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Law Enforcement and Illicit Drug Control

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This paper is a basic catalogue of law enforcement responses to illicit drug use. As one of the most important issues facing Australia today, the use of illicit drugs has no simple solution, and will require policy and intervention responses from agencies across the spectrum of education, treatment and rehabilitation, and law enforcement. Partnership between government and the community is essential in dealing with the issues than confront us. Recognising the diversity and value of complementary approaches, this paper looks at only one aspect of our response to illicit drugs, a law enforcement perspective. None of the issues in this paper should be regarded as a panacea. Many that are listed here are based on overseas experience and may not be implementable or acceptable in Australia. We do not necessarily advocate them, but rather offer them so that the consideration of Australia's response to drugs can be based on a wide range of alternatives.

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Director

The reduction of illicit drug use in Australia will require a whole-of-government approach, and should be based on three fundamental strategies: education, treatment for the drug dependent, and law enforcement.

A wide variety of Australian institutions can and should contribute to each of these three. Our task here is not comprehensive. On the contrary, its scope is narrow, and limited to the role of law enforcement. In the Australian Institute of Criminology and the Australian Federal Police, the primary focus is on reducing crime. We seek not to preempt or displace the role of other institutions, but rather to provide an overview of the basic approaches which might be taken by law enforcement agencies in furtherance of their contribution to the control of illicit drugs in Australia.

In so doing, we canvass a variety of different methods which law enforcement agencies around the world have at their disposal. They may be employed singly or in combination, although some may be inconsistent with prevailing Australian values. A number of our near neighbours, for example, impose the death penalty on those convicted of drug trafficking. Other nations, such as Switzerland and the Netherlands, seek to manage addiction, with law enforcement resources focused on dealing and drug-related crime. We wish to make it clear that we do not necessarily support the introduction of all of the following methods to Australia. Rather, we wish to set out, dispassionately, a range of options for possible consideration by our governments.

Not all of these options are guaranteed to work well in Australia. Some may not work at all. Others may meet with a degree of success, but at prohibitive cost, or at the expense of other considerations. The history of drug policy around the world is replete with adverse and unintended consequences. The challenge faced by

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Australian law enforcement agencies is to maximise the positive outcomes of chosen tactics, while minimising their risks.

High Level Drug Trafficking Control

Globally, efforts to reduce the supply of illegal drugs by cutting off the supply before it reaches the country of destination, and by targeting high level drug traffickers, appear to have made little impact on the availability of drugs.

In the United States, agencies have attempted to reduce the supply and availability of illegal drugs by implementing the US international drug control strategy which, in essence, aims to eradicate the cultivation of illegal drugs in the source countries and to prevent their importation to the United States.

Some recent Australian initiatives to reduce the supply of drugs by focusing on the high level drug traffickers have met with success. For example, in Australia, joint investigations by the Australian Federal Police and Customs during the past 3 years have led to the break up of major international drug trafficking syndicates involved in the importation of large quantities of heroin, cocaine and cannabis resin.

Drug Seizure

Although there was a decrease in the Customs border detections of heroin imported into Australia in 1997–98, there was an increase in the total amount of heroin seized Australia-wide (domestic seizures plus border detections). Since June 1998, there has been a sharp rise in heroin border seizures and an increase in the amount of cocaine detected (ABCI 1999).

The total number of cannabis seizures Australia-wide has remained fairly constant over the last two years. While the amount

seized at the border by Customs has dropped, the large proportional increase in seizure of domestic cannabis indicates that there has been a substantial increase in the amount cultivated domestically. No multi-tonne shipments were detected by Customs in 1997–98, which could be indicative of the successes mentioned earlier.

Multi-agency Supply Reduction Approaches

There have been several multi-agency supply reduction approaches within Australia. Detailed information can be found in the *Australian Illicit Drug Report 1997–98* (ABCI 1999) and the following is a brief list.

In 1997, the National Crime Authority, the Australian Customs Service, the Australian Federal Police and the Western Australian Police Service collaborated to establish a joint intelligence group in Western Australia to work towards reducing the supply of heroin. A joint operation was held which focused on the entry points into Western Australia and this approach was refined as *Operation Pipeline*.

Strikeforce Goldbeck was set up in the Hunter Region of New South Wales. An agreement was signed between the New South Wales Police Service, the Australian Federal Police and Customs which allowed the sharing of information, facilities and funding, thus enhancing the strategy's effectiveness.

The South Australia Police, in cooperation with the Australian Federal Police and the National Crime Authority, established *Joint Task Force Viking*. The Australian Customs Service, the Australian Taxation Office and the Immigration Department have also become involved with this task force.

Some Significant Australian Strategies

Six Australian Federal Police mobile strike force teams have been set up to target major drug syndicates operating in Australia. The aim is to have dedicated resources to investigate and respond to all aspects of drug operations: transport, distribution and money laundering networks.

New liaison positions are being created to focus on drug trafficking directed at the Australian market and this will strengthen relations with law enforcement agencies in the region. Australia will work closely with law enforcement agencies in neighbouring countries to improve their capacity to investigate and target drug trafficking (ABCI 1999).

The National Heroin Signature Program aims to determine the unique "signature" of any heroin sample seized by the Commonwealth and so determine the source country (ABCI 1999).

The Australian Institute of Criminology is currently undertaking a pilot project which seeks to measure drug use amongst people who have been charged with a criminal offence: *Drug Use Monitoring in Australia (DUMA)*. Data from DUMA will be used to examine issues such as the relationship between drugs and property and violent crime; patterns of drug use across time; and the need for drug treatment programs for offenders. Through urinalysis, information will be gathered on drugs used by the offenders. Offenders will also be invited to provide data on their use of illicit drugs and the efficacy of drug treatment programs.

The *Law Enforcement (Controlled Operations) Act 1997* gives a statutory basis for law enforcement agencies in New South Wales to undertake what would otherwise be unlawful activities (ABCI 1999).

The Queensland Police Service now has enhanced powers, under the *Police Powers and Responsibility Act 1998*, to "stop,

search and detain a person or a vehicle” if it is believed that there has been some involvement—or an intention to do so—in criminal activity.

At the 9 April 1999 meeting of the Special Council of Australian Governments, a further package of measures within the *National Illicit Drug Strategy* was announced. Those of relevance to law enforcement include: national plans for police to divert drug users to counselling and treatment programs; proposed legislative change, such as amendments to the *Proceeds of Crime Act 1987*; and an intention by the Commonwealth to expand Australia’s capacity to intercept drugs overseas and enhance existing supply reduction strategies.

Street Level Control

Along with continued efforts to reduce the supply of drugs getting into the community, targeting street level drug markets is an important strategy in the removal of drug-related problems within the community.

Police Crackdowns

Police crackdowns seek to “dramatically increase the perceived and/or actual threat of apprehension for specific types of offences...and so to produce a general deterrent effect” (Worden, Bynum & Frank 1994, p. 96) and through this to disperse the market. In a police crackdown on drugs, the focus is very specific, concentrating on a particular area and drug offences in that area. Tactics may include aggressive patrols and motor vehicle stops. Sometimes, crackdowns are accompanied by other tactics, such as the confiscation of assets or elements of community policing.

Undercover policing

This strategy may include the surveillance of known drug activity locations through the use of closed circuit television; buy-

and-bust operations which target street dealers; reverse-buy operations which focus on buyers; the gathering of information through establishing contacts with dealers; and using this information to pursue the larger-scale dealers. Undercover policing has been used successfully in the United States for many years (Uchida & Forst 1994).

Drug sweeps

Although drug sweeps are generally seen as having some immediate benefit—demonstrated by an increase in the number of arrests and fewer calls for service in the targeted area—their longer-term effectiveness is questioned. The increased visibility of the police in the area apparently reduces drug activity there, perhaps only to displace it elsewhere. The short-term displacement effects and the longer-term effects in the targeted and surrounding areas have both been the subject of considerable debate.

The three main factors which affect the success of a drug sweep are: the commitment of the police to drug sweeps as a tactic; the cooperation of the targeted community; and the number of offenders in the area (Uchida & Forst 1994, p. 83).

Operation Puccini is a police drug crackdown strategy introduced in July 1997 to reduce the illicit drug trade in the Sydney suburb of Cabramatta. The aim was to discourage drug trading around the railway station, the concourse and the Central Business District.

Phase one focused on undercover police work and an increased uniformed police presence in phase two of the operation was believed to enhance its effectiveness. Closed circuit television provided 24-hour surveillance of the streets and ethnic community liaison officers were engaged to encourage local shop owners to cooperate with the police.

The benefits that may arise from this intense police activity are wide-ranging. Because crack-

downs on street level dealing make it seem riskier, networks of distribution may be disrupted and dealers may become more hidden and therefore less accessible to buyers. Although displacement may occur, it is unlikely to be total—there will be some users who buy less and others who stop buying (Edmunds, Hough & Urquia 1996). The dispersal of offenders so that there is no longer a “critical mass” may contribute to the cessation of the illegal activity (Buerger & Mazerolle 1998). Street crime may also be displaced as the market for drugs is dispersed, thereby improving the quality of life for the law-abiding residents in the area. Increased police visibility can also instil confidence in citizens, who may make greater use of public spaces and be more willing to report illegal drug activities. Less fear of crime and informal controls are mutually reinforcing, thus providing longer-term benefits (Worden, Bynum & Frank 1994).

There are, however, costs to be considered in the use of police crackdowns as a tactic. Sufficient funding must be available to maintain the crackdown for long enough at a level of intensity to produce results. Other costs may be an increase in crime because the reduced availability of drugs will increase the price. The police may be seen as intrusive in the community and therefore subject to abuse. There may also be greater opportunity for corruption within the police service (Worden, Bynum & Frank 1994).

Unfortunately, sound evaluations of the effects of police crackdowns are lacking. Much of the empirical evidence rests on studies with obvious and potentially serious methodological shortcomings (Worden, Bynum & Frank 1994). This is partly because there are many variables influencing crime, and it is difficult to identify single factors which can explain changes in crime problems. This emphasises the need for evaluations that are based on the knowledge gained in the field of criminology.

Community Policing

The community policing approach seeks to enlist the support of community residents. The development of a partnership between the police and citizens is the basis of this crime reduction strategy.

People get to know the police and are more willing to pass on information about drug dealing and their other concerns. Police also become more answerable to citizens for their actions. Police may undertake door-to-door interviews and establish storefront sub-stations to elicit support from the community (Uchida & Forst 1994).

Further initiatives may include increasing the number of police on foot patrols and appointing resident-police liaisons.

Problem-oriented Policing

Problem-oriented policing looks beyond traditional law enforcement methods by working with local authorities to:

- identify crime problems;
- analyse the factors contributing to these problems;
- develop appropriate elimination or reduction strategies, and
- assess the effectiveness of these strategies (Mazerolle & Terrill 1997).

A problem-oriented policing approach has been adopted in Australia to reduce the level of drug-related harm to both individuals and the community, principally by reducing the incidence of drug-related crimes such as burglary and robbery and by encouraging drug users to seek appropriate treatment.

The basic strategy is to gather intelligence on local drug markets and related crime through increased use of informants and through a contact survey administered to drug users who have been arrested. One of

the most important elements is the apprehension of street level dealers in order to disrupt the local illicit drug markets. At the same time, it is recognised that many street level dealers are dependent drug users and thus in need of drug treatment themselves.

Policing Drug Hot Spots

An alternative undertaken by some police departments is to focus on the place ("hot spot") at which drug deals are transacted, rather than on the people involved in the illegal drug market. This type of place-oriented strategy generally assumes that the opportunities for drug dealing can be reduced by targeting the situations and places that facilitate drug sale or use, in addition to the people involved in these activities (Green 1995).

Research has highlighted the importance of precision in targeting the place in which drug activity occurs. A study in Jersey City, New Jersey, found that drug "hot spots" made up only 4.4 per cent of the street sections and intersections in the city, but accounted for about 46 per cent of drug-related arrests and emergency calls in a 7-month period.

This research also highlighted the importance of focusing on the types of drugs sold. Areas should be defined by the type of drug sold within them. How the police act when they target specific problems or places is also important. The Jersey City study demonstrated the need to tailor responses to specific problems (Weisburd & Green 1995).

Place Managers

For a drug deal to occur, it has to have an "amenable place". Amenable places tend to be run-down, have easy access (such as near main roads) and several entrances and exits, be near licensed premises and lack guardians. The police use coercive tactics to

influence "place managers" to act as guardians, thus making a place less amenable to criminal activity.

Place managers may be building owners, employees or any other person who is routinely found at a specific location. While they are primarily concerned with the activities under their control, in practice they have an interest in controlling activities beyond these and extend their crime control efforts to the adjacent public areas, for which no one has direct responsibility (Mazerolle, Kadleck & Roehl 1998).

This approach fills gaps left by traditional law enforcement methods. Predictably, after a police crackdown the intensity of the police effort in a targeted area declines, thus allowing the illegal activity to re-establish itself. The creation of place managers compensates for the diminished police presence and deters the resumption of drug dealing in the targeted area. Place managers are able to exert influence over a broader group than the targeting of an offending individual would achieve (Buerger & Mazerolle 1998, p. 302).

Third Party Policing and the Use of Civil Remedies

Third party policing is the term coined by Buerger and Mazerolle for "police efforts to persuade or coerce non-offending persons to take actions which are outside the scope of their routine activities, and which are designed to directly minimise disorder caused by other persons or to reduce the possibility that crime may occur" (Buerger & Mazerolle 1998, p. 301). Third party policing is proactive, unlike the reactive approach of traditional policing. It differs from problem- and community-oriented policing because of its use of coercive tactics to enlist the cooperation of non-offenders. The third parties targeted are usually landlords, property or business owners (Buerger & Mazerolle 1998).

The coercive pressure used by the police is usually through civil remedies, which are “procedures and sanctions, specified by civil statutes and regulations” (Mazerolle & Roehl 1998, p.1). Statutes such as those covering nuisance and drug abatement are the most frequently invoked. They are enforced through requirements to undertake repairs or other maintenance and use fines, forced closures, or forfeiture of property as penalties for non-compliance. The goal is to ensure that place managers/third parties maintain drug and nuisance free properties, and by targeting this group of non-offending people who are deemed to have some power over the offenders’ primary environment, the police indirectly target the actual or potential offenders (Mazerolle & Roehl 1998).

By enlisting the authority of a person who has some power over the offender, third party policing mobilises the use of the informal social controls that are typically found in a cohesive community. The impact of the guardians’ control is thought to be greater than the more broadly ranging criminal law because of its localised nature (Buerger & Mazerolle 1998).

In criminal law, low risk of apprehension, the uncertainty of court outcomes, and early release patterns all weaken the threat of the criminal sanction. However, through third parties the police are able to impose penalties much more quickly which affect the offender in a meaningful way, such as being evicted from accommodation or excluded from social venues like bars. It is expected that this would adversely affect a drug dealer’s opportunity to continue the illegal activity (Buerger & Mazerolle 1998).

Civil Forfeiture Law

Civil forfeitures provide for the forfeiture of any property used in the transportation, sale or posses-

sion of an illegal drug. This may be equipment used in the manufacture, processing or distribution of a drug and could also include the car, home, restaurant or bar that were used in the drug deal.

In 1984 the US Congress altered the civil forfeiture law to allow money and assets related to illegal drug activities to go to the law enforcement agencies that seized them. Civil forfeitures are pursued at the discretion of the government and can be used even where a small quantity of a drug is found. Similar provisions apply in other countries such as the United Kingdom, under the Misuse of Drugs Act 1971, and France, under the Penal Code (Tetley 1996).

Diversionsary Law Enforcement Strategies

Fairfield Drug Action Team was created as an inter-sectoral approach to local drug-related problems. Its goal is harm minimisation through drug law enforcement strategies in the Fairfield local government area. The team provides information on numerous drug-related services. Preliminary discussions have been held on a scheme to divert young offenders away from the courts.

Cautioning

In several jurisdictions in Australia, the police have adopted a strategy of cautioning people found to have committed minor drug offences—mainly those related to cannabis possession. *Cannabis infringement notices* are issued in some States for certain cannabis offences, such as possessing a small amount of the substance or cultivating a small number of plants.

Cannabis caution notices were introduced in Victoria initially as a 6-month trial which has now been extended. The caution notices are issued to adults without prior drug convictions who were found to have less than 50 grams of dried cannabis in

their possession. The offenders are required to admit the offence and accept the caution. A caution is not given more than once. Juveniles in possession of cannabis are also dealt with by cautioning under already existing legislation. Tasmania has recently adopted a similar trial approach.

Mandatory treatment services

As outlined in the introduction, treatment is one of the three strategies for drug control, and ideally should be available to all who seek it. Research has shown that treatment programs work, provided the drug users remained within the program and that programs were of sufficient duration and intensity (Makkai 1998). There may be compelling justification for requiring criminal offenders with drug problems to submit to treatment programs (Hser, Longshore & Anglin 1994). Because the police have contact with a larger number of problem drug users than any other agency they are in a good position to move dependent drug users into treatment programs. The provision of treatment services may reduce the demand for drugs, thus reducing the value of illicit drugs to buyers (Edmunds, Hough & Urquia 1996).

Drug courts

Because of the increasing number of people arrested for drug offences in the United States, drug courts which offered treatment as an alternative to incarceration were established in the 1970s. Drug courts are “courts specifically designated to administer cases referred for judicially supervised drug treatment and rehabilitation within a jurisdiction or court-enforced drug treatment program” (Inciardi et al. 1996, p. 68, cited in Makkai 1998). A pilot program is currently under way in New South Wales.

Drug courts focus on non-violent offenders whose contact with the criminal justice system is primarily because of their drug offence. Immediately after a drug

court has determined eligibility, an individual is enrolled in an outpatient treatment program. Close contact is maintained between the judge and the offender, with the judge acting as the offender's supervisor and mentor.

Relapse is a common occurrence, but there is flexibility within this process for offenders to remain within the program. The penalties escalate for successive failures, with the ultimate sanction being a return to the traditional court process.

Significant costs are involved in setting up a drug court and the treatment and social welfare services that must accompany it. Targeting first time offenders may not justify this expense. Diversion to treatment services or cautioning by police may be more appropriate at this level. "To achieve a significant benefit from drug courts, the system must focus on those offenders who are committing a high volume of crime—namely repeat offenders whose activity is largely driven by their drug dependence" (Makkai 1998, p. 7).

Conclusion

This paper has reviewed a variety of means by which Australian law enforcement agencies may make a contribution to the control of illicit drugs. Law enforcement planners should endeavour to model a proposed strategy and anticipate the ramifications of its implementation, especially its potential risks, then structure their intervention in a manner which would minimise any negative consequences.

Lorraine Green Mazerolle has undertaken extensive studies of law enforcement strategies to control the distribution and use of illicit drugs, and believes that carefully used civil remedies offer the most promising approach. She also stated that strategically used police crackdowns had positive outcomes (pers. comm. 1999). Each strategy, however,

must be developed with the focus on the specific context. The tactics must fit the community, the location and the market; there is no one approach which suits all.

As is the case with all innovations in law enforcement, drug enforcement approaches should be accompanied by careful monitoring and evaluation to ensure that their implementation is appropriate in terms of time and place, and that their potential benefits are not overshadowed by their risks. Enforcement initiatives should also be evaluated for their long-term impacts on persons arrested, as well as their short-term effects on the incidence of crime in the community.

References

- Australian Bureau of Criminal Intelligence (ABCI) 1999, *Australian Illicit Drug Report 1997-98*, Australian Bureau of Criminal Intelligence, Canberra.
- Buerger, M. E. & Mazerolle, L. E. 1998, "Third party policing: A theoretical analysis of an emerging trend", *Justice Quarterly*, vol. 15, no. 2, pp. 301-26.
- Edmunds, M., Hough, M. & Urquia, N. 1996, *Tackling Drug Problems*, Crime Detection and Prevention Series, Paper 80, Police Research Group, Home Office, London.
- Green, L. 1995, "Policing places with drug problems: The multi-agency response team approach", in *Crime and Place, Crime Prevention Studies*, J. E. Eck & D. Weisburd (eds), vol. 4, Criminal Justice Press, Monsey, New York and the Police Executive Research Forum, Washington DC, pp.199-215.
- Hser, Y-I., Longshore, D. & Anglin, M. D. 1994, "Prevalence of drug use among criminal offender populations: Implications for control, treatment and policy", in *Drugs and Crime: Evaluating Public Policy Initiatives*, D. L. MacKenzie & C. D. Uchida (eds), Sage Publications, Thousand Oaks, Ca, pp. 18-41.
- Makkai, T. 1998, *Drug Courts: Issues and Prospects*, Trends and Issues in Crime and Criminal Justice, no. 95, September.
- Mazerolle, L. G., Kadleck, C. & Roehl, J. 1998, "Controlling drug and disorder problems: The role of place managers", *Criminology*, vol. 36, no. 2, pp. 371-401.
- Mazerolle, L. G. & Roehl, J. 1998, "Civil remedies and crime prevention: An introduction", in *Civil Remedies and Crime Prevention, Crime Prevention Studies*, L. G. Mazerolle & J. Roehl (eds), vol. 9, Criminal Justice Press, Monsey, New York, pp. 1-18.
- Mazerolle, L. G. & Terrill, W. 1997, "Problem-oriented policing in public housing: Identifying the distribution of problem places", *Policing: An International Journal of Police Strategies & Management*, vol. 20, no. 2, pp. 235-55.
- Tetley, W. 1996, "Vessel forfeitures for drug and criminal offences: A comparative study", *Journal of Maritime Law and Commerce*, vol. 27, no. 2, April, pp. 243-79.
- Uchida, C.D. & Forst, B. 1994, "Controlling street-level drug market", in *Drugs and Crime: Evaluating Public Policy Initiatives*, D. L. MacKenzie & C. D. Uchida (eds), Sage Publications, Thousand Oaks, Ca, pp. 77-94.
- Weisburd, D. & Green, L. 1995, "Policing drug hot spots: The Jersey City drug market analysis experiment", *Justice Quarterly*, vol. 12, no. 4, December, pp. 711-35.
- Worden, R. E., Bynum, T. S. & Frank, J. 1994, "Police crackdowns on drug abuse and trafficking", in *Drugs and Crime: Evaluating Public Policy Initiatives*, D. L. MacKenzie & C. D. Uchida (eds), Sage Publications, Thousand Oaks, Ca, pp. 95-113.

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