

The Cost of Crackdowns: Policing Cabramatta's Heroin Market

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Introduction

At a time of increasing enthusiasm for proactive crime control, this paper draws on extended research in Cabramatta, Sydney's principal street-level heroin market, to caution that crackdowns on such markets may have counterproductive effects.¹ These include serious risks to public health, threats to community safety as a result of geographical, social and substance displacement, and harm to police-community relations and thereby to police efficiency. The beneficial effects – such as potentially improving the quality of life in local areas and reducing some recorded crime rates – must be weighed against these costs. There may be goals no less important than reducing crime, and disorder comes in more than one form.

Previous evaluations of police crackdowns have concentrated on their effect on crime, particularly violent crime (cf Sherman 1990, 1997). Displacement has been narrowly conceived. Discussion of police-public relations has focused on civil liberties. In each respect, we argue that the effects of crackdowns require more complex analysis. Furthermore, the impacts of drug market crackdowns on public health deserve central consideration. Much needs to be done in order to translate fine policy commitments to harm minimization into operational policing practice. In this article, we suggest that the current deployment of law enforcement is inappropriate because it threatens to increase, rather than reduce the risks and harms associated with illegal drug markets. We consider harms to public health, to community safety, and to police-community relations. Data are drawn from in-depth ethnographic study of Cabramatta's drug market which has been underway since 1995. Sources include tape-recorded, in-depth interviews with drug market participants, more than 2000 pages of fieldnotes, and structured questionnaires.

During the early period of the study (1995-97), Cabramatta was the subject of several high profile, intensive, and sustained policing interventions which targeted heroin users and user-dealers.² In this period, the principal police tactic was undercover buy/bust operations.

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2 There is no neat distinction between users and dealers at street level: most dealers use, and indeed sell in order to finance their own consumption. They bear little resemblance to the folk-devil image of the drug-dealer.

Partly because of legal restriction and uncertainty following the High Court's decision in *Ridgeway*³ and partly in an attempt to emulate the supposed success of the New York City Police Department (NYPD) in crime reduction (Dixon 1999a; Karmen 2000:ch 3), priority in 1997-98 shifted to high profile, saturation policing by uniformed officers. Its objective was not law enforcement per se, but rather the restoration of 'quality of life' in the Cabramatta CBD by disrupting and displacing the drug market (Dixon & Maher 1998).

In February 2001, a new police crackdown was launched. It placed greater emphasis on drug law enforcement against all levels of the market, from users found in possession of heroin to organised drug-selling operations.⁴ This was the product of extensive negative publicity about the situation in Cabramatta. Vocal local politicians and business people claimed that police were not doing enough. Expressions of dissatisfaction and unrest came from Cabramatta police station. A Legislative Council Inquiry provided a conduit for these local concerns into wider political debate.⁵ The Government responded with familiar war-on-drugs rhetoric: it was time to get tough, to take the gloves off, and to give police 'the powers they need to stop the drug trade in Cabramatta.'⁶ A raft of new measures was promised – increased police resources, additional police powers, and expanded treatment provision.⁷ Ironically, the public debate about Cabramatta was at its most intense during a period when the heroin market was very quiet as a result of a 'drought', a disruption in supply which lasted through the first quarter of 2001. This demonstrated the extent to which policing of Cabramatta had become a politically-charged, symbolic issue.

Policing and public health

Police interventions in Cabramatta during the study period substantially increased the risk that those who participated in drug use and distribution would come to police attention. The result was a climate of fear and uncertainty which resulted in a number of unforeseen negative consequences for public health. We examine these in turn.⁸

Oral and nasal storage and transfer of heroin

The intensity of policing in the area encouraged both the oral and nasal storage and transfer of heroin. Most street-level dealers in Cabramatta store 'caps' (small amounts of heroin wrapped in foil and enclosed in a balloon) in their mouths. When a customer wishes to purchase, the dealer simply spits the cap(s) into his or her hand and passes it to the customer. In some circumstances, the cap may be passed directly from mouth to mouth. In the mid-1990s, dealers regarded oral storage of caps as an unproblematic tactic. If the police approached, they simply swallowed the caps and retrieved them later. While some might be irrecoverable, the cost was considerably less than that of being arrested.

3 [1995] 184 CLR 19. Its relevant effect was to require officers to have specific authority when they commit what would otherwise be a criminal offence.

4 'War on drugs the top priority, vow Cabramatta police' Sydney Morning Herald 9 February 2001.

5 See Report of Proceedings Before General Purpose Standing Committee No 3 'Inquiry into Police Resources in Cabramatta', Legislative Council, 2000-2001, available at <www.nsw.gov.au>.

6 Attorney General Debus, Legislative Assembly Hansard, 30 May 2001, available at <www.nsw.gov.au>.

7 '90 officers to clean up drug capital' *Daily Telegraph* 27 March 2001. The Police Powers (Drug Premises) Bill and the Police Powers (Internally Concealed Drugs) Bill were introduced to Parliament on 30 May 2001: see Legislative Assembly Hansard, loc. cit.

8 For a more detailed discussion of the impact of drug policing on public health, see Maher and Dixon 1999.

Police became aware that dealers stored heroin inside their mouths, and often attempted to prevent suspects from swallowing and to retrieve drugs from their mouths. These practices present significant risks both to suspects who are held in chokeholds and to police who put their fingers into people's mouths. In response, some dealers took to nasal storage of heroin.⁹ Storing heroin in body cavities risks exposure to blood and other bodily fluids and possible disease transmission if the buyer subsequently places the cap in his or her own mouth.

Oral storage of heroin has intrinsic risks. This study revealed a number of near-fatal overdoses as a result of people swallowing heroin in order to avoid detection by the police. In one instance observed during fieldwork, a young Vietnamese woman swallowed approximately two grams of heroin wrapped only in a tissue. Despite the potentially lethal consequences, she refused to go to hospital for fear of being arrested, choosing instead to force herself to regurgitate the contents of her stomach.

Reluctance to carry injecting equipment

Both observations and interviews suggest that users who inject in public settings in Cabramatta (streets, parks, alleyways, stairwells, toilets, carparks) are at risk of being interrupted by police either during preparation or actual administration. The most obvious consequence of this increased risk of being 'busted' is that some users are reluctant to carry injecting equipment. This means that, when they go to inject, they are less likely to have clean equipment. Some 'stash' their 'fits' (syringes) in nearby bushes, houses, or local flats, which may result in them being used by others. Some engage in even more risky practices which are encouraged both by policing and by the dearth of sterile injecting equipment outside business hours in Cabramatta. One participant recounted an occasion on which withdrawal symptoms drove him to use a dirty syringe which he found in a gutter.

During the study period, police conducted a series of operations in the CBD (including the railway station), in which officers systematically searched those suspected of being drug users, inspecting arms for signs of injecting and examining clothing and bags for syringes and other evidence of drug use. Some young people reported that police had forced them to destroy their needles and syringes. This was particularly irresponsible late at night when the result was likely to be, not abstinence, but riskier injection practices. While the possession of needles and syringes is not an offence in New South Wales, many new intravenous drug users (IDU) and, in particular, Indo-Chinese IDU, were unaware of this. In any case, whatever 'law in the books' may provide, policing practice means that many IDU fear that being found with a syringe will lead to harassment and further police attention, more intrusive searches, and warrant checks. In California, a recent study found that IDUs concerned about being arrested while carrying drug paraphernalia were twice as likely to share syringes (Bluthenthal et al 1999).

Such concerns increased with the conviction in 1999 of a young Vietnamese man for manslaughter.¹⁰ Quoc Cao gave Matthew Sutton a clean needle and syringe which Sutton used to inject himself with heroin. Soon afterwards, he died. The court decided that self-administration of heroin should be included in the category of 'unlawful and dangerous acts' which entail culpability for homicide if they contribute to causing death, and that Quoc Cao's complicity in Matthew Sutton's self-administration by the unauthorized provision of

9 In turn, the authorities responded by seeking to provide police with power to detain suspects in order to search for internally concealed drugs by using X-ray, ultrasound or other medical imaging: Police Powers (Internally Concealed Drugs) Bill 2001.

10 *R v Quoc Dung Cao*, unreported, Campbelltown District Court, October 1999.

injecting equipment made him guilty of manslaughter. Street-level drug users who are repeatedly informed by health professionals about the pressing need to use clean injecting equipment find such a conviction difficult to understand.

We found that users' perceptions of the risks involved in carrying syringes were differentiated by age, gender and ethnicity. Many older, experienced injectors did carry syringes, and often kept a supply of sterile injecting equipment at home. Older female IDUs claimed that it was easier for women and girls to carry syringes and less likely for them to be detected because they had handbags, whereas men had to carry bulky 'fitpacks' in their back pockets. However, some young women were reluctant to carry injecting equipment because of the denigrating way in which they had been treated by police when syringes were found in their possession. Many young injectors feared detection by their parents as well as by police. Furthermore, for some young Indo-Chinese injectors, the fear of detection as an IDU by their peers increased their reluctance to carry injecting equipment.

Increase in injection related risk-taking

The overt police presence also exacerbated the incidence of high-risk injecting episodes in the area. Fear and uncertainty are not conducive to safe injection practices. Our research found that street-based injectors were less likely to use sterile injecting equipment and more likely to engage in unsafe drug preparation and division procedures, including needle sharing and the use of discarded needles, and to practice unsafe disposal.¹¹

Users who inject in public or semi-public settings are anxious to 'get on' and 'get out'. This can mean using any syringe that is available, including one which has been borrowed or discarded. Users are also less likely to have a 'taste' first or to measure their dose. Because they are fearful of interruption and anxious to get rid of the evidence, IDUs typically administer the drug in one dose, increasing the risk of overdose (especially if they have been using benzodiazepines or drinking alcohol). The rush for the vein accumulates risk for many young people who are anxious and unskilled in injection techniques, often resulting in severe vascular damage.

During these rushed and anxious injecting episodes, participants sometimes become paranoid or started arguing. Mistakes are made, such as drawing too much drug solution into a syringe from the communal spoon and having to squirt some back. This is a particularly effective mechanism for transmitting blood-borne viral infections if the syringe has been used previously. The desire to 'get on, get it in and get out' also means that users are less likely to dispose of their equipment safely. Carrying used syringes to a disposal bin risks being caught, so they leave them behind. Discarded syringes cause considerable local concern and hostility towards drug users. The fact that policing practices actually exacerbate this problem receives little acknowledgement.

11 See Maher 1996. A survey (n=202) conducted as part of this study found that more than a quarter (28%) of participants reported using a needle after someone else and 42% had lent their needle to someone else to use during the month prior to interview (Maher et al 1998). Weatherburn et al (1999) report that needle sharing and unsafe disposal are significantly more common among street-based users than among those who inject in places where they feel safe from the police.

Policing and community safety

Displacement of criminal activity is a likely consequence of street-level law enforcement. Drug transactions, unlike, for example, certain types of theft, are labile, polymorphous activities requiring only that the vendor and purchaser know how and where to make contact with each other. As such, they may be especially susceptible to a variety of forms of displacement - dispersal of drug users and consumption sites, geographical displacement of drug markets, substance displacement, and temporal displacement (Dorn & Murji 1992).

Dispersal of users

Injecting drug users in Cabramatta utilise a wide range of locations to consume drugs. Private settings include residential addresses and motel rooms. Public settings encompass the walkways, stairwells, and gardens of local flats, public toilets, and trains, as well as outdoor locations such as parks, underpasses, and car parks. Public settings are more likely to be used by young street-based injectors. Some of these locations constitute significant health risks in themselves. Vigorous policing may encourage the use of undesirable settings.

Another consequence of the vigorous policing of these locations has been a dispersal of the problems associated with having a large community of street-based injectors. Because the police were successful in targeting several known injecting locations in and around central Cabramatta, users were forced to fan out in search of new locations in nearby residential areas. Dispersing drug users and using locations spreads 'the problem' further into the community. Over time, more flats, parks and families are affected and, in particular, the risks presented by discarded syringes increase. There are also increased associated risks to drug users: seclusion may be fatal if a user overdoses. Cabramatta already accounts for a disproportionate share of overdose deaths in South West Sydney, most of which occur in public places (Darke & Ross 1998).

Our research suggests that such policing strategies may also threaten the tentative alliance between drug users and health professionals by displacing or driving drug users underground. Forcing heroin users to move around marginalises and alienates them from communities and the rest of society, hampering close contact and outreach efforts directed at this population. New developments within at-risk communities may go unnoticed until it is too late. Police officers' insistence that intensive street-level drug policing is part of a multi-agency, problem-solving approach is, in this light, disingenuous (Dixon & Maher 1998; Brown & Sutton 1997).

Displacement of the drug market

While drug use has been dispersed, there has also been some displacement of the drug market. The unintended and undesirable consequence may be to make drugs available in neighbourhoods where they were previously scarce. Both field observations and interview data suggest that there has been significant growth in drug markets in neighbouring suburbs. Whether this is due to displacement from Cabramatta is unclear and controversial (Dixon & Maher 1998).

Geographical displacement is not necessarily regarded as problematic. In Cabramatta, the police have equated the drug market to other problems which should be disaggregated in the interests of social equity. According to one senior police officer, 'we knew there was going to be a displacement effect ... It is a bit like aircraft noise. We have to spread the problem about and not just have it centred on one suburb'.¹² From a public health perspective, this analogy is inappropriate not least because it assumes a finite population

and discounts the possibility of reproduction. The adoption of a policing policy which advocates the geographical displacement of drug problems clearly has the potential to produce more, rather than less, harm.

There has certainly been geographical displacement within Cabramatta itself. Field observations suggest that many dealers who had previously worked on the street began to ply their trade in local shopping arcades. Others who had previously operated in the town centre shifted their business to the vicinity of a local primary school. More problematically for police, some retail operations began to operate from apartments with security provisions obstructing raids: these are discussed further below.

Social displacement

Intensive policing may also produce harmful forms of social displacement by encouraging the development of more organized, professional, and enduring forms of criminality (Murji 1998:25). Police success in street-level law enforcement may, ironically, foster the organized criminality about which so much concern is expressed. Such processes of target-hardening have occurred in similar contexts, such as the policing of illegal gambling (Dixon 1991). The earlier crackdowns in Cabramatta led to increased use of intermediaries between seller and buyer, contributing to an increase in the complexity and sophistication of the market by encouraging functional specialization and hierarchical differentiation (Dorn et al 1992).

The availability of multiple means of making connection (whether personal, via touts and runners, or technological via mobile phones and beepers) increases displaceability. The police presence during the earlier part of the study period encouraged some dealers to move their business 'off the street' by relying on mobile phones, thereby minimising the risk of detection and apprehension.

In addition, structural changes in the wake of saturation policing created a vacuum. As dealers left the market (either because they were arrested or displaced), novices and those willing to work in a higher risk environment moved in. Street-level dealing became more volatile and elusive, increasing the power of organised groups. Intrusions may be met with violence: in one incident, a helper 'steered' a customer towards the 'wrong' dealer and had his throat cut on the street. On the other hand, 'bodgy' dealers (those who sell fake caps or half-weights) became more common, especially during periods when there were few genuine dealers available as a result of fear and uncertainty induced by police operations. The activities of 'bodgy' dealers have the potential to increase violence in the marketplace. Heroin users do not take kindly to being 'ripped off' and the illegal nature of the transaction necessitates resort to informal sanctions. During the study period, there were several reports of violence in Cabramatta associated with such transactions.

More seriously, violent disputes associated with the Cabramatta drug market contributed to a number of murders and the substantial rise in non-fatal shootings with handguns in NSW in 1995-2000 (Fitzgerald et al 2001:4). Police success in disrupting and destabilizing the drug market unfortunately coincided with much greater availability of handguns. In such circumstances, there are grounds for considerable concern about the prospect of further increases in drug-related violence (Fitzgerald et al 2001:6).

In the later part of the study period, some dealers began to operate from apartments in areas adjoining the CBD. According to police reports, these provided a literal example of target-hardening: protected by reinforced security doors, these retail operations were difficult for police to enter and search (O'Neill 2001). Predictably, this led to the Government promising to provide the police with new powers and to create new criminal offences in order to tackle 'drug houses'. Even before the legislation had passed, dealers had responded by recruiting young people as agents to sell from apartments. It is likely that raids wielding the new powers will (as is so often the case in drug law enforcement) net the smallest of fish, and that in the drug houses will be found VCRs and Play stations provided for the amusement of vulnerable young agents, rather than the computers containing 'records of supply or manufacture of prohibited drugs' expected by an optimistic Attorney General.¹³

In a familiar cycle, the drug market has adapted to enforcement efforts by developing into a more harmful, less controllable form. The authorities have responded by intensifying enforcement efforts. As the market adapts once more, calls will no doubt be made for even stronger police powers and harsher penalties.

A related form of social displacement was the introduction of a new, larger unit of retail sale (the 'quarter') during the study period, further evidence of the market's capacity to adapt to external pressures. Indeed, insofar as the effect has been to reduce the number of transactions, the introduction of larger units of sale could be seen as a risk-reduction measure for both sellers and their customers.

Intensive policing may also have broader detrimental social consequences. There may be short- and long-term criminogenic effects. In response to police confiscation or destruction of heroin, some participants reported committing additional income-generating property crimes in order to replace the lost drugs. A further unintended effect may be to encourage 'failed' user/dealers to resort to other types of crime in order to generate income. Deterring people from selling heroin may not be the unproblematic social good which it is usually assumed to be. An increase in property crime, some of it involving violence, is a type of social displacement which receives insufficient attention (Maher et al forthcoming). Some types of crime result in more direct harm than other types. The goal of public policy may need to be no more ambitious than minimising the most harmful.

Substance displacement

As regards substance displacement, pressure on the heroin market contributed to an increase in the illicit sale and use of diverted pharmaceuticals (primarily benzodiazepines¹⁴ and methadone) during the study period. A particularly worrying development was the emergence of a significant street-level cocaine market. This appeared to be more a result of entrepreneurial activity than of policing. However, police concentration on the heroin market seems to have contributed to a lethargic response to the growing cocaine problem.

An additional and significant form of displacement may involve route of administration, with some evidence to suggest that the police crackdown encouraged heroin smokers to make the transition to injecting heroin. Such developments have the potential to maximise the health-related harms associated with heroin use.

13 Debus, op. cit., n/6.

14 This development is of concern given the role of benzodiazepines in heroin-related deaths (Darke & Zador 1996).

Temporal displacement

Some police officers have expressed concern about the potential effects on Cabramatta when (and if) intensive crackdowns end. A senior officer commented: 'Saturation policing works whilst ever it's saturated. Take away the resources and it invariably reverts back to what it was ... I can't pull the cops out of Cabramatta. Within a day, it would be back to what it was' (Dixon & Maher 1998:54). The drug market is very responsive to police activity (and inactivity). When an area such as the railway station is flooded with officers (often in response to negative media publicity), the market closes down. But later that evening or the next day it is often back to business as usual.

As Weatherburn et al suggest, 'in judging whether a crackdown has been successful, the scale, pattern and duration of displacement are of crucial importance' (2000:30). Experience elsewhere suggests that whether the drug market regains its previous shape following the relaxation of extended crackdowns is likely to depend upon social and economic change (Pearson 1992; Sviridoff et al 1992). If factors such as employment growth, gentrification or urban development are present or are induced, then the preconditions for a street-level drug market may no longer exist. If they are not, the market may re-emerge. The potential for long-term change depends on the specific characteristics of a locality. Cabramatta is not an area likely to be subject to property regeneration and population turnover leading to gentrification in the short term. It is, and is likely to stay for some time, a predominantly low-income, high-unemployment area. While commercial rents are reputed to be as high as those in the Sydney CBD and retail land values continue to rise (Petricin 2001), serious problems of social and economic disadvantage and exclusion continue, providing conditions for the persistence of the illegal drug market.

Policing and police-public relations

Major factors underlying strained relations between police and community in Cabramatta have been cultural insensitivity and, specifically, improper behaviour by officers during searches and arrests. In *Anh Hai* (Maher et al 1997), we reported that encounters between police and young Asian background people were often conducted in a climate of fear, racism and hostility. Young people were subject to routine harassment, intimidation and mistreatment by police officers. They were detained and searched without clear legal authority and in a manner which is interpreted as denigrating and offensive by the Indo-Chinese community. This study also revealed questionable and unlawful conduct by police officers in seizing drugs and money.¹⁵ Such insensitivity in the policing of young Indo-Chinese people was remarkably ill-advised given the documented costs of such policing activities in relation to members of minority ethnic and cultural groups reported elsewhere (Keith 1993; Macpherson 1999).

It has often been suggested that poor relations between police and migrant communities stem from 'cultural memories' of policing in the countries of origin. One product is a 'wall of silence' between community and police (cf Dixon and Maher 1999). If the 'cultural memory' hypothesis were correct, one would expect young Indo-Chinese people in Cabramatta to regard their policing as unexceptional. However, this was not the case. We found instead a high level of anger and disappointment about policing which requires explanation.

15 In a study consisting of 123 interviews with Indo-Chinese youth involved in street-level heroin use and/or distribution in Cabramatta, 72.4% reported that money had been taken during a search: only 7% of these had been charged with goods in custody. 55% reported that police had found them in possession of illegal drugs but not arrested or charged them (18% of these reported that drugs were destroyed on the spot) (Maher et al 1997).

Ironically, Indo-Chinese young people assess police activities not according to some cultural memory from South East Asia, but according to the principles of justice and equality which, they have been told, are fundamental to Australian society (Maher et al 1997). They expect to be treated fairly and equally with the respect due to them as citizens of a liberal democracy. In particular, they expect the police to operate within the rule of law. The significance of cultural memories is not in confusing Australian police with those from countries of origin, but rather in expecting the former to be different from the latter. Distrust and non-communication stems from disappointment in experiencing policing that does not live up to what is promised.

This is not to deny that there is support for police proactivity within the Indo-Chinese community. Rather, the point is that it is ambivalent (Dixon & Maher 1999). The user-dealers who dominate the street level market are not aliens, but are both part of the community (as sons, daughters, grandchildren, nephews, nieces) and the specific target of law enforcement carried out in the community's name. This produces complex and sometimes contradictory responses from 'the community': demands for police action against the drug trade are accompanied by concern about how such policing is conducted and about its counterproductive effects.

A response that can be expected from the Police Service is that the situation has changed since the research for *Anh Hai* was conducted. However, while it is certainly the case that policing in Cabramatta has changed since the *Anh Hai* study, an immediate impact on attitudes formed from long experience should not be expected. In addition, while the Wood Royal Commission has certainly led to some significant reform (Dixon 1999b; Wood 1997), both continuing research in Cabramatta and evidence presented to the Legislative Council's inquiry indicate that problems persist in relations between police and community.¹⁶ Some disturbing accounts from the 2001 crackdown have emerged during fieldwork. For example, in May 2001 police found two homeless men sleeping in the doorway of an abandoned apartment. One, an Anglo-Australian, was simply instructed to leave. According to the other, a Vietnamese male, he was told that he too would be released if he could sing the National Anthem. He could not do so, and was arrested and charged with trespass. While such alleged misconduct may not be typical, the Wood Commission made clear the inappropriateness of 'bad apple' explanations (Wood 1997). Too often, there is a wide gap between senior officers' rhetoric about commitments to 'community problem-oriented policing'¹⁷ and operational officers' practices on the street.

In any case, some recent changes in policing raise their own concerns. These need to be placed in a broader context. The NSW Police Service is adopting new policing strategies which are heavily influenced by the supposed success of the NYPD in reducing serious crime rates. There has been considerable misinterpretation of what happened in New York (Karmen 2000) and of its relevance to Australian policing (Dixon 1999a). However, the important issue for present purposes is that the New York example has led to widespread adoption of proactive policing by means of intensive street policing. There is nothing wrong with this - so long as its practitioners are aware of the risks of such policing in situations where police legitimacy is insecure.

16 See Dixon & Maher 1998 and evidence to General Purpose Standing Committee, op cit 12 December 2000, pp 12-22, 30 March 2001, pp 33-44.

17 See Assistant Commissioner Small, evidence to General Purpose Standing Committee, op cit 11 May 2001, pp 10-13.

It is simply irresponsible not to acknowledge the dangers of conducting intensive street operations in areas where police legitimacy is low. Riots and consequential damage to communities in the US since the 1960s, and in England since the 1980s have been sparked by police activity (Reiner 2000:122). Appreciating this is fundamental to understanding modern policing: it was largely responsible for the fundamental shifts in police theory, policy and practice in the final quarter of the twentieth century away from command/control management, social isolation, and prioritisation of crime fighting towards reformed management, community involvement, and problem-solving.

Unfortunately, this tends to be overlooked in the current enthusiasm for crime control. It is particularly worrying to see NSW Police officers being encouraged to engage in 'in your face' policing and to see their performance judged in Operations and Crime Reviews by rates at which they stop and search, move on, and arrest people, without adequate reference to other indicators such as complaints and police-public relations (Dixon 1999b). Police officers and others who have been so keen to copy the 'New York' miracle should pay careful attention to the crisis in that city's police-community relations symbolized by the Louima, Diallo, and Dorismon cases (Dixon 1999a; Kolbert 1999). This does not mean that riots are imminent in Cabramatta: violent public disorder is not the only way in which distrust and alienation find expression.

Efficiency requires legitimacy. This needs to be emphasized against the conventional assumption that legitimacy and efficiency are counterposed in a metaphorical balance, so that more of one must mean less of the other. Some complain that police efficiency has declined since the cleansing of the NSW Police Service following the Wood Royal Commission (Wood 1997). They forget all too quickly that the 'efficiency' after which they hanker was one which produced many miscarriages of justice (Dixon 1999b). These resulted not just in the punishment of the innocent but also the escape from justice of those really guilty. More generally, it is firmly established by research evidence that criminal investigation is more, rather than less, efficient when conducted within the law (Dixon 1997) and that cooperation with criminal justice depends upon perception of its legitimacy (Sherman 1997; Tyler 1990). While Sherman argues that zero tolerance tactics such as intensive 'field interrogations' can be used 'in a polite manner that fosters rather than hinders police legitimacy', he acknowledges that this has often not been the case and that they 'have often been a flash point of poor police-community relations' (1997:18).

If police were really concerned to break down 'walls of silence', then the best way of doing so would be to establish and maintain good community relations. If crackdowns are to be employed, great care must be taken about their effects on police-public relations and, thereby, on police efficiency.

Law enforcement, harm minimization and risk management

Australia has a considerable international reputation for its commitment to harm minimization as the foundation of its national drug strategy. It is almost conventional to contrast Australia favourably with the United States (Nadelmann 1992). While this contrast does have substance, its invocation creates a danger of complacency. In Cabramatta, policy commitments to harm minimization have not been matched by street-level enforcement practices. Operational officers appear not to understand harm minimization policies, feeling at best confused by directions (for example) not to target clients of needle exchanges (Dixon & Maher 1998). Elsewhere, research indicates that 'the majority of "rank and file" police in several jurisdictions still claim to have had no training in the area of drug harm minimisation, and to have little idea what this term means' (James & Sutton 2000:262).

New South Wales officers are little assisted by some official guidance, for example on 'Drug harm minimization and practical policing applications', which states the problem, but offers no solution:

Some officers have a moral dilemma in reconciling policing needs with harm minimization. For example, a person caught injecting heroin is breaking the law and under strict law enforcement, should be arrested. Yet, with harm minimization, officers are asked to accept drug use and a program which supplies users with clean needles and syringes (Police Service Weekly 1996:3).

When 'policing needs' and 'harm minimization' are polarised in this way, it is hardly surprising to find officers enforcing the law and regarding proposed alternatives with cynicism. Likewise, the 2001 strategy was announced as 'putting some balance into the harm minimization debate'.¹⁸ Similar problems were evident in a speech in which the Police Commissioner expressed his commitment to harm minimization, but went on to criticise needle/syringe and methadone maintenance treatment (MMT) programs on the grounds that they supported drug use and created an 'ever-increasing circle of death, crime and decay' (Ryan 1999). While specific outlets may be problematic, research shows that needle and syringe and MMT programs are effective and evidence-based harm minimization strategies (Drucker et al 1998). Embracing harm minimization, but attacking its principal strategies, suggests that this commitment to harm minimization is rhetorical rather than substantive.

It is not surprising that officers are confused and, in Cabramatta, apparently demoralized. As James and Sutton argue, the message they receive are fundamentally contradictory. On one hand, they are told to embrace harm minimization, and to cooperate with new diversion and referral provisions. On the other, they are deployed in aggressive crackdowns which entail the acceptance of the counterproductive outcomes which have been outlined in this paper.

The effect of such tolerance appears to be that ... those responsible for applying drug enforcement policy at the street level are being enjoined to 'first, ignore the possibility of doing harm' (by trying to suppress illicit drug markets and use regardless of the consequences), but 'then to try to rectify the damage' by referring users for treatment, by cautioning first offenders and so on). . . (S)uch an approach fundamentally contradicts harm minimization principles

which begin with the injunction to do no harm (James & Sutton 2000:265).

It may be argued that this is unrealistically idealistic, and that the policing of prohibited drugs inevitably involves the balancing of harms (Weatherburn et al 1999). James and Sutton point out that police lack the information resources required to balance harms (2000:265) and that any such balancing take place at policy rather than operational level. There is 'little recognition that aggressive enforcement crackdowns and saturation approaches are likely to have significant adverse outcomes in terms of harm – despite at least a decade of accessible research alerting us to that possibility' (James & Sutton 2000:266). It is symptomatic that James and Sutton's presentation of these arguments in a key note address at a law enforcement conference was greeted with considerable hostility by several senior officers.

What should police do to respond to problems caused directly and indirectly by street-level drug markets? The traditional response is that all they can and should do is enforce the law. This is no longer adequate. Discretion is an inevitable part of policing. Regulation of,

18 Clive Small, quoted in 'War on drugs the top priority, vow Cabramatta police', *Sydney Morning Herald* 9 February 2001.

and accountability for, such discretion are appropriate and necessary. There is nothing, either in empirical practice or in law, which makes an attempt to direct police activity in dealing with street-level drug users either unusual or legally problematic. In making decisions on how to police prohibited commodities, police officers must make choices. Some drug users are arrested, but the power to arrest and charge is a resource used to fulfil a fundamental mandate of public order maintenance. More frequently, other methods are adopted: police disrupt the activity, destroy the drugs, and/or move the user on. These are legitimate uses of discretion. However, under certain conditions, they are harmful. Our research strongly indicates that police officers should exercise their discretion in a way which takes full account of public health, public safety, and police-community relations. Police must contribute to deliberately shaping the drug market in ways that minimise aggregate harms (Fitzgerald et al 1999; Maher et al 1998; James & Sutton 2000).

It should be emphasised that we are not arguing that drug law enforcement and harm minimisation are alternative or contradictory approaches (cf Weatherburn & Lind 1999) or that 'drug law enforcement can only result in increased harms, particularly health harms' (cf Makkai 2000:91). On the contrary, law enforcement is a tactic to be deployed within a broader strategy of harm minimisation by encouraging drug market participants to desist (Dorn & South 1990; Pearson 1992). Notably, 'trouble with police' may 'increase the attractiveness of treatment' (Weatherburn & Lind 2001:578).¹⁹ There is influential enthusiasm for this view in NSW (Weatherburn et al 1999; 2000:ch 4). According to Assistant Commissioner Small, the 2001 crackdown was intended 'to create a crisis in the life of the drug user. They will have to make the decision: seek treatment and we will give you every support, or go to gaol'.²⁰ Deputy Commissioner Jarratt cites Weatherburn as authority for the view that 'the Police Service is a little like the sheepdog: in order to get people serious about rehabilitation, police ... pursue them ... (and) put pressure on people, to force them either convert to rehabilitation programs or alternatively bear the consequences'.²¹ Unfortunately, reality does not conform to such neat dichotomies of choice.

Acceptance of a role for law enforcement in harm minimization should not be reduced to a simple, post hoc justification of crackdowns on the ground that they push people into treatment. There has to be somewhere for them to be pushed. While considerable investment in treatment facilities has been made or promised, treatment facilities in South West Sydney were manifestly inadequate throughout the study period. As Weatherburn and Lind report, 'many users simply cannot obtain or afford access to treatment' (1999:8; cf Weatherburn et al 1999). It appears that little has changed. In 2001, the NSW Chief Health Officer, Dr Andrew Wilson, told the Legislative Council's inquiry that 'there is a very significant gap at present between the level of service we are able to provide ... and the level of service we want to provide' in Cabramatta. Doubling the number of treatment places was a 'short-term aim'.²²

A 'particularly disturbing' finding (Weatherburn et al 2000:35) is that ethnicity affects entry to treatment: Asian heroin users were found to be much less likely to have experience of MMT than respondents from other ethnic groups (Weatherburn & Lind 2001:582). On one side, cultural beliefs about health and illness and, on the other, barriers to accessing

19 30 per cent of heroin users entering a MMT program cited such trouble as their principal reason for entering treatment (Weatherburn & Lind 1997). In a later study, 63% rated avoiding more trouble with police/courts as important or very important reasons for entering MMT. Note, however, that the figures for spending less on heroin and keeping relationship/family together were, respectively, 90% and 88% (Weatherburn et al 1999).

20 Quoted in 'War on drugs the top priority, vow Cabramatta police' *Sydney Morning Herald* 9 February 2001.

21 General Purpose Standing Committee, op cit 14 May 2001, p 22.

22 Ibid, 12 March 2001, p 9.

appropriate treatment services produce this disparity. Consequently, encouraging intensive policing in order to push users into treatment is particularly problematic when the target population includes a high proportion of Asian people. So long as detoxification and MMT programs have long waiting lists and Asian participation is limited and problematic, it is hypocritical to justify intensive street-level law enforcement in Cabramatta on the basis that it pushes users into treatment. All too easily, 'pushing drug users into treatment' becomes a euphemism for pushing them into prison. Great care must be taken to ensure that strategies justified as pushing users into treatment do not turn out to be 'heavy-handed scatter-gun approaches to law enforcement which fill the courts and prisons with people ... (and) which result not only in harm to the individual ... but also to the wider community' (Pearson 1992:190).

More fundamentally, the privileged status of treatment in NSW drug policy needs to be examined critically. For many of the young people encountered in our research, the assumed progression of drug use → treatment → abstinence is replaced by a complex, repetitive cycle of drug use, getting clean, and relapse. Claims that law enforcement pushes users into treatment must be accompanied by an evaluation of retention in treatment in order to assess long-term effectiveness, and evaluation of the cost-effectiveness of channeling resources into treatment rather than into 'prevention' of harm: primary, secondary, and tertiary. Detoxification is not, for most of this group, physically very difficult. The real challenge comes in staying off heroin. Many relapse not because of a physical addiction, but because drug use and sales offer them benefits from which they are otherwise socially excluded – friendship, fun, employment, economic opportunities, and access to goods and services. Their lives cannot be changed just by treatment. If we are serious about developing alternatives to criminal justice, we need to confront difficult questions about social and economic reform. The challenge is to provide legitimate recreation and employment opportunities and to reduce social exclusion and disadvantage. This is, unfortunately, less easy to sell politically than treatment.

The fundamental problem here is the hegemony of medical discourse in consideration of policy on illegal drugs. The attractions of medicalising deviance should be obvious enough. An expert knowledge can be summoned to explain a baffling problem in comfortably individualistic terms. Palpable solutions are offered, notably in the form of supposed 'wonder drugs' such as naltrexone. Power over the deviant (which may be challenged by suggestions that criminal justice methods are inappropriate) can be maintained: this is expressed clearly in demands for compulsory treatment of addicts. Medicine and treatment are very important. They should, however, not be used to obscure key social and economic characteristics of the problem.

While it is not the purpose of this paper to recommend operational tactics, five modest suggestions are made. These fit with James and Sutton's argument that police need to develop a 'taxonomy of drug-related harms' and to use their discretion in order to concentrate their efforts on the most harmful activities while minimising the harms which their own activities produce (James & Sutton 2000:268-9). Firstly, the problematic consequences of using intensive policing in order to improve quality of life in the CBD have been noted above. This does not imply underestimating the effects of concentrations of drug users. Rather, it indicates the need to look for other alternative responses. Simply providing somewhere off the street for drug users to go might reduce incivilities and disorder. More ambitious strategies could include a legally sanctioned safe injecting room.²³ More modest strategies might include providing drop-in facilities and outreach services.

23 A trial of such a facility began in Sydney's Kings Cross in May 2001.

Secondly, police should seek to contain and localize the drug market and drug use in locations which cause least harm (Fitzgerald et al 1999; James & Sutton 2000:267). If, as we have argued, police can and may legitimately use discretion in law enforcement in order to manage the street-level market, they should do so with the reduction of multiple harms (including drug-related disorder) as their goal. Such a policy might attract political controversy. However, it should be pointed out that police operations in Cabramatta involved deliberate displacement (Dixon & Maher 1998). If this intention had been publicised in advance, it would have been no less politically controversial than what is suggested here.

Thirdly, police efforts should be refocused. Following a familiar pattern in Australian drug law enforcement (Sutton and James 1995), commitments to concentrate enforcement efforts on higher level dealers are not reflected in operational practices. The argument that street-level law enforcement is more effective and efficient than supply-side strategies (Weatherburn et al 2000:ch 4) fails to acknowledge the research evidence about how often supply-side policing notionally targeted at higher level dealers has impacted upon users and street-level user-dealers (Green & Purnell 1995; Sutton & James 1995). An example was encountered in our fieldwork when officers from a specialist drug unit carried out buy/bust operations in Cabramatta. Sceptical about the utility such activity, they saw their deployment as a response to political pressure for publicly visible action (Dixon & Maher 1998). A desirable outcome of the current enthusiasm for proactive, intelligence-led policing (Dixon 1999a) would be greater effectiveness in targeting those who supply to street-level dealers. The 2001 crackdown included commitments of substantial resources for mid-level drug law enforcement.²⁴ It will be important to ensure that these do not, as in the past (Sutton & James 1995), end up in street-level enforcement.

Fourthly, police should avoid interventions at the point of self-administration because of the health and safety risks to police and drug users alike. Appropriate police training in harm minimisation would help, as would adoption of the NSW Government's 1999 Drug Summit recommendation that self-administration should be decriminalised.²⁵ Fifthly, police should be instructed not to confiscate or destroy injecting equipment from users who are searched in the street. If harm minimisation cannot be learnt and accepted by some police officers, they should be reminded that taking something without legal authority is theft, and that unless the seizure of injecting equipment is connected to a suspected offence, eg of self-administration, it is itself illegal.

Conclusion

This article has argued that current law enforcement strategies for dealing with street-level drug markets run the risk of causing significant damage to public health, community safety, and police-public relations. Such costs may be weighed against the potential benefits of respectable arrest rates and localised improvements in the quality of life for some in specific areas. Many police find difficulty in coming to terms with such findings. Their self-perception is that their work is socially beneficial in general and that law enforcement, in particular, is salutary. This perspective depends upon a view of law as simultaneously apolitical and carrying authority as the product of the democratic process. However, it is increasingly clear that the shelter from choice and responsibility which this idealised conception provides to police is threadbare (Dixon 1997). Some police are venturing out

24 Deputy Commissioner Jarratt, evidence to General Purpose Standing Committee, op cit 14 May 2001, p 10.

25 See <<http://203.147.254.2/NSWDS/NSWDrugSumm.../A052199N13Recommendation>>.

from behind it, and developing new conceptions of their role, seeing themselves as contributors to multi-agency, problem-solving teams (Goldstein 1990). However, such aspirations are more easily expressed on paper than in street-level practice (Brown & Sutton 1997). More problematically, other concurrent developments are pushing policing towards a renewed commitment to crime control and order maintenance (Dixon 1999b). Our experience (Dixon & Maher 1998) has shown that identifying the costs of crackdowns is not enough to win the argument. Some police officers clearly consider that these costs may be unfortunate, but that they are justified by concurrent potential gains. As Dorn and South suggest, the 'question is, given that we cannot totally prevent illegal drug markets..., what kind of markets do we least dislike, and how can we adjust the control mix so as to push markets in the least *undesired* direction?' (1990:186). However, the assumed consensus of 'we' is misleading. Developing effective and equitable drug policy inevitably involves engaging fundamental political problems such as how far-sighted is the self-interest of those with power, and to what degree should they be accountable for the harms inflicted on vulnerable communities (including drug market participants) in the name of drug law enforcement.

REFERENCES

- Bluthenthal, RN, Kral, AH, Eringer, EH, & Brian, R (1999) 'Drug Paraphernalia Laws and Injection-Related Infectious Disease Risk among Drug Injectors', *Journal of Drug Issues*, vol 29, pp 1-16.
- Brown, M & Sutton, A (1997) 'Problem Oriented Policing and Organizational Form', *Current Issues in Criminal Justice*, vol 9, pp 21-33.
- Darke, S & Ross, J (1998) *Heroin-related Deaths in South Western Sydney*, NDARC Technical Report No 52, National Drug and Alcohol Research Centre, Sydney.
- Darke, S & Zador, D (1996) 'Fatal Heroin Overdose: A Review', *Addiction*, vol 91, pp 1757-64.
- Dixon, D (1991) *From Prohibition to Regulation*. Clarendon Press, Oxford.
- Dixon, D (1997) *Law in Policing: Legal Regulation and Police Practices*, Clarendon Press, Oxford.
- Dixon, D (1999a) 'Beyond Zero Tolerance', paper presented to the 3rd National Outlook Symposium on Crime in Australia, Australian Institute of Criminology, Canberra, 22-23 March 1999.
- Dixon, D (1999b) 'Reform, Regression and the Royal Commission into the NSW Police Service', in Dixon, D (ed) *A Culture of Corruption*, Hawkins Press, Sydney.
- Dixon D & Coffin, P (1999) 'Zero Tolerance Policing of Illegal Drug Markets', *Drug and Alcohol Review*, vol 18, pp 477-86.
- Dixon, D & Maher, L (1998) 'The Policing of Drug Offences', in Chan, J, Dixon, D, Maher, L & Stubbs, J, *Policing in Cabramatta*, report for the NSW Police Service, unpublished.

- Dixon, D & Maher, L (1999) 'Walls of Silence', in Hage, GA, Couch, R (eds) *The Future of Australian Multiculturalism*, Research Institute for Humanities and Social Sciences, Sydney.
- Dorn, N & Murji, K (1992) 'Low Level Drug Enforcement', *International Journal of the Sociology of Law*, vol 20, pp 159-171.
- Dorn, N & South, N (1990) 'Drug Markets and Law Enforcement', *British Journal of Criminology*, vol 30, pp 171-88.
- Dorn, N, Murji, K, & South, N (1992) *Traffickers: Drug Markets and Law Enforcement*, Routledge, London.
- Drucker, E, Lurie, P, Wodak, A & Alcabes, (1998) 'Measuring Harm Reduction: The Effects of Needle and Syringe Exchange Programs and Methadone Maintenance on the Ecology of HIV', *AIDS*, vol 12 (suppl A), S217-230.
- Fitzgerald, J, Briscoe, S & Weatherburn, D (2001) *Firearms and Violent Crime in New South Wales*, Bureau of Crime Statistics and Research, Sydney.
- Fitzgerald, JL, Broad, S & Dare, A (1999) *Regulating the Street Heroin Market in Fitzroy/Collingwood*, VicHealth, Carlton South.
- Goldstein, H (1990) *Problem-Oriented Policing*, McGraw-Hill, New York.
- Green, P & Purnell, I (1995) *Measuring the Success of Law Enforcement Agencies in Australia in Targeting Major Drug Offenders Relative to Minor Drug Offenders*, National Police Research Unit, Payneham.
- James, S & Sutton, A (2000) 'Developments in Australian Drug Law Enforcement', *Current Issues in Criminal Justice*, vol 11, pp 257-72.
- Karmen, A (2000) *New York Murder Mystery: The True Story behind the Crime Crash of the 1990s*, New York University Press, New York.
- Keith, M (1993) *Race, Riots and Policing: Lore and Disorder in a Multi-racist Society*, UCL Press, London.
- Kolbert, E (1999) 'The Perils of Safety', *The New Yorker*, 22 March 1999, pp 50-55.
- Macpherson, W (1999) *The Stephen Lawrence Inquiry: Report of an Inquiry by Sir William Macpherson (Cm 4262-1)*, Stationery Office, London.
- Maher, L (1996) 'Age, Culture, Environment and Risk: Contextualizing High-risk Practices Among New Injectors in South West Sydney', paper presented at VII International Conference on the Reduction of Drug-related Harm, Tasmania.
- Maher, L & Dixon, D (1999) 'Policing and Public Health: Law Enforcement and Harm Minimization in a Street-level Drug Market', *British Journal of Criminology*, vol 39, pp488-512
- Maher, L, Dixon, D, Swift, W, & Nguyen, T (1997) *Anh Hai: Young Asian Background People's Perceptions and Experiences of Policing*, UNSW Law Faculty Research Monograph, Sydney.

- Maher, L, Dixon, D, Lynskey, M & Hall, W (1998) *Running the Risks: Heroin, Health and Harm in South-West Sydney*, National Drug and Alcohol Research Centre, Sydney.
- Maher, L, Dixon, D, Lynskey, M & Hall, W (forthcoming) 'Property Crime and Income Generation by Heroin Users', *Australian and New Zealand Journal of Criminology*.
- Makkai, T (2000) 'Drug Transactions', in Australian Bureau of Criminal Intelligence, *Australian Illicit Drug Report 1998-99*, ABCI, Canberra.
- Murji, K (1998) *Policing Drugs*, Ashgate, Aldershot.
- Nadelmann, EA (1992) 'Thinking Seriously about Alternatives to Drug Prohibition', *Daedalus*, vol 121, pp 85-132.
- O'Neill, M (2001) 'Drugs War: Police not put off by Fortresses', *Fairfield Advance*, 28 February 2001.
- Pearson, G (1992) 'Drugs and Criminal Justice: A Harm Reduction Perspective', in O'Hare, PA, Newcombe, R, Matthews, A, & Drucker, E (eds) *The Reduction of Drug-Related Harm*, Routledge, London.
- Petricin, I. (2001) 'Property Values Soar' *Fairfield City Champion*, 28 February 2001.
- Police Service Weekly (1996) 'Drug Harm Minimization and Practical Policing Applications', *Police Service Weekly*, 9 December 1996, p 3.
- Reiner, R (2000) *The Politics of the Police*, 3rd edition, Oxford University Press, Oxford.
- Ryan, P (1999) 'Policing the New Millenium', paper for the Royal Society for the Encouragement of Arts, Manufactures and Commerce, Sydney, 13 April 1999.
- Sherman, LW (1990) 'Police Crackdowns', in Tonry, M & Morris, N (eds) *Crime and Justice. A Review of Research*, vol 12, University of Chicago Press, Chicago.
- Sherman, LW (1997) 'Policing for Crime Prevention', in Sherman, LW, Gottfredson, DC, MacKenzie, DL, Eck, J, Reuter, P & Bushway, SD, *Preventing Crime: What Works, What Doesn't, What's Promising*, National Institute of Justice, Washington.
- Sutton, A & James, S (1995) *Evaluation of Australian Drug Anti-Trafficking Law Enforcement*, National Police Research Unit, Payneham.
- Sviridoff, M, Sadd, S, Curtis, R, & Grinc, R (1992) *The Neighborhood Effects of Street-level Drug Enforcement*, Vera Institute of Justice, New York.
- Tyler, T (1990) *Why People Obey the Law*, Yale University Press, New Haven.
- Weatherburn, D & Lind, B (1995) *Drug Law Enforcement Policy and Its Impact on the Heroin Market*, NSW Bureau of Crime Statistics and Research, Sydney.
- Weatherburn, D & Lind, B (1999) *Heroin Harm Minimisation: Do We Really Have to Choose Between Law Enforcement and Treatment?*, NSW Bureau of Crime Statistics and Research, Sydney.
- Weatherburn, D & Lind, B (2001) 'Street-level drug law enforcement and entry into methadone maintenance treatment', *Addiction*, vol 96, pp 577-87.

Weatherburn, D, Lind, B, & Forsythe, L (1999) *Drug Law Enforcement: Its Effect on Treatment Experience and Injection Practices*, NSW Bureau of Crime Statistics and Research, Sydney.

Weatherburn, D, Topp, L, Midford, R, and Allsopp, S (2000) *Drug Crime Prevention and Mitigation: A Literature Review and Research Agenda*, NSW Bureau of Crime Statistics and Research, Sydney.

Wood, JRT (1997) *Final Report of the Royal Commission into the New South Wales Police Service: Volume 1: Corruption*, Royal Commission, Sydney.