



committed to preventing tragedy that arises from illicit drug use

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Drug Action Week 2002

Public Forum on Law, Justice & Drugs held on Friday 28 June 2002

Presentation by David McDonald

Kerrie Tucker: Our second speaker is David McDonald. David is a social scientist with research interests in domains where public health and criminology interrelate particularly drugs policy, violence, aboriginal justice and deaths in custody. He is based at the Australian National University's National Centre for Epidemiology and Population Health where he is undertaking research in the fields of drug policy and interpersonal violence. Please welcome him.

David McDonald: Thanks Kerry. A couple of weeks ago I was listening to the radio and heard mention of a friend I hadn't seen for a couple of years: Frank Hanson. Frank is a Superintendent of the NSW Police Service and I heard that he is now working as the officer-in-charge at Cabramatta. I think we probably all agree that must be one of the more difficult postings in the area of policing drugs and crime in this country.

Thinking about the kind of challenges Frank must be facing in his daily work, I thought maybe last night, when he was listening to the news, he might have heard the State Minister for Police and the Opposition Spokesperson, the Shadow Minister for Police, competing one against the other as to who was going to be toughest on crime and who was going to have the harshest penalties.

But Frank is somebody who has been involved in policy development in the National Drug Strategy at both the State and national levels. He is fairly familiar with the research findings concerning policing drugs and policing crime more generally. He probably knows that, in fact, harsher penalties don't normally create lower crime rates - so there's a conflict.

And then maybe this morning at work he received a delegation from the local council, maybe from the local Chamber of Commerce, saying 'we must have more police officers on our streets policing drugs, we have to have more officers on the beat'. But he knows that more officers on the beat tends to reduce the fear of crime but does not usually have measurable beneficial impact in terms of crime rates.

And he may have opened his mail and received the latest research paper from someone such as the University of NSW public health and criminology researcher Lisa Maher, pointing out that, in the past and maybe today, certain patterns of policing of drug users in Cabramatta actually caused - directly caused - quite serious adverse health consequences for those drugs users and for the community more broadly.^[1]

So in drug policy generally, and drug law enforcement specifically, we have these kinds of conflicts. Richard Refshauge alluded to them as well - these conflicts around drug policy.

This leads us to think about where we stand in terms of our national drugs policy goals and the need to move on after 15 years of our National Drug Strategy, to move onto the next

stage. I suggest that we now need to become much more explicit about what our goals are: the goals of our National Drug Strategy; our goals in policing drugs here in the ACT; and our goals at all the levels in between. We need to be much more explicit about what our goals are in drugs policy generally and the law and justice side and to avoid global goals like 'a drug free society' or unattainable goals like the UN General Assembly's goal of the eradication of the production of some drugs by a particular year. This is because these types of goals just don't help us in developing effective strategies. Indeed, they impede clear strategic thinking.

Secondly, we have multiple goals and they are often in conflict.^[2] Probably in this room we have some people who would say that an overarching goal in drugs policy and drug policing should be to substantially reduce drug use, whereas others would say 'No, I totally disagree, it is my personal belief that people are entitled to use drugs if they wish to do so. As a society our goal in drug policing and in law enforcement generally should be to minimise the harm for those people who exercise their inalienable right to use drugs'. Others might say that they do not really care if people use drugs or not, but if they do use then the state should regulate the supply and tax the drugs and drug-related services to finance drug education and treatment programs.

Underlying this discussion about goals and the strategies that flow from them has to be the principle that Richard Refshauge alluded to, that whatever we do should be continually tested against this criterion: *that the harms caused by the control regimes themselves should not outweigh the harms that we seek to prevent*. In other words, that we recognise that any particular strategy within the drugs field can have unintended adverse consequences as well as the desirable goals that we are seeking to achieve.

So what about innovative interventions? Richard referred to two issues in Canberra, namely research into heroin prescribing and research into supervised injecting places. It seems to me that these innovations in public policy are presenting an increasing challenge to the legislative prohibitions including the prohibitions of drug use and drug possession and the possession of implements for using drugs such as bongs which leads to scores of thousands of people getting criminal convictions across Australia each year. So we are increasingly finding ourselves in this difficult area that Australian public policy and law are not good at handling, where we have legislation saying one thing but where we have officially endorsed practice setting that aside in some ways and operating differently. The National Diversion Initiative,^[3] to which Richard referred, is an important part of this transitional stage that we are in, moving from a heavy-handed prohibition approach to more rational policy settings.

Our current diversion programs are funded at the level of \$400 million, I think, over four years from the Federal Government plus a lot of money from the States and Territories. It came from a major policy push from ADCA (the Alcohol and other Drugs Council of Australia) who are the sponsors of this Drug Action Week and also through the evaluations of the trial diversion program in Victoria.^[4] I was impressed by the report of the evaluation of the Victorian drug offenders' diversion program where it stated that much of the origin of the program came from the frustration of individual police officers policing our communities and from senior officers doing strategic work - the frustration of people in policing and the criminal justice system generally about the limits of the criminal justice system in terms of achieving the kinds of society we want by reducing drug related harm. They have learned that we need to recognise the limited role of policing and the criminal justice system more broadly, and to strategically move away from traditional ways of doing things in the criminal justice system to innovative approaches such as diversion.

I am talking about goals and the strategies that flow from them. The Minister for Justice, who is responsible for the Australian Customs Service, likes to talk about the tremendous

achievements in terms of seizures of illicit drugs by Customs and related law enforcement agencies. He has drawn attention to some of our large drug seizures, and that's fine, but here's a graph taken from the Australian Customs annual reports showing the number of seizures each year for 12 years. I think you would say that that is not something that a Minister would be too proud about. But the Minister could put up another graph like this which shows, for the same period, the number of seizures with its downward trend. Overlaying that graph, however, is another showing the amount seized. We see there is a very different pattern. If we add to that the large overseas seizures of drugs destined for Australia, then we can see that the story is quite different. The issue here (and I am not criticising the Customs Officers and the AFP who handle the international intelligence side of things) is to point out that this highlights the question about goals. If we say that our goal is to arrest the maximum number of people who are bringing drugs into the country we are doing pretty poorly. If our strategic goal is to increase the amount of illegal drugs seized then we can say that we are doing pretty well. If we are talking about resource allocation, clearly quite different resources are needed depending which goals of drug law enforcement are most prominent.

I mentioned before that our National Drug Strategy has been running for more than 15 years. It has been relatively stable in terms of having as its underlying principle the concept of harm minimisation. Harm minimisation is of course achieved by reducing the availability of drugs, reducing use of drugs and by harm reduction strategies for people who continue to use - the three arms of our national drug strategy. Some people, however, are thinking not just about the concept of harm but moving to more sophisticated ideas about a *net harm analysis*, with the emergence of the net harm concept as a refinement of the harm minimisation concept. In the net harm approach we are not seeking just to reduce the absolute amount of harm caused by drugs in our society but rather to recognise, as illustrated at the beginning of my remarks, that a particular intervention can have both positive and adverse consequences. Heavy policing of injecting drug users on the street can drive them to inject more rapidly in unsafe places and actually cause an increase in overdose rates, for example. So what we are saying is that in the net harm analysis we look not only at the goals we are trying to achieve but we also look carefully at the adverse consequences that come from our strategies and weigh up the positive outcomes with the negative ones and so produce a measure of net harm. This means thinking much more strategically about the interrelationship between the criminal justice system approach to drugs and the approaches used in other sectors (including health, welfare and education) and the broader issues around the causation of drug related harm.

Cost-effectiveness studies should become key tools in decision-making. These are studies that measuring what resources of money and personnel and expertise and time are applied to achieving a particular goal. I was surprised to hear Don Weatherburn, the Director of the NSW Bureau of Crime Statistics and Research, give a paper a couple of weeks ago in which he said that:

Sadly, considerations of cost-effectiveness don't often figure in public debates about crime. NSW remains alone among Australian Governments that have subjected any of its law and order policies to an assessment of their cost-effectiveness.^[5]

I don't know if he is right in this – that NSW is the only jurisdiction that subjects its law enforcement strategies to cost-effectiveness analyses - but he is a person who is greatly respected and I would doubt that he would make a statement like that without a strong evidence base for it. Insofar as it is true, we have a problem. If much of our law and order policies generally (and by implication those relating to the criminal justice system approaches to drugs) are conducted without knowledge of their cost-effectiveness then it could be that we are using strategies that are not the most effective, not the most efficient, and that really need to be re-considered.

My point is that now is the time for a re-consideration of policies: identifying and understanding what we are doing that is useful but also moving on to a position where we have a more solid evidence base for what we do in law and justice approach to drugs. This implies doing things differently. It implies learning new things, learning from overseas experience and conducting and applying the results of systematic research. It really does mean trying to teach old dogs new tricks. This is not an easy task when it comes to the criminal justice system where much inertia exists. It is a difficult area but certainly one in which we need to do a lot more strategy development work; clarifying the goals of drug law enforcement; learning about what works best in what situations; and moving towards cost-effective ways of implementing these new approaches. Thank you.

References

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3. National Drug Strategy (2000). *Council of Australian Governments - Illicit Drug Diversion Initiative*, National Drug Strategy. Available from World Wide Web: <<http://www.health.gov.au/pubhlth/nds/nids/diversion/index.htm>> (accessed 11 Feb 2002).
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