



Review of criminal justice interventions for drug users in other countries

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This paper examines the provision of drug treatment within the criminal justice system (CJS), comparing and contrasting British interventions with examples from America, Australia and other European countries. It is not an exhaustive review. Instead we have aimed to pull together some of the key ideas and experiences to emerge from the English-language literature. We have restricted ourselves, as much as possible, to those criminal justice interventions that have been independently evaluated for their effectiveness. That said we have not attempted to audit the quality of the studies we discuss.

Background

The CJSs of developed countries throughout the world have disproportionate levels of contact with drug users. A large proportion of arrestees in England, the United States (US) and Australia test positive for one or more drugs at the time of arrest (59, 68 and 69 per cent respectively) (Taylor and Bennett, 1999; Fitzgerald and Chilvers, 2002). Early findings from an evaluation of new powers available to the courts to drug test arrestees showed that in one London site 63% of arrestees in specific target offence groups tested positive for heroin and/or cocaine use (Mallender et al., 2002). A significant minority of offenders subject to community supervision have also been identified as problem users. Estimates from various English probation areas range from 7 per cent (May 1999) to 37 per cent (ILPS, 1995). In the US, nearly 70 per cent of probationers report past use of illicit drugs and just under a third had used in the month before their most recent offence (BJS, 1998). Similarly, the male prison population in England and Wales experiences higher levels of drug use than the general population (Strang et al., 1998), with a quarter of men and one third of women reporting the use of heroin or crack cocaine in the year before imprisonment (Singleton et al., 1998). Such trends are consistently replicated across US (Robins and Reiger, 1991; Peters et al., 1998; CASA, 1998), Australian (Butler, 1997; Kevin, 2000) and European (Turnbull and McSweeney, 2000) prison populations.

Though there are many wide-ranging estimates, it is acknowledged that at any one time, problem drug users make up a significant proportion of the criminal justice population. Accurately gauging the extent to which drug users are involved in the CJS is made all the more difficult given that countries structure and organise the operation of their systems in different ways and in pursuance of different political priorities. Consequently policies and practices vary. Even within countries there can be great variation. For instance, Russell (1994) noted how the US has 'multiple criminal justice systems, operating at federal (ie. national), state and local county levels', each with its own police, court, prison, probation and parole service.

In a study of demand reduction activities across the CJSs of the European Union, Turnbull and Webster (1997) observed four common points of intervention: arrest; trial and sentencing by a court; imprisonment; and release from prison. These key points of intervention are discussed below.

Arrest

Referral or diversion schemes are intended to exploit the opportunities provided by arrest and encourage drug users to seek treatment (Hough, 1996). All 43 police force areas in England and Wales now offer arrest referral schemes to adult problem drug using offenders on a voluntary basis. Most schemes adopt a proactive model, basing an independent drug worker in a custody suite or on call, in order to assess and refer drug users to appropriate local treatment services. Such schemes have shown to be effective at targeting this group and ensuring contact with services (Edmunds et al., 1998; 1999; Sondhi et al., 2002).

Diversion at the point of arrest is also a widely used strategy across various Australian States and Territories (Ministerial Council on Drug Strategy, 1998). These schemes provide educational information or referral to assessment and treatment through a graduated series of interventions that aim to be both appropriate and proportionate to the seriousness and circumstances of the offence (Spooner et al., 2001). Most target simple cannabis possession offences and non-violent offenders, while others address acquisitive crime committed to fund drug use. However, little research evidence has been collected regarding the effectiveness of these schemes (Criminal Justice Commission, 1999; Graycar et al., 2001).

The State of Victoria operates a number of referral and diversion schemes including: the Cannabis Cautioning programme; Drug Diversion programme; and Court Referral and Evaluation for Drug Intervention and Treatment (CREDIT). The CREDIT scheme offers the option of treatment to offenders with substance misuse issues as part of bail proceeding after initial arrest and prior to sentencing. Early findings indicate relatively low take up rates with only half of those eligible agreeing to participate but positive outcomes were reported for those retained on the programme (Heale and Lang, 2001). A modified version of the scheme - Magistrates' Early Referral Into Treatment (MERIT) - is currently being piloted in numerous sites across New South Wales. (South Australian Drug Summit, 2002).

In 1987 South Australia introduced the Cannabis Expiation Scheme (CEN). Research suggests that diversion from the CJS using this approach produces better outcomes than conviction, particularly for minor possession offences (Lenton et al., 2000). South Australia also refers all arrestees charged with simple possession offences to a Drug Assessment and Aid Panel (DAAP). This panel consists of legal and health workers whom decide whether an individual should be prosecuted or diverted into counselling or rehabilitation. However, with the exception of a review conducted in 1991, there have been no published evaluations of these panels since their inception during the mid 1980's (Gray et al, 1992).

Turnbull and Webster (1997) found that the majority of European countries also offer arrestees information relating to drug use and referral to treatment services. Referral at the point of arrest is most common in Denmark, the Netherlands and Sweden. However intervention is often restricted to those known or thought to be drug users and initiatives are rarely widespread but instead concentrated within a few localities. Any contact with treatment services is undertaken on a voluntary basis and very few countries enforce engagement using legal sanctions. Consequently, take up rates for these information-based schemes are generally low. Research suggests that increasing the success of referral and diversion schemes is reliant upon proactively identifying, assisting and supporting drug users at the point of arrest, and referring them to appropriate and adequately resourced treatment services.

Sentencing by a court

Legislation exists in a number of countries which expands the options available to the courts either for the diversion of drug related offenders away from the CJS to treatment, or for court-mandated treatment forming part of a sentence. However in most cases these options are rarely used as many initiatives are comparatively new, and still in the process of evolving and developing effective ways of working (Turnbull and Webster, 1997). Few have been formally evaluated.

Evaluations of recent initiatives in the UK provide evidence to suggest that drug-dependent offenders can be effectively coerced into treatment, with those successfully retained on programmes reporting large reductions in drug use and offending (Turnbull et al., 2000). Findings from a two-year reconviction study of offenders sentenced to a Drug Treatment and Testing Order (DTTO) reveal substantial differences in reconviction rates between those successfully completing their treatment orders and those who were revoked (53% of completers were reconvicted within two years compared to 91% of those revoked) (Hough et al., 2003). The research highlights the importance of developing effective strategies for engaging and retaining offenders in treatment and the need for timely, responsive and appropriate interventions.

Some UK criminal justice interventions, such as the DTTO and Drug Abstinence Orders/Requirements, have their origins in the drug court movement that began in the US during the late 1980's. Drug courts are now established in every US State. The approach has also been adopted in Australia, Canada, Puerto Rico, the Republic of Ireland, and Scotland (Bean, 2001). Though there are variations across jurisdictions, these courts tend to target non-violent offenders and either offer an opportunity to participate in a drug treatment programme in return for a dismissal of charges or else specify treatment as a condition of sentence. Thus the former group involve diversion from punishment, and the latter involve court-mandated treatment. In practice both approaches exploit the coercive potential of the criminal process: those who fail to comply can be sanctioned.

Drug courts aim to combine judicial supervision, comprehensive treatment, random and frequent drug testing, incentives and sanctions, regular case management and reviews, and support services. Whilst treatment ideologies vary across jurisdictions, the goal of most US drug courts is abstinence.

Belenko (2001) critically reviewed evaluations of 37 different US drug courts and reported some promising results, particularly in terms of reduced drug use and recidivism. US drug courts also have some degree of success in engaging and retaining clients (on average 47 per cent of offender's graduate from programmes), but in contrast to court-based treatment in the UK and other jurisdictions, the US model has often been criticised for targeting low-level offenders (Bean, 2001). Nevertheless, Belenko concluded that court-ordered treatment offers more intense levels of supervision and support than conventional community programmes. This approach also generates cost savings and facilitates greater co-operation and partnership working between criminal justice and health services.

In Australia drug courts were initially set up across New South Wales in 1999 on a trial basis as an alternative to imprisonment for drug dependent offenders. Findings from a three year evaluation suggest that the drug court is effective in reducing illicit drug use and improving the health and social functioning of participants while they remain on the programme (Freeman, 2002). Drug courts are now also being piloted in Queensland, Western Australia and South Australia.

However much of the research of drug courts conducted to date has been criticised on methodological grounds: sample sizes tend to be comparatively small; few track programme failures and drop-outs; and fewer still employ comparison groups or consider other factors which might influence treatment outcomes. Therefore little can be said with any certainty about the effectiveness of drug courts over the long term in tackling substance misuse and improving individual and social functioning.

High attrition rates also emerge as a common feature of many court-based initiatives, particularly for those schemes targeting problematic drug users and persistent, high-level offenders (Turnbull et al., 2000; Freeman, 2002; Hough et al., 2003). The research evidence suggests that efforts to enhance programme engagement and retention rates could improve the overall effectiveness of court-mandated treatment.

Treatment in prison

Imprisonment offers a unique and valuable opportunity for treatment and rehabilitative interventions for drug users. Many developed countries now provide some form of intervention within prisons and there has been a rapid expansion during recent years in the number and type of interventions offered. In England and Wales, Counselling, Assessment, Referral, Advice and Throughcare (CARAT) services were established in 1999 and aim to offer drug-using prisoners assessment, detoxification and prescribing services, and access to a range of post-release support services in the community. Just over one third of prisons currently offer intensive drug treatment programmes. However, most are under development and the effectiveness of many prison-based interventions has yet to be independently assessed and established (Audit Commission, 2002).

Drug treatment in prison is now provided by most countries across Europe (Stover et al., 2001). These include a range of detoxification; counselling; abstinence-based programmes; self-help groups and relapse prevention work. Methadone maintenance programmes are offered in Austrian, Danish, Luxembourgish, Portuguese, Spanish and German prisons. In Belgium, Ireland, Italy, and the Netherlands, the use of methadone is minimal and employed largely for the purposes of detoxification.

The New South Wales prison methadone programmes are among the few in operation across Australia despite the evidence which suggests that methadone maintenance treatment is the most effective intervention available for reducing heroin consumption, criminality and associated risk behaviours (Dolan and Wodak, 1996; Dolan, Wodak and Hall, 1998).

Much of the empirical evidence in support of prison based drug treatment originates from the US. Research there suggests that well designed programmes of sufficient length, using cognitive behavioural approaches, providing relapse prevention strategies, and linked to aftercare services in the community can reduce post release criminal activity, relapse and recidivism (Hiller et al., 1999; Inciardi, et al., 1997; for a review see CASA, 1998 and Peters and Steinberg, 2000).

US evaluations have however focussed largely on residential treatment and more research is needed on all types of intervention. Many of the methodological limitations identified in evaluations supporting drug courts also apply to research of prison based treatment. In the UK at least, there are still outstanding procedural issues around standardising and co-ordinating treatment and ensuring consistent and effective provision both in prison and post release (Kothari et al., 2002).

One significant risk relating to prison-based treatment is that sentencers may pass custodial sentences simply to ensure that drug-dependent offenders have access to services. There are theoretical grounds for thinking that community-based treatment may prove more effective in the long term, as prison settings might not be considered conducive to therapeutic interventions. Furthermore, prison sub-culture and the skills and understanding acquired in the prison environment may have limited relevance when offenders return to the communities where they learnt to use drugs and are at increased risk of relapse. In practical terms the cost of imprisonment is so high that using prison as a means for securing treatment is unlikely to be cost-effective even if it is effective.

Release from prison

It is clear from international research that the lack of co-ordinated and coherent provision for released prisoners threatens to undermine any benefits gained from interventions offered within prisons. Unless treatment is maintained in the community, offenders are likely to relapse (Ward, 2001). In England and Wales, for example, there is no one agency with an overall responsibility for co-ordinating treatment provision between prison and the community (Audit Commission, 2002). Recent research revealed that half of prisoners were using heroin on a daily basis some four months after their release (Burrows et al., 2000). Substance use can also have fatal consequences once prisoners return to the community (Seaman et al., 1998). Sattar (2001) found that a quarter of all post-release deaths occur during the first four weeks, suggesting a strong link with over-dosing.

In a study of aftercare provision in European prisons, Turnbull and McSweeney (2000) found that most countries had specific strategies in place to support recently released prisoners. Often this took the form of structured day programmes and residential services providing methadone maintenance, counselling, help with housing, employment and offending behaviour. However this type of support is usually only available to a minority of drug using offenders and the availability of aftercare and resettlement services varies enormously within and between countries.

A number of US and Australian jurisdictions have developed forms of intensive community based supervision to assist the resettlement of prisoners back into the community, often supported by electronic monitoring or stringent license conditions. The Parole Transition Programme in the US State of Oregon uses local treatment providers to assess prisoners' service needs and develop appropriate links with community services prior to release. An early evaluation found that clients had lower rates of recidivism one year after release compared to their rates before imprisonment while three-fifths were still drug-free six months after release (Field, et al., 1992). However, findings have not always been entirely consistent. The Opportunity to Succeed (OPTS) programme operates across 5 US sites and provides a range of community based aftercare services for released prisoners. While the programme appears to reduce alcohol and cannabis use, increase full-time employment and improve family functioning, researchers found little evidence to support the effectiveness of OPTS in reducing criminal behaviour (Rossman, et al., 1999).

Ward (2001) reviewed the research literature and found little evidence of any systematic or planned approaches to the provision of aftercare services for offenders. Rather services tend to develop in response to local conditions, in an ad hoc manner and lacking any sense of cohesion.

Conclusions

The CJS provides a valuable opportunity to contact problematic drug users who have had little previous exposure to treatment and helping services. Evaluations measuring the effectiveness of different interventions aimed at helping and treating this group within the CJS have shown mixed results. It would appear that a minority can be helped and succeed in changing drug using and offending behaviour. The majority however will fail. Whether such interventions are therefore cost effective is not yet known. However, in order to maximise the potential benefits offered by treatment it is important to ensure that continuity and consistency of care and support is available at each stage of the criminal justice continuum.

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