“The children and young people are under enormous pressure from sellers higher up the chain to remain in the drug business, and their lives are basically ruined. While this is happening, the people higher up are raking in vast amounts of money and living a wonderful life. It is a shame when you see the families who have gone through so much to come to what was supposed to be a wonderful country, only to then see their families breaking up and their children going wrong.” [Juvenile justice]

For the judiciary to sentence these young people to a period of incarceration was considered most unjust, although often difficult to avoid. Key informants considered the whole criminal justice to be extremely restricted in its ability to respond appropriately to the complexities of drug offending. This was considered to be primarily due to the pressure and expectations of a perhaps well meaning, but misinformed community and political sector, which tends to view drug offending as one homogenous ‘evil’:

“The inflexibility of the current system of dealing with people involved with illegal drugs is the real problem. To try and counteract this inflexibility, some Magistrates are coming up with some novel approaches to sentencing and it is working. For example, one addict had breached her community based order and had committed a number of shop thefts. She appeared on charges of breach of community based order and the other charges. She was in very bad health, had separated from her parents, had no hope or direction in her life and was, I think, only 12 months away from dying. Instead of just giving her another sentence, she has been coming back every month to court and getting the hearing deferred. She got support from ‘Open Family’ to live with her mother and her prospects are now quite good. It would have been most inappropriate to have sentenced her so we just kept deferring and she is now working and the psychologist no longer wants to see her and she appears drug free. She is turning up today to appear before court and really I would like to give her a certificate of achievement.” [Senior judiciary]

Gaps in current criminal justice responses

A number of gaps within the criminal justice system were identified by the key informants. Many mentioned the need for legislation/sentencing to reflect degrees of seriousness in drug offending. For example, the mode of drug use should be taken into account and graded according to its harmful affects on health and public safety:

“We are never going to eliminate the illegal drug market. What we can do, however, is to shape it and the most productive approach is to shape the drug market in such a way that it does the least amount of damage. For example, all heroin is looked on by the criminal justice system as the same thing. Perhaps it would be more useful to look at heroin used for injecting in a different way to that of heroin which can only be smoked. Given that smoking heroin is less harmful than injecting it would make more sense (by a variety of means) to make it easier for users to smoke heroin and more difficult for them to inject it.” [Criminal intelligence agency]

A most serious gap in criminal justice in Victoria was considered to be the lack of suitable remand facilities for the non violent young men who were increasingly being incarcerated for drug offences. The unsuitability of current remand centres was considered to place professionals in Victoria in a serious dilemma, particularly in light of a ‘harm minimisation’ philosophy. Currently young, non-violent men are being incarcerated with older adults who commonly have long histories of violent offending. Indeed, Victoria has the highest proportion of secure custody offenders in prison in Australia, 82%, twice the rate of demographically similar New South Wales (Australian Bureau of Statistics, 1999). One of the reasons Victorian juvenile justice custody centres have had a rise in number of sentenced young people being referred to them—which dates from the amendments to the Victorian Sentencing Act—is that many magistrates are loath to send the slightly built, non-violent young men to adult prison.

“Confidence in the prison system is not high among magistrates... Many street level drug dealers deal to support their own habit and will often have made a conscious decision to deal drugs rather than commit robbery or theft to raise money for their habit. In general they are not violent offenders and they are very young. I am very reluctant to remand these people in custody... Youth training centres will not take remand pris-

oners” [who are aged over 17 years].” [Senior judiciary]

The feeling was that most offenders have problems which have led to their drug offending and that to additionally traumatise and brutalise them by the remand experience was extremely unjust and, from a pragmatic point of view, unproductive to rehabilitation.

Another gap identified in the justice system was the lack of ability to keep drug affected individuals safe. Some thought there should be legislation in place to assist in the protection of people found under the influence of drugs—particularly in the case of young people:

“Legislation has not caught up with the drug problem and one of the glaring examples is the lack of police powers similar to the drunk and disorderly provisions... if anyone is found by police to be obviously under the influence of heroin, or another drug, there is no right to take them into safe custody. People get revived from an overdose and then just stagger off down the street. I think there should be that power. At least then their details are taken and the parents are notified. Many times, as we see in the drunk and disorderly cases, the parents are rung by the police and it starts the alarm bells ringing... Many children do not have any parental support, however, there are a proportion of parents for whom this type of action would prompt them to do something about their child’s problem. The Kooris [indigenous Australians] do it now. They have roving teams who... take in the kids who are on drugs. They use coercion or whatever to get them to go with them because there is no legislation.” [Senior judiciary]

Current drug services

A shortage of appropriate drug services and the procedural issues surrounding their funding were issues brought up by several key informants. Long waiting lists to get into drug treatment were mentioned, as was the observation that drug treatment services were designed for adults and not targeted to adolescents, who form a large proportion of those with drug issues. This was considered a more serious flaw than the fact that services were often not sensitive to different cultural needs. Key informants observed that there was a one-dimensional approach to treatment which focused on the addiction, rather than on the myriad problems that lead to the addiction. They lamented the fact that follow-up support services for people who had undergone detoxification treatment—that would assist them in establishing a life away from the drug scene—were extremely rare:

“If you talk to the parents of children who have died it is very sad and they all say that they had a lack of support. The children cannot get services, no matter what the government says to the contrary. As an example, there is a young Vietnamese person appearing at court today who is a heavy user. He has gone from 30 on the waiting list for a detox place to about 14th. That is about a 3 week wait. He is managing his habit but if he goes over the edge in that 3 weeks there is a risk of real harm for him.” [Senior judiciary]

“The other problem is that the treatment addicts receive is only one-dimensional and focuses just on the addiction. It... does not address all the social and other problems which led to the taking of drugs in the first place. If you do not address these problems what is the point in detox? The person has no other option but to face again all those problems they have and without proper assistance the chances of them taking drugs again is very high.” [Juvenile justice]

“Detox is useless without follow up to assist the person to find other ways of coping with their problems. If there is no alternative lifestyle on offer it will be inevitable that the person will drift back to their old friends and their old ways.” [Senior judiciary]

Another frustrating aspect to drug services was the method of funding. Drug service agencies are commonly contracted by the state government to provide services for short, finite periods of time, making the working climate uncertain and the services temporary in nature. Funding is also often tied to specific programs which limit the ability of service providers to be flexible in the services they offer and to change focus if other more urgent needs arise, or new priorities and problems become visible.

“The Vietnamese community is taking greater responsibility for trying to assist its young people and there are a number of organisations now which work with Vietnamese families. Funding is always a big issue though. Not only is funding difficult to get but it is tied funding which is short term and inflexible and must be spent on a particular project regardless of whether client’s needs change or other problems are identified so, if other needs are identified the agencies cannot address them.” [Senior judiciary]

“It is very frustrating for Magistrates as well as the services themselves. For example, a program was set up in the Springvale [a southern suburb of Melbourne] because Vietnamese offenders were failing

their community based dispositions [community based sentences], primarily because they... are set up for English speaking Anglo Saxon males, and of course the failure rate for Vietnamese offenders was enormous. A program was started to overcome the problems and there was one on one counselling and outreach which was very successful. However its funding has run out and now a tender is out to identify the needs of these young offenders which probably would not be completed until the middle of 1999 and by the time they work out what to do with the results we will have lost another 100 kids. I think the other thing is that the decision makers are far removed from the reality of what is happening on the streets. We get at least one glossy circular per week identifying the problems but never ever anything about what is actually being done about the problems.” [Senior judiciary]

Economic issues

It was considered there was a need to introduce strategies to better control the vast amounts of untaxed money being made, and lack of control, that international and national drug traders currently enjoy. It was considered that, at the very least, the industry could be made more beneficial to society if heroin was legalised in a controlled way:

“Making heroin totally illegal is only serving the interests of the higher level dealers who are totally unregulated and pay no tax on the enormous profits they make. We will never get rid of the problem of illegal drugs, but at least we should try and take some control of it through providing addicts with an alternative source. At least this way you might prevent overdoses and deaths and you will give drug users some space to sort out their lives without having to worry about where the next fix is going to come from. Whilst heroin remains totally illegal the harms associated with it are going to be very difficult to reduce.” [Senior judiciary]

“If you get off the moral high horse and look at it from an economic view, it is not good socially or fiscally for a huge black market to be running through the legitimate one. That was one of the hopes of the asset seizure legislation. I think society takes only small comfort in knowing long prison sentences are being served by higher level drug dealers. However, there is a lot of satisfaction in obliterating the financial wealth of a dealer or money launderer. Asset seizure though has its problems and hasn’t worked on the scale envisaged. There are just too many people who are untouchable.” [Criminologist]

Definition of what is 'success'

The criminal justice system aims to have someone charged, brought before the courts and given a sentence that is going to stop them re-offending. According to many in the criminal justice system this does not happen with drug users, even though the sentences are quite severe. To maximise the possibility for harm minimisation for people presenting before court on use and possession offences, some magistrates are changing their definition of success from abstinence to reduction in use:

“I would prefer to look at the other options which do not necessarily stop people using drugs—because that is unrealistic—but take the harm minimisation approach. So, if a young offender is on a drug program and their use halves then that is a success because they are not buying as much as they used to do and their offending is halved. There is an obvious benefit to them and to the community. A straight criminal justice response does not have this level of success.” [Senior judiciary]

“We will never get rid of the drug trade. What has been tried has failed to either reduce the offending or to reduce the harms. I think policing of street dealers is futile and I think the police are probably thinking it is a waste of time too. The reality is that the offenders are on the street again the next week or if they are not then there is someone else willing to fill their place so the activity is actually not reduced. It seems like a waste of time and money when there is such an inadequate outcome. Sending the dealers to prison is not the answer either as they are not in there forever. It is just postponing the problem and perhaps making it even worse given the experiences they may have had to go through in prison.” [Senior judiciary]

Health as the dominant response

Police can, through their activities, disrupt street level markets. However, apart from the questionable cost effectiveness of this approach, it is suspected that there may indeed be harmful consequences to such police activity. For example, displacement and diffusion of the problem, making it more difficult to control, development of more sophisticated ways to avoid detection and unsafe user practices which increase the chances of spreading infectious disease (Maher et al., 1998).

“While a community’s drug problem is expanding and growing within a community, criminal justice

responses are probably the most appropriate response. However, once there is an established body of drug users, and the expansion of the drug trade has slowed or plateaued, as is arguably the case in Melbourne, it stands to reason that criminal justice responses lose their effectiveness at the user end of the market.” [Senior criminologist]

Police and intelligence key informants believed street level selling of illegal drugs by people with drug habits and those detected for possess and use offences, should be treated as a health problem. They considered criminal justice responses to be too ineffective for drug users. If the health sector were to take responsibility for street level drug problems then it was believed law enforcement could more productively redirect their resources to the drug dealers higher up the chain, who are doing the greater harm:

“I think it is more productive for law enforcement not to target the users but to concentrate on the suppliers and importers. Intelligence organisations need to know what is going on and then target their resources more strategically to those drugs and suppliers/importers which are doing the most harm.” [Senior criminal intelligence officer]

“We would be very happy for health to take up the drug users... we should be able to push [drug users] in the direction of the health services rather than arrest and charge them... with kids [dying] left, right and centre you have to do something about it. The kids themselves are probably good kids but they are stuffed up by the drugs.” [Senior police detective]

“... the criminal justice system generally, and a proportion of the wider community also, still treat possession and use as a criminal issue. This is not necessarily the case. It can be a social or health issue.” [Senior judiciary]

The problem in context

Many key informants expressed the view that drug taking per se, was normal human behaviour and as such there should not be the current level of fear, moral outrage and criminal sanctions against young people using illegal drugs. There was a general feeling of irony too about the contrast in attitude to legal drugs such as alcohol and tobacco by the community, politicians and the media—despite the considerably higher social and

health costs associated with them. It has been calculated that substance abuse accounts for 7% of global disease with tobacco 2.6%, alcohol 3.5% and illegal drug use 0.06% (Ball, 1998; World Drug Report, 1997):

“Governments are a little upside down in their thinking. They happily accept money from the sale of tobacco and alcohol and yet tobacco is the drug responsible for the largest number of deaths, and alcohol is present in most crimes, particularly those of violence and is a leading factor present in domestic violence and family breakdown—which of course lead to all those other associated problems of children being abused, leaving home, having low self esteem and so on which contribute to illegal drug use. On the scale of harm illegal drug use is very low compared with tobacco, alcohol and gambling. Why then is there the enormous reluctance to conduct safe houses or have heroin by prescription available for addicts? There really needs to be a public education campaign to put drug use in context so that at the user end it can be treated as a health problem. Politicians and the media need to stop scare mongering about illegal drugs. Law enforcement as a strategy against users and those low level dealers who are raising money for their own habits is a total waste of time and resources because it achieves nothing. Law enforcement resources would be better spent on the import and higher level distribution side of illegal drugs.” [Senior criminal intelligence officer]

Heroin on prescription

The majority of key informants were in favour of prescription heroin and were in favour of safe injecting places for addicts. These solutions were put forward in response to the question: ‘Given the apparent failure of methods to control or reduce the illegal drug trade, what, in your view (thinking more laterally) might work in reducing the damage being done by the illegal drug trade?’ Some people in the intelligence area were particularly strong in their support of safe injecting places and prescription heroin. While state police tended to take the official line during the interview, off the record (for example during escort out of their building), they expressed support for safe injecting places and prescription heroin.

A selection of comments are as follows:

“If you were a shareholder in the justice system you would be doing exactly what the government is doing now, keeping a low supply of opiates... the only reason we do not have a heroin supply trial in Victoria is I think that the government has assessed

that the community is not yet ready for it.” [Prison] “The only way to reduce the damage being done by heroin is to allow addicts to have heroin on prescription, to have safe injecting places and to provide addicts with the support they need to get their psychological, relationship and self esteem issues sorted out.” [Senior judiciary]

“I think there needs to be legalisation of illegal drugs but with strict controls and regulations. There is actually quite a large economy which is based on cash from drugs. I do not know if the aim of legalisation would be to clean up the black market but it would at least give people a chance to establish themselves more easily into a legitimate lifestyle because they would not have to participate in the street drug scene and the lifestyle that goes with it to get the drugs they need.” [Juvenile justice]

“If a young person could have their drug needs met in a safe, controlled environment they would not die, they would not have to commit crime. So many of them could improve their lives and have the space to tackle the issues which led them to the drug use. At the moment they are only focussed on where and when they can score. This fills their day and the longer you are in a lifestyle the harder it is to get out of it. I think the only way to tackle the problem is to try some experiments. The punishment line is not working... We lost a kid to an overdose on the weekend. Never mind dealing with the criminal side of things—we are sometimes just trying to keep the kids alive.” [Juvenile justice]

“I am not in favour of legalisation... it is about providing heroin on prescription to a very specific group of people. You still hit very hard anyone found bringing heroin into the country. However, for that group of injecting users which no other method can help I think it is the answer... Ultimately this sort of option for people where nothing else has worked is going to save lives... It was very wrong to link the Canberra heroin trials with legalisation and both politicians and the media were very irresponsible in allowing the link to be made—it has done a lot of damage.” [Senior criminal intelligence officer]

Conclusion

The personal views of people in key positions across the criminal justice sector are rarely heard. Fear of repercussion has understandably prevented professionals from articulating views contrary to the status quo and the policies their various agencies. This paper has

revealed the perspectives of senior, experienced people working across various areas within the criminal justice system, each of whom has had a ‘ring side seat’ on the drug problem for many years. Their experience and their senior positions must make their views particularly legitimate and useful. The consistency of their private views indicate that much of the policy and procedures currently in place to respond to illegal drugs are at variance with the views and judgement of many senior practitioners whose task it is to operationalising them.

The current approach to illegal drugs in Victoria, and Australia, may be based more on habit and tradition than on evidence-based practice. While a law enforcement approach is certainly important and essential, it should not preclude introduction of strategies designed to minimise the harm of drugs, particularly if they are supported by Australia’s leading practitioners in the criminal justice sector—and possibly also supported by experts in the health and academic sectors? Further, representative research among practitioners would be extremely valuable in providing the evidence base necessary to underpin development of more effective policy and practice.

Senior professionals have indicated a willingness for the health sector to take a lead role in responding to people who use illegal drugs and they have identified a number of flaws and gaps in current responses to illegal drugs. They are also aware that while the criminal justice sector is required to focus so much of its resources on repeat offenders at the lower, more visible end of the drug chain, resources that focus on offenders higher up the chain must necessarily be less. The key informant component of the larger study (Beyer & Reid, 2000)—and on which this paper has been based—has indicated that there is still much more that can be done to counteract the damaging affects of illegal drugs in our community.

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