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Drug
Enforcement
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Editor's Note:

Soon literally billions of dollars will be spent fighting drugs. Prosecutors will be asking their states for new laws and for federal and state dollars to improve enforcement. The purpose of these articles, selected and reviewed by district attorneys from around the country, is to provide a relevant overview of practical research.

Important questions considered by the reviewers include the following:

1. Does drug testing work?
2. Who should be tested?

3. Is drug use a mitigating or aggravating factor?
4. How can we better identify the drug abusers?
5. Do any strategies work to reduce crime by probationers?
6. Do prison treatment programs work?
7. What should a district attorney do at the pre-trial stage?

Prosecutors address these questions and others in this issue.

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Prosecutors Perspective

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Identification of Drug Abusing Offenders: A Guide For Practitioners

Summary of:

Wish, Eric D.
Identification of Drug Abusing Offenders: A Guide for Practitioners. Paper delivered at the Conference of the American Society of Criminology, Atlanta, November 1986. This research was supported by funds awarded by the National Institute of Justice, U.S. Department of Justice.

This paper examines why the systematic identification of drug abusing offenders might be beneficial to the criminal justice system. It reviews four methods that could be used to identify drug-involved offenders and places urine testing into the larger context of social policy. The paper also looks at the legal and ethical issues that tend to arise when a jurisdiction attempts to introduce such a policy.

In a Baltimore study, violent predators, the most criminally active class of incarcerated persons, were distinguishable by their histories of juvenile drug abuse and adult high-cost heroin habits. New York and Washington studies of arrestees found that persons who tested positive by urinalysis at arrest for one or more hard drugs had a greater number of rearrests than arrestees with negative test results. Moreover, treatment-induced reductions in narcotics use have been found to be associated with concomitant reductions in individual crime rates.

Two models are conceptualized in this paper. 1. The Compulsive Model which provides an explanation for why heavy users of expensive, dependence-producing hard drugs such as cocaine and heroin commit many income-producing crimes (e.g. robbery, larceny, burglary). These abusers lack the money to sustain their habits so they resort to crime. 2. The Deviance Model demonstrates that the abuser chooses to use illicit drugs and engages in a variety of

other deviant behaviors, and often has a long history of deviance.

By differentiating users, we can identify the abusers who are victims of their drug habits and who may be more responsive to drug treatment and identify deviant persons who are most committed to criminal behavior.

Washington, D.C. is the only jurisdiction that routinely tests all arrestees for drug use by urinalysis. The test results and information from a brief interview are used by judges to set conditions of pretrial release and during other stages of processing. Preliminary findings indicate that pretrial crime is reduced in persons who appear for repeated urine testing during the pretrial period. Also those who are found to have positive urinalysis for two or

Comparison of Four Techniques for Identifying Drug Using Offenders

Characteristics	Self-Reports	Official CJS Records	Urine Tests	Radioimmunoassay of Hair (RIAH)
TYPES OF DRUGS DETECTED:	All drugs.	Limited to drugs causing attention by bizarre behavior/sale/treatment.	All commonly abused drugs.	All commonly abused drugs.
ACCURACY/VALIDITY:	Poor in criminal justice settings; good, in neutral settings or if person wants to talk.	Poor; often missing from records and consists of anecdotes.	Depends on test; EMIT better than TLC.	Too soon to tell; early reports suggest it is more sensitive than urinalysis.
COST:	Depends on whether new staff are needed to conduct interviews.	Low, if maintained by existing staff in available data systems.	EMIT: \$1-\$5/drug TLC: \$2 for a multidrug screen.	At least \$30 for each drug.
PERIOD OF USE DETECTED:	Current and lifetime.	Depending on record detail, could include recent and lifetime.	Varies by drug; Heroin/cocaine last 24-72 hrs. PCP, marijuana, up to 1 month.	Months.
DIFFERENTIATE USER FROM ABUSER?	Yes	Yes, if details have been recorded.	Only by repeated testings.	Can provide record of chronic use over times.
COMMENTS:	Poor technique for mass screening for drug use. Is best method for diagnosing abuse, once use is known.	Records on drug involvement are too incomplete to be useful. Large potential value exists if recording is improved.	Best technique for mass screening. Can only indicate one-time use. Confirmation by retest or other data sources needed to verify abuse.	Experimental techniques; turn around time of 24 hours lessens feasibility for pre-trial use when results are needed quickly. May prove to be an excellent means to confirm other indicators of drug use and to track individual patterns.

more drugs at arrest and are subsequently sentenced to probation, have worse probation outcomes than persons who test negative for drugs at arrest.

The author compares four drug testing methods (See Table): offenders' self-reports, criminal justice records, urinalysis tests and hair analysis. Comparisons are based on drugs detected, time span covered, accuracy, cost and drug use vs. abuse. He concludes that urinalysis is the most feasible method now available for screening large numbers of offenders for drug use. Self-reports and record information tend to under-detect drug use; however, used in conjunction with urinalysis, they can be used to verify and extend information on use severity. Hair analysis offers great promise for delineating patterns of drug

use over time, but is currently very expensive.

Practitioners wishing to initiate a urine testing program within the criminal justice system will need to consider carefully the statutory and political climate in their jurisdictions. Legal concerns include violations of the Fourth Amendment (illegal search and seizure

doctrine) and Fourteenth Amendment (due process rights).

Finally, urine testing should be viewed as the first step in addressing the drug-crime problem. The practitioner must have a firmly developed strategy in place before urine testing is adopted. Drug abuse treatment facilities in most large cities are filled to capacity and will require new resources to handle an influx of new admissions. Similarly, a program that results in more detentions would add to the problems of overcrowded jails and prisons.

Review

by
Edwin L. Miller, Jr.
District Attorney
San Diego, California

Eric D. Wish argues that administering drug tests to people who come in contact with the criminal justice system will reduce crime and lessen jail and prison overcrowding. Wish also submits that the testing can be done inexpensively and accurately.

While sounding too good to be true, Wish offers strong arguments, bolstered by statistics and studies, that show how the identification of drug abusing offenders may indeed accomplish these objectives. At the least, he provides some intelligent discussion of what is likely to remain a highly controversial issue.

Wish cites model studies showing hard drug users (criminal addicts) are especially likely to commit both drug-related and non-drug-related crimes at high rates. The Compulsive Model describes those whose drug dependency forces them to commit crimes—addicted criminals. Criminal addicts, however, use drugs as part of their deviant personality. Hence, they may be less likely to respond to drug abuse therapy.

If the criminal justice system can differentiate between these two user types, drug rehabilitation programs can be offered to those who are, at least arguably, victims of their addiction.

In Washington, D.C., where all arrestees are tested for drugs, studies show that those released based on urine monitoring, are less likely to be rearrested prior to the completion of their first trial. In response, judges have been more willing to release arrestees pending trial if they are being monitored, knowing that those remaining sober are more likely to return for court dates.

Wish argues that a urine test, the Enzyme Multiplied Immunoassay Test (EMIT), followed by a confirming test, is a 97-99 percent accurate, cost effective testing method. False accusations can be avoided by setting the test high enough to register fewer false positives than false negatives resulting in an accuracy rate exceeding 99 percent for false positives.

Questions of drug testing legality can be expected. Two federal courts recently ruled on drug testing for prisoners. The Federal District Court of Kentucky sustained a preliminary injunction against imposing sanctions on prisoners based on unconfirmed EMIT tests. The U.S. District Court of Indiana ruled that an EMIT test positive for marijuana, confirmed by a different test, was sufficient evidence for disciplinary action

against a prisoner and that future EMIT results should be confirmed by a second test.

The thrust of Wish's article is that pretrial drug testing is beneficial for a number of reasons. But if we look beyond this article we might find other advantages to be gained from drug testing. Probationers in California, often as a probation condition, must agree to a Fourth Amendment waiver allowing law enforcement or probation officers to search their residences, autos, or persons at any time. Nationwide use of this provision, along with requiring probationers to submit to periodic, unannounced drug testing, could stem both illicit drug use and other crime commissions by probationers.

Combined with effective drug testing, these probationary conditions and restrictions might reap great societal benefits.

Further Examination Of The Association Between Heavy Marijuana Use And Crime Among Youths

Summary of:

Dembo, Richard;
Wish, Eric D.;
Getreu, Alan;
Washburn, Mark;
Schmeidler, James;
Berry, Estrellita
and Blount, William R.

Further Examination of the Association Between Heavy Marijuana Use and Crime Among Youths Entering a Juvenile Detention Center.

Paper delivered at the Conference of the American Society of Criminology, Atlanta, November 1986.

This study reviews previous research identifying strong associations between drug use and crime commission, and presents results from the authors' own project which examines the relationship between juvenile drug use and delinquent behavior.

Urinalysis has been found to be more accurate than other sources of information in identifying drug use among adults. Modern, sensitive urinalysis tests, such as the EMIT (enzyme multiplied immunoassay technique) procedure, can accurately detect recent drug use. Urine testing of adult arrestees has found that a majority of those tested have urine which tests positive for drugs; and that arrestees with drugs identified in their urine have higher arrest rates than drug-negative arrestees.

This study draws similar conclusions for juveniles. Males and females entering a Florida juvenile detention center were the subjects of the study. Information about the characteristics for each case including drug abuse was collected and urinalysis was performed. Ninety percent or more of the eligible youths voluntarily provided specimens, and high rates of definite positives by the EMIT tests were found. Once it was determined that a youngster needed mental health follow-up or referral to a drug program, efforts were made to place youths in treatment.

The results of the study were as follows:

1. High rates of participation can be obtained voluntarily for urine testing of detained youths, and cooperation is likely to be greatest in non-adversarial, confidential circumstances where the youths believe in the value of the testing program. Also, there was a strong correlation between the results of the testing and self-reporting by the youths of their drug use or non-use.

2. Youths found to be drug positive on cannabinoid use had significantly higher rates of referral to juvenile court for non-drug felonies than THC negative youths who also denied the recent use of marijuana/hashish (THC). In addition, youths whose urine specimens were negative on cannabinoids, but who claimed marijuana/hashish use within the past month, had rates of referral to juvenile court for non-drug felonies which were

similar to the THC positive youths (suggesting that the test, in being set high enough to avoid false positives, missed some youths who had in fact used drugs).

3. Analysis also found that those who tested THC negative but claimed marijuana/hashish use within the past month reported a higher rate of sexual victimization than either the THC positive or THC negative and denied recent use of marijuana/hashish groups. The authors provide no explanation for this finding.

Review

by
L. Scott Harshbarger
District Attorney
Cambridge, Massachusetts

What can we as prosecutors do to reduce crime by early identification of juvenile drug abusers and the development of monitoring and treatment strategies? Prosecutors recognize drug use as one of the most predictive factors of future crime and dangerousness.

Studies of adult offenders have shown that adult "career criminals"

are characterized by a history of felony behavior and frequent use of hard drugs as juveniles (see Volume I, Issue 1 of *Prosecutors Perspective*). Can we, therefore, attempt to identify those youths at high risk of pursuing criminal careers while still young, and attempt to control and change their behavior before they become career criminals?

This study leads to the conclusion that we can and should make this effort and that initiation of a drug screening program for juvenile offenders is a very useful first step. The study supports urine monitoring of youths in the juvenile justice system to help identify those at high risk for future delinquency and those in need of substance abuse treatment.

This suggests that the earlier the court intervenes in the life of a delinquent to determine the level and type of drug use (regardless of the offense with which the juvenile is charged), the more effective social intervention programs will be in addressing the causes of delinquent behavior. The authors believe a juvenile's first secure detention may be an important juncture for constructive intervention. However, as long as constitutional concerns can be addressed and reliability assured, it would appear desirable to screen much earlier.*

What do we as prosecutors learn from this study? This and other studies of juveniles lend great support for the propositions that any prosecutor who cares about prevention of crime or career criminals—in addition to just prosecuting them—(a) must become involved in the juvenile justice system as early as possible; (b) should care about the adequacy of the treatment resources available (good intervention and treatment programs must be available to

these youths for any screening and evaluation process to be effective); and (c) should seriously explore ways in which drug/alcohol

testing or self-reporting can be systematically instituted for adults and juveniles entering the court system. We should join with our local judges, sheriffs and juvenile authorities to investigate instituting similar projects.

These studies are now beginning to support with data what all of us have increasingly observed—that drug and alcohol use and abuse are major causal factors in criminal behavior; that the earlier the use is identified, the more we can and should press for treatment alternatives as a part of any sanction. On the other hand, in the case of more serious crimes, evidence of drug and alcohol abuse should be a signal warranting enhanced attention and more restrictive sanctions, rather than as a factor in mitigation.

*A program previously instituted in Washington, D.C. was expanded in October 1986, to include juvenile offenders. Under this program, all juveniles arrested for serious crimes are tested for marijuana, cocaine, heroin, and PCP. One third have tested positive for at least one percent of the drugs; of those, 83 percent tested positive for PCP. Juveniles testing positive are then referred for treatment and/or periodic testing as a condition of pretrial release.

Criminal Justice Interventions With Drug and Alcohol Abusers: The Role Of Compulsory Treatment

Summary of:

Stitzer, Maxine L.
and McCaul, Mary E.
**Criminal Justice Interventions
With Drug and Alcohol
Abusers: The Role of
Compulsory Treatment.**
Prepared for publication in
Behavioral Approaches to
Crime and Delinquency.
New York: Plenum
Publications, 1988.

Stitzer and McCaul examine the relationship between substance abuse and crime within a behavioral framework and consider intervention strategies that can be implemented with substance abusers who have become involved with the criminal justice system. The strategies include supply restriction, incarceration, community supervision and compulsory treatment.

The authors suggest that perhaps the most important difference between abusers and nonabusers is the extent which drugs control their behavior. Crime is then seen as a response maintained by the acquisition of drugs. Substantial criminal activity was associated with daily narcotics use. Crime levels associated with less than daily use were similar to those seen during periods of nonaddiction.

criminal acts while they are intoxicated rather than as a prerequisite to intoxication.

A behavioral model suggests several strategies used by the criminal justice system which may reduce drug and alcohol use by abusers. Socially stable clients with intact jobs and families have a much better treatment prognosis than do socially disadvantaged clients.

Supply restriction is one method which reduces the overall prevalence of use. Since this also escalates drug costs, however, it has the less desirable effect of increasing the amount of money and effort needed to obtain drugs.

A punishment approach to crime reduction among substance abusers seems unlikely to succeed primarily because of the low detection rate of criminal behavior among drug abusers and alcoholics. Incarceration alone also does not appear to have any effect on the future likelihood of returning to substance abuse and related crimes.

A second relationship between drugs and crime involves drug-facilitated aggression and drug-produced performance impairment. For example, excessive alcohol users tend to perform illegal and

Intensive community supervision programs that include substance use monitoring and relapse-based legal consequences may reduce substance abuse while the program is in effect, but cannot prevent relapse. Compulsory treatment for substance abusers provides an appealing alternative to the criminal justice system because potentially effective community monitoring can be carried out by specialized treatment agencies. Compulsory treatment also offers a wider range of treatment services that may positively influence long-term outcomes. However, the available treatment evaluation studies with drug and alcohol abusers have been generally disappointing.

Two treatments have been shown effective: methadone maintenance and drug-free therapeutic communities (TCs). Methadone maintenance involves continued dependence on a prescribed narcotic, but TCs emphasize total abstinence as a treatment goal.

The use of relevant, consistent and immediate legal consequences such as extended sentencing to promote treatment and continued abstinence could be an effective approach. Clearly, flexibility in the range of consequences available and a high degree of cooperation between treatment and criminal justice programs would be needed to incorporate legal consequences and develop optimally effective interventions.

Review

by
Thomas L. Johnson
County Attorney
Minneapolis, Minnesota

Criminal Justice Interventions with Drug and Alcohol Abusers is an analysis of substance abuse intervention strategies, which uses terminology unfamiliar to most prosecutors.

Stitzer and McCaul conclude that compulsory treatment when used in conjunction with the correct legal sanctions, is the best tool to break the drug abuse-crime cycle. They also conclude that the success of long-term compulsory treatment is inconclusive because the treatment has not been tied to the necessary legal sanctions—namely, immediate and direct punishment.

Stitzer and McCaul believe that drug and alcohol dependency is caused more by the behavior reinforcing characteristics of drugs than by any unique characteristic of the user and interventions should reflect this "behavioral theory". Further exploration of this theory is needed since it raises some very practical policy questions such as appropriate sentencing of drug-abusing criminals.

In their analysis of current criminal justice system intervention strategies—supply restriction, incarceration, community supervision and compulsory treatment—the authors suggest that restricting the supply of drugs may actually increase criminal activity. With fewer drugs available, prices escalate requiring increased crime to raise the purchase money. The authors cite some intriguing studies demonstrating that the level of criminal activity increases significantly for the daily user. A substantial reduction in crime rates occurs for the non-daily users. While the authors cite other

studies to show that incarceration is only a temporary remedy, nothing is suggested that would reduce the appropriateness of incarceration for the daily users involved in other criminal activity to support their habits.

Although concluding that compulsory treatment is the optimal intervention mechanism to reduce both drug abuse and crime by drug abusers, the authors fall short in substantiating this claim. The authors find that, "no evidence has come to light suggesting that compulsory treatment is harmful to substance abusers." While perhaps true, this finding does not satisfactorily demonstrate that compulsory treatment leads to any desirable outcome. In fact, the authors state that "current criminal justice practices appear justified" given the inconclusiveness of any findings to date.

Despite the authors' support for the use of compulsory treatment in conjunction with criminal sanctions, little in the way of specific policy suggestions are offered. Likewise, the paper provides no guidelines to identify the individuals for whom compulsory treatment would work best—other than for those who are at the upper socio-economic levels. Clearly, more research is necessary concerning compulsory treatment which will hopefully identify the characteristics of the individuals for whom compulsory treatment is an effective intervention strategy.

Drug Use And Predatory Crime and Outcome Evaluation Of Prison Substance Abuse Treatment

Summaries of:

Marsden, Mary Ellen
and Collins, James J.
**Drug Use and Predatory Crime
in the Year After Drug Abuse
Treatment.** Paper in progress
at the Research Triangle In-
stitute Center for Social
Research and Policy Analysis,
Research Triangle Park, North
Carolina. This research was
supported by funds awarded
by the National Institute
of Justice, U.S. Department
of Justice.

and

Wexler, Harry K.;
Lipton, Douglas S.;
and Foster, Kenneth.
**Outcome Evaluation of a
Prison Therapeutic Community
For Substance Abuse
Treatment: Preliminary
Results.** Paper delivered at the
Conference of the American
Society of Criminology,
San Diego, November 1985.

**Drug Use and Predatory Crime in
the Year After Drug Abuse Treat-
ment** reports on research examining the
crime reduction effects of drug abuse
treatment using data from the Treat-
ment Outcome Prospective Study
(TOPS), a large-scale, multi-year study
of criminally active drug abusers and
the treatment process within federally-
funded drug treatment programs.

The analysis concentrates on the
magnitude of crime reduction effects in
the year after treatment relative to the
year before treatment for clients
participating in outpatient methadone,
outpatient drug free and residential pro-
grams. Criminal activity was measured
in terms of the number of self-reported
predatory crimes committed in the year
before or year after treatment, adjusting
for variation in time at risk in the pre-
treatment or post-treatment period.

"Predatory crimes" are defined as
aggravated assault, robbery, burglary
and auto theft.

TOPS focused on 912 cases that were
criminally active in the year before
treatment. Analyses of the data for a
sample of drug abuse treatment clients
showed substantial reductions in
predatory crime in the year after treat-
ment compared to crime rates in the
year before treatment. The declines were
especially pronounced for less serious
patterns of pre-treatment drug use and
for those who reduced the severity of
their drug use pattern following
treatment.

The study also concludes that there is
reason to expect that individuals who
are forced into treatment will not do as
well as those who seek treatment under
less coercive circumstances. However,
there is no evidence that this is the case
for the TOPS clients who were involved
in predatory crime before treatment.

Since involvement in crime during
treatment was markedly reduced, and
because drug use and criminal activity
were also reduced after treatment,
criminal justice referral to drug abuse
treatment would appear to be an ap-
propriate crime control technique. It
should be noted, however, that these
analyses suggest that drug abuse treat-
ment can be effective in reducing
predatory crime, but the reductions are
primarily among residential clients who
spend longer times in treatment and/or
among clients whose drug use patterns
decrease in severity following drug
abuse treatment. □

Outcome Evaluation of a Prison Therapeutic Community For Substance Abuse Treatment: Preliminary Results reports treatment findings for a therapeutic community (TC) which operated in the New York State correctional system for over eight years with a sample of over 2,000 inmates. This is the first large-scale study that provides convincing evidence that prison-based TC treatment can produce significant reductions in recidivism rates. The TCs

The major objectives of this study were to evaluate the effectiveness of prison-based TC treatment and assess the "time-in-program" hypothesis. There was a strong positive relationship between the number of months in program and an increasing percentage of positive parole outcomes for the TC treatment group but not for the other treatments.

The overall pattern of results indicates that the "Stay 'N Out" prison TC was effective in reducing recidivism rates in terms of positive parole outcomes; and that time-in-program is positively related to increases in time until arrest for those who recidivate and a greater likelihood of positive parole outcome.

Three results have important potential policy implications within corrections:
1) prison-based TC treatment is

have been shown to be effective with clients who have extensive criminal histories.

A recent survey of 12,000 state prison inmates indicated that three-quarters of the inmates had used illicit drugs: 56 percent reported using drugs within the month just prior to committing the crime for which they were incarcerated, and 33 percent admitted using drugs at the time of the crime. Comparisons with drug abuse within the general population show that inmates were twice as likely to have used drugs during the last month.

There is a need for effective prison-based drug treatment but there is also a lack of notable effective correctional treatment for the following reasons: there are a limited number of relevant studies most of which are of generally poor quality; most studies deal with a narrow range of treatment techniques; there exists a fundamental incompatibility between punitive correctional environments and rehabilitation programs seeking to facilitate positive client change; and there is no connection between treatment and evaluation with theory.

effective for inmates with substance abuse histories; 2) maximum treatment is achieved by clients who remain 9 to 12 months in treatment; and, 3) clients who remain more than 12 months in TC treatment show some reduction in treatment benefits. Thus it is recommended that ample support be provided for prison TC substance abuse treatment programs and for the establishment of a strong re-entry phase after approximately one year of in-prison treatment.

Review

by
Peter S. Gilchrist, III
District Attorney
Charlotte, North Carolina

The relationship between drug use and crime is well documented. Urine tests at the time of booking arrestees reflect high rates of drug abuse. A substantial majority of prison inmates admit to being drug abusers prior to incarceration. Studies show higher levels of criminal activity during periods of addiction and lower levels of criminal activity with reduced drug usage. At a time when prison populations are at an all time high and officials are searching for alternative ways to deal with offenders, enthusiasm for treatment of drug abusers as a strategy for crime reduction has increased.

The two studies reviewed demonstrate that various forms of drug abuse treatment can and do reduce criminal activity. Marsden and Collins found that one group using both heroin and cocaine went from 49 predatory crimes per year to 15 crimes with treatment, a decrease of 68 percent. Wexler, Lipton, and Foster found that 9 to 12 months in therapeutic community

treatment shortly before parole maximized successful parole behavior.

The two studies looked at three groups of people who benefited from drug abuse treatment: those who voluntarily entered community-based programs, those mandated by the courts to enter community-based programs, and those who received treatment while in prison. In all cases, criminal activity was reduced.

However, mere reduction of criminal activity may not be sufficient if post-treatment criminal activity is still substantial. For instance, the treated criminals in the

those convicted. When recommending sentences, prosecutors properly consider drug abuse an aggravating factor, yet defense attorneys argue it should be a mitigating factor. Advocating a suspended sentence conditional upon treatment for a person who will continue to commit ten "predatory crimes" per year seems to be sheer folly. Treatment for drug abuse should be offered to abusers, but not considered a sanction in lieu of other punishment.

Marsden study, with minimal drug problems, still averaged ten felonies per year after treatment. The treatment appeared only to reduce, not stop, criminal activities. A frustrated prosecutor seeking a solution to criminal activity should not turn to drug abuse treatment to "cure" criminals. Clearly, the treatments only reduce for some period of time the rate of criminal activity.

Based on these two studies, the prosecutor's best choice of action might be to advocate community-based treatment programs for individuals not yet charged with crimes, and perhaps to provide drug treatment in the therapeutic community mode in prison for

Bringing Back Street-Level Heroin Enforcement

Summary of:

Kleiman, Mark A. R.
Bringing Back Street-Level Heroin Enforcement. Paper in progress at the Program in Criminal Justice Policy and Management, John F. Kennedy School of Government, Harvard University, Cambridge, Massachusetts.

A main goal of this commentary is to discuss how retail heroin enforcement can substantially reduce the frequency of non-drug crimes.

Retail heroin enforcement can influence at least four important performance measures: the frequency of non-drug crimes, the level of drug consumption, the level of perceived disorder in drug-dealing areas, and police-community relations. There is now theory as well as data to suggest that de-emphasis on drug retailing was a mistake, that street-level enforcement compares favorably with high-level enforcement. Retail heroin enforcement may also represent one of the very few ways that police can contribute to controlling the AIDS epidemic.

Enforcement can increase heroin prices in monetary and nonmonetary terms (time, risk and aggravation). Even if the increase in monetary price fails to produce a proportionate reduction in consumption, it will tend to increase the total number of dollars spent on heroin. The price in time, risk and

aggravation with even a small reduction in heroin consumption, will lead to an equivalent decrease in the dollars spent on the drug. The type of price that will be influenced by enforcement depends on whether enforcement is directed at high-level dealers or retail dealers. High-level pressure is primarily reflected in dollar price. Street-level pressure will affect the numbers, behavior and location of retail dealers which ultimately affects the buyers' ability to "score".

As to the effects that increasing monetary price has on property crime, theory is silent and evidence is ambiguous. Theory and evidence agree that increasing non-monetary price has an unambiguous crime-reducing effect on property crime. Street-level enforcement may also reduce crime through its side-effects on the incapacitation of high-rate property criminals, disruption of the market in stolen property, and perceived police presence.

Operational studies have shown that where there are alternative local markets, long-term effectiveness may depend on cracking down on all of them at once. Unless an operation is large enough to force changes in users' and dealers' long-term behavior patterns, it will accomplish little. Also, police managers need to think about the new demands that street-level crackdowns create such as increases in police laboratory workload, case loads of prosecutors, lockup capacity and already overcrowded drug treatment facilities. □

Review

by
Norm Maleng
Prosecuting Attorney
Seattle, Washington

Mark Kleiman presents a compelling argument in support of redirecting law enforcement away from the relentless search for the elusive "Mr. Big" toward a concentrated attack on street-level drug trade. By focusing on successful street-level efforts in Lynn, Massachusetts (1983) and on New York City's Lower East Side (1984), Kleiman demonstrates how a concerted police effort can have a swift, dramatic impact on drying up a flourishing heroin market.

Recent national recognition of drugs as one of the nation's foremost problems has spurred a reassessment of drug enforcement strategies used over the last 20 years. Despite intensive efforts to

stop the flow of drugs into the country, drug availability is still up.

Law enforcement has for too long lacked a balance between efforts aimed at major distributors and enforcing laws against users and street-level dealers. Kleiman urges concentration on strategies designed to impose burdens and risks on street dealers to affect the availability and costs of drugs on the street.

By using an economic analysis of the heroin retail market (which would apply to any drug or commodity), he demonstrates how law enforcement can discourage drug use by influencing such factors as the length of "search-time" for a buyer and the risks, time and aggravation for the seller.

Kleiman suggests that there has been a void in street-level enforcement because of the gradual removal of drug enforcement in the last 20 years. Narcotics units have almost exclusively focused on "working up the chain to get Mr. Big", and scorned the more mundane street sale. Kleiman advocates bringing back patrol units to fight street-level drug use. Among the rewards cited for restoring street-level enforcement are a restoration of community pride, better police-citizen rapport and a reduction in related street crime.

The Lynn experience gives the best reason for sharing Kleiman's optimism. Six narcotics officers combined with local police to form a high-profile, street enforcement unit. Within a 10-month period the heroin marketplace was greatly reduced, robberies and burglaries dropped significantly, residents and business leaders felt order had been restored to the neighborhood and citizens reported a higher level of satisfaction with police performance.

Interestingly while the police arrested 186 persons, only 10 were convicted of felony heroin charges. Kleiman seems to feel that punishment for offenders is secondary to the immediate impact of arrest and disruption of the market. The same type of arrest and disruption pattern with few resulting prison sentences, showed up in the New York project. More attention should be paid to ensuring that these types of enforcement efforts do result in imprisoning drug dealers. Otherwise it is hard not to believe that some drug dealers will either move to another locale or simply wait until the latest police crackdown ends to resume business.

Whether this type of enforcement strategy can be successfully applied to local drug enforcement problems remains unknown. It is clear however, that law enforcement has overlooked a key component in attacking the drug problem. Eradicating open drug sales is a noble goal even if it does little to stop actual drug usage. Kleiman presents a compelling argument that intensive street-level enforcement of drug dealing can accomplish both worthy goals.

Delinquent Offending: Serious Drug Involvement and High Delinquency Rates

Summary of:

Johnson, Bruce D.;
Wish, Eric D.;
Schmeidler, James;
and Huizinga, David.

**The Concentration of
Delinquent Offending: Serious
Drug Involvement and High
Delinquency Rates.** Paper
delivered at the Conference of
the American Society of
Criminology, Denver, 1983.

A disproportionate share of juvenile crime, especially serious crime, is committed by a small segment of juveniles who are also heavy drug and alcohol users. However, there are very few studies about the impact of drug and alcohol use on delinquency rates. Furthermore, most studies under report actual crimes by using response categories (e.g., "five or more") which ultimately depress delinquency rates because relatively few youths commit a large proportion of the crimes and seriously abuse drugs and alcohol.

This study presents evidence from nationally representative self-reports of 1,725 youths, ages 11-17, showing that even among the most delinquent youths, serious drug use is directly associated with higher delinquency rates. Less than 5 percent of the sample committed over 40 percent of all minor delinquencies,

60 percent of the index crimes, and 75 percent of the drug sales. The findings suggest to criminal justice agencies that attention should be given to youths' drug-use patterns as well as their delinquent behavior.

Since this study addressed the national youth population and not arrestees, the findings do not provide advice to judges and prosecutors about how arrestees should be targeted and processed. On the other hand, three central findings do have important policy implications: 1) 1.3 percent or less youths in the analysis had three or more index offenses and three or more occasions of cocaine use in the past year; 2) 85-90 percent either committed no crime or, if involved, committed minor delinquencies and used some drugs; and 3) even among pill or cocaine users, almost 60 percent were minor offenders who had intermediate-to-low rates of delinquency and contributed few offenses to the overall volume of delinquency.

These findings provide a scientific basis for utilizing drug use as one of several "indicators" by which to identify subgroups of youths at high risk of serious deviance. This information may assist social institutions in selecting the few highest risk youths for more effective interventions. The information also suggests that much larger numbers of youths could be subjected to less serious criminal justice sanctions because they may actually be low rate or less serious offenders.

The authors present three issues that future policy efforts should address: 1) how to detect or measure the severity of drug/alcohol use and delinquent behavior among youths, 2) how and when to employ information about serious drug use and delinquency, in order to 3) establish specific sanctions, monitoring, or intervention activities to interrupt patterns of drug abuse and delinquency. Most importantly, the resources of the criminal justice institutions should be directed toward the 5 percent of the youths who have by far the highest offending rates and most routine drug use.

Review

by
Michael D. Bradbury
District Attorney
Ventura, California

The results of this study will come as no surprise to the nation's prosecutors: a disproportionate share of juvenile crime is committed by a small percentage of juveniles who also happen to be heavy drug and alcohol abusers.

The article is ponderous and of limited immediate value to prosecutors. It does, however, hold significance for those involved in juvenile correction and rehabilitation programs. It also provides some support for the newly emerging programs for drug testing of arrestees. Early identification of drug abusing juveniles should provide a better basis for judges to fashion appropriate dispositions and to allow for timely intervention.

The study reflects patterns of juvenile criminal behavior that resemble those of career criminals,

in that small numbers of juvenile criminals commit a disproportionate amount of crime and most of these abuse drugs. It does not, however, provide any insight on how to best target this population for arrest and prosecution. For this we need to look at relatively new programs such as the federally-sponsored SHO/DI (Serious Habitual Offender/Drug Involved).

Several sites around the country, including Ventura County, are presently operating SHO/DI programs designed to identify and incapacitate the juvenile career criminal. The study should also prompt research into the propriety of applying selective incapacitation theories to juveniles. This, together with more information on the success of juvenile habitual offender projects, could be of real value to prosecutors in deploying shrinking resources.

Estimates of Drug Use in Probationers: Results from a Pilot Study

Summary of:

Wish, Eric D.;

Cuadrado, Mary;

Martorano, John A.

Estimates of Drug Use in

Intensive Supervision

Probationers: Results

From a Pilot Study.

Federal Probation,

Vol. 51, No. 1

(January 1987). This research

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Institute of Justice,

U.S. Department of Justice.

This report presents findings from a pilot study of drug use in probationers in the New York City Intensive Supervision Probation (ISP) Program which confirmed the suspicions of the ISP staff that many probationers were using drugs. The level of drug use was so high and the findings so unequivocal that no replication was needed in other New York boroughs to document the need for further urine testing in probationers.

The level of drug use indicated by the urine tests was strikingly different from the estimates obtained from the probation officers. While 68 percent of the probationers were positive by urinalysis for any drug (marijuana [56 percent], cocaine [53 percent], opiates [3 percent], PCP [1 percent]), the probation officers estimated that only 23 percent of their probationers had recently used drugs. Most of the probation officers relied on probationers' self-reports. Only 24 percent of the probationers admitted to

the researchers that they had recently used drugs.

Heroin (opiates) was rarely detected in the probationers, probably because heroine users were less likely to provide urine specimens, while on the other hand, the findings did confirm an increase in cocaine use in New York City offenders.

Prior research by the authors documented a high level of recent drug use in arrestees. Over 55 percent of the male and 60 percent of the female arrestees were found to have a positive urinalysis test for one or more drugs. These arrestees had more rearrests and poorer pretrial behavior than arrestees who had clean urine. Furthermore, arrestees detected to be drug users at arrest and later assigned to probation had more post-sentence arrests than nonusers assigned to probation. There is extensive information that documents the fact that hard drug users tend to have multiple rearrests for drug and nondrug offenses.

The authors strongly advocate mandatory urine testing for probationers. This opinion should not meet any ethical objections since probationers are convicted persons whose conditions of probation prohibit illicit drug use. The authors do not recommend urine testing in all probation programs, only those such as the ISP that have small case loads which permit close interaction with the probationer when a test result is positive. They also suggest that the costs of treating the abuser on probation are far less than the costs of long-term incarceration.

Review

by
James C. Shine
Executive Vice President
American Prosecutors
Research Institute

Estimates of Drug Use In Intensive Supervision Probationers: Results From a Pilot Study provides important information for criminal justice policy makers looking to address drug abuse problems. The study's conclusions may be particularly significant for jurisdictions in which limited system capacity has produced greater and greater reliance on probation and its derivatives (i.e., intensive supervision, restitution, community service, client specific planning, house arrest and electronic surveillance).

The study compared drug histories and estimates of recent drug use (24-28 hours) by 106 intensive supervision probationers in Brooklyn, N.Y. Information was obtained from probationers' self-reports, estimates by probation officers and urinalysis. The urine tests detected drug use at a rate almost eight times higher than self-reports (55 percent vs. 7 percent), even excluding marijuana from the comparison. Almost six times as many probationers were tested

positive for cocaine than reported by probation officers (52 percent vs. 9 percent).

Given these findings the authors conclude that urine tests provide the best indication of current drug use in probationers—better than self-reports or probation officer estimates. The authors recommend that, "The provision of a urine specimen (by probationers) must be made mandatory." This reasonable conclusion is weakened, however, by further discussion in the study.

The probation mission generally has two distinct and sometimes conflicting objectives:

1. provide treatment to convicted offenders to enable lifestyle adjustments and to enable them to lead law-abiding lives;
 2. protect the community and enforce the law by monitoring probationer behavior and returning criminally active probationers to court.
- The authors obviously have the first mission in mind when they claim:

"We do not suggest that urine testing should be used in all probation programs, however. The ISP staff have small case loads that enable them to interact closely with the probationer and his/her family when a test result is positive. A positive urine test is only the first and simplest step to be taken in intervening in the person's substance abuse." (pp.11-12)

However, the second mission is seemingly dismissed when the authors state:

"The introduction of large scale urine testing into a regular probation program with huge client/staff ratios where the probation officers cannot devote sufficient attention and follow-up to the test results would be counterproductive and not serve the probationer or society." (pp. 11-12)

The use of illicit drugs is a criminal act as well as a probation violation. Is the appropriate response by probation to provide treatment which may lead to a drug free lifestyle or to take action that will lead to the probationer's removal

from society? The authors make the argument for the first alternative, but other criminal justice practitioners have made an equally persuasive argument for the second.

By minimizing drug testing for the general probation population, the authors ignore almost certain large scale drug use. Should probation administrators plead poverty as an excuse for not monitoring a large majority of their caseloads or should they employ technology such as urinalysis to detect criminal behavior among probationers?

Strict enforcement of probation including refraining from using illicit drugs, coupled with possible incarceration for violating probation conditions should be examined when choosing an effective drug strategy. This approach accomplishes several desirable objectives: preserving the integrity of the court and probation by taking seriously the conditions set by the court; placing the burden on the probationer to stay drug free while on probation; removing (at least temporarily) a person from the street who might otherwise support his/her drug dependency by criminal enterprises; and motivating probationers to remain drug free while participating in drug treatment programs—thereby increasing the likelihood of success.

Large probation caseloads are becoming the norm in jurisdictions across America. Rather than supporting the proposition that probation drug testing should not be used unless in conjunction with a comprehensive treatment plan, as the authors suggest, large caseloads may favor targeting scarce probation resources on enforcement rather than treatment. Jurisdictions should not reject the enforcement option without careful analysis. In extending their policy conclusion to proposing limits on drug testing for intensive supervision caseloads, the authors go beyond the valuable findings of their own research.

An Overview for Policymakers: Facts About the Criminality of Abusers *and* Drug Use and Pretrial Crime in D.C. *and* Drugs and Crime: Controlling Use and Reducing Risk Through Testing

Summaries of:

Johnson, Bruce D.;
Lipton, Douglas, S.;
and Wish, Eric D.

**An Overview for Policymakers:
Facts About the Criminality of
Heroin and Cocaine Abusers
and Some New Alternatives to
Incarceration.** Narcotic and
Drug Research, Inc., New
York. This document will
emerge in revised forms in
two Research in Briefs to be
published by the National Insti-
tute of Justice. This research
was supported by funds awarded
by the National Institute of Justice,
U.S. Department of Justice.

and

Toborg, Mary A. and
Kirby, Michael P.

**Drug Use and Pretrial Crime
in the District of Columbia.**
Research in Brief, National
Institute of Justice (October 1984).

and

Carver, John A.

**Drugs and Crime: Controlling
Use and Reducing Risk
Through Testing.**

Research in Brief, National
Institute of Justice
(September/October 1986).

**An Overview For Policymakers:
Facts About the Criminality of
Heroin and Cocaine Abusers and
Some New Alternatives to In-
carceration** highlights central findings
that emerged from recent research into
the criminal behavior of heroin and co-
caine abusers. The authors' findings
and suggested policies include among
others:

I. Major Selected Findings About Heroin and Cocaine Abusers

*A. Those who abuse heroin or
cocaine consume those substances at
least once per week; many consume
them multiple times per day. These
abusers are often polydrug abusers also
using marijuana, pills and alcohol.*

*B. Heroin and cocaine abusers
are the most serious street criminals.
About half of the most violent criminals
are heroin users, most of whom are dai-
ly users. Daily heroin users commit
over 100 diverse crimes per year,
excluding drug crimes, and hundreds of
drug distribution crimes annually.*

*C. Less than 1 percent of self-
reported crimes by cocaine-heroin
abusers result in an arrest; moreover,
the higher the crime rate the lower the
probability of arrest per thousand crimes.*

II. Interface with the Criminal Justice and Treatment Systems

*A. Urinalysis-based studies of
arrestees in Manhattan and
Washington, D.C. revealed that over*

*half test positive for at least one drug
and a quarter test positive for two or
more illicit drugs. Also, more than
three-quarters of the nation's inmates
and almost all inmates in New York
City reported illicit drug use.*

*B. Little effort is used by criminal
justice agencies (with rare exceptions) to
identify drug use, to provide treatment
while in jail/prison, to refer to treat-
ment programs, or to use such informa-
tion in plea bargaining or case
dispositions.*

*C. The vast majority of offenders,
mainly those arrested on less severe
felony and misdemeanor charges, are at
liberty within three months after arrest.*

*D. Studies of drug treatment out-
comes show substantial reductions in
the drug use and criminality of cocaine-
heroin abusers. Furthermore, methadone
clients report less than half as much
criminality as heroin abusers not in
treatment. Studies also have identified
that the time in drug treatment is in-
versely related to post-treatment cocaine-
heroin abuse and criminality but few*

abusers in custody volunteer for treatment without considerable legal pressure.

B. Former offenders could have employment opportunities as supervisors and in related roles in a system that monitors the entire lifestyle of convicted abusers. The government could also provide incentive payments in addition to welfare, which would be linked to objective success in treatment and rehabilitation.

use at arrest) may underestimate the involvement of drug users in overall pretrial misconduct, and (2) defendant-based analysis (analysis of defendants who reported drug use at some arrest during the three year period), despite its difficulty to conduct, may provide

E. Drug treatment costs are much lower than incarceration costs and are substantially offset by the decreased costs of crime among cocaine and heroin abusers while in treatment.

III. Policy Options for the Criminal Justice System

A. Urinalysis should be used to identify active heroin and cocaine abusers at arrest, and abusers found guilty of a crime should be required to participate in drug-alcohol treatment while incarcerated and as a condition of release.

B. Effective well-funded drug and alcohol treatment programs should be instituted in all metropolitan courts and jails. Therapeutic communities and other intensive drug treatments such as naltrexone and methadone maintenance should be provided. Prisoners making good progress should be paroled to residential drug-free programs.

IV. New Policy Alternatives to Incarceration

A. Convicted cocaine and heroin abusers not sent to prison could be required to earn a given number of restitution points (RPs) in which points are awarded and deducted according to behavior.

Drug Use and Pretrial Crime in the District of Columbia was based on data collected by the Washington, D.C. Pretrial Agency under National Institute of Justice sponsorship with gathered drug-use data at the time of arrest using the EMIT urinalysis device. In the research study approximately one-half of those defendants EMIT identified as users were referred to a drug treatment agency. These defendants received treatment before trial including counseling and methadone maintenance for heroin users. They were also subjected to frequent drug re-testing.

Other drug-using defendants were required to submit to EMIT urinalysis surveillance before trial. A final group of drug users was placed on regular supervision which included phone reporting of activities, employment, residence and drug use.

Case analysis showed drug users not only were detained more frequently but received more stringent conditions of release when they were not detained. Despite this fact, drug users were 50 percent more likely to be rearrested before trial than defendants who did not use drugs. However, charges against rearrested drug users were likely to be less serious than charges against rearrested nonusers. Drug users were also more likely to fail to appear in court, particularly in felony cases.

The short-term conclusions reached were: (1) case-based analysis (analysis in which the defendant reported drug

better guidance for public policy. Both forms of analysis, however, showed that drug users were rearrested before trial much more often than nonusers which suggests that efforts to discourage drug use may be effective ways to reduce pretrial criminality and increase public safety.

Drugs and Crime: Controlling Use and Reducing Risk Through Testing reviews the Washington, D.C. drug testing program. It summarizes the steps necessary to set up a program that will attempt to increase show-up rates for trial and decrease rearrests as a result of reducing drug usage in pretrial situations.

The author is in charge of the Washington, D.C. program and relates the cost of installing a system and the procedures for taking and testing samples. The program tested for PCP, opiates, cocaine, methadone and amphetamines, using EMIT machines.

Close to 35 percent of those in the program tested positive for cocaine or PCP. Regular retesting for those found "dirty" was required as a condition of release.

Review

by
Stephen Goldsmith
Prosecuting Attorney
Indianapolis, Indiana

Drug testing as a method of crime control and increasing the "show-up" rate in court is the subject of much current debate. The three articles, **An Overview for Policymakers: Facts About the Criminality of Heroin and Cocaine Abusers**, **Drug Use and Pretrial Crime**, and **Drugs and Crime: Controlling Use and Reducing Risk Through Testing** present a comprehensive, readable review of current practices and literature.

Overview presents a summary of the relationship between drugs, alcohol and crime which serves as the basis for policy decisions. The other two articles describe an important pilot project in the District of Columbia.

The **Overview** findings are helpful, albeit neither dramatic nor unexpected. The recommendations offer sound policy alternatives except perhaps in the corrections area where the authors oversimplify the corrections use of the research. Coupled with the other two papers reviewed, the **Overview** findings potentially have substantial policy impact.

The research results can be applied at various stages in the system—targeting criminals for arrest, creating special prosecutor units, making specific charging decisions, and influencing judicial sentencing.

Drug Use and Pretrial Crime describes similar research which serves as the basis for the Washington, D.C. pretrial program. Forty-two percent of released drug users in Washington were arrested

before trials contrasted with 18 percent of released nonusers. The major conclusions, i.e., that drug abusers are twice as likely to be rearrested and one and one-half times as likely to show for court set the stage for the D.C. drug testing program.

Drugs and Crime: Controlling Drug Use and Reducing Risk Through Testing details the D.C. drug pretrial testing program which takes pretrial urine samples of jail admittees. These samples are analyzed for certain drugs and the results are used for bond setting and release decisions. The presence of drugs triggers additional tests which eventually can lead to recommitment if drug use continues.

Procedures for setting up the testing (i.e., necessary technology and personnel practices) are discussed as well as potential legal problems. A prosecutor and sheriff can use this information to start a program in a community jail which could reduce jail population and minimize community risk.

The information is equally applicable to projects designed to better monitor probationers or parolees or those in other programs. One area in which this study is lacking is in the exploration of funding opportunities which could include fees paid by offenders.

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