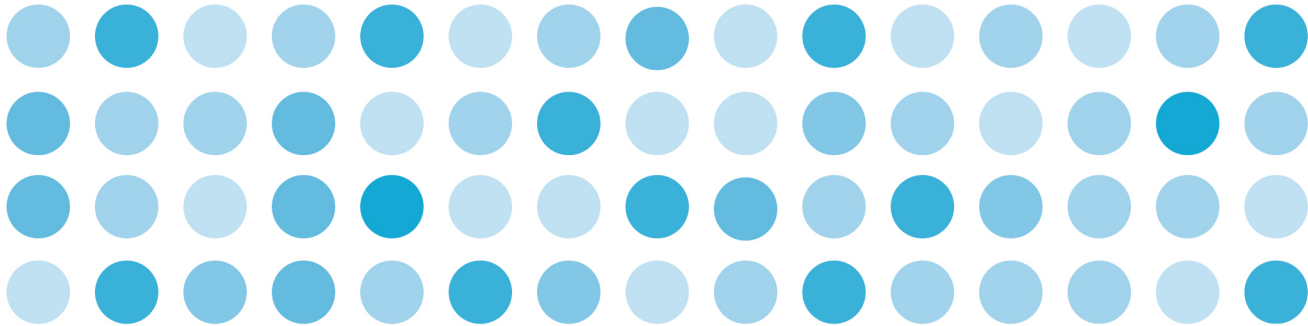


25-26 October 2010
Melbourne Cricket Ground



Anex 2010
**AUSTRALIAN
DRUGS
CONFERENCE**
Public Health and Harm Reduction

Greg Denham



**A Review of Published and Available Materials
Related to Law Enforcement Policies on
Prevention of HIV and Harms Associated with
Injecting Drug Use Across 12 Countries**

ANEX Conference - October 2010

**Greg Denham
Executive Officer
Yarra Drug and Health Forum**

Introduction

**Research conducted on behalf of the
United Nations Office on Drugs and
Crime (UNODC).**

Completion date end of 2010.

Aim

The aim of the research is to produce a review of 12 English speaking countries' law enforcement agencies' policies and practices, as determined by:

- primary and secondary legislation
- Codes of Practice
- standard operating procedures
- standing orders
- instructions
- guidance notes, and
- training programs and materials

.....pertaining to HIV prevention, treatment and care.

Case Law

Summaries of landmark court cases, particularly those emanating from the European Court of Human Rights, Constitutional Courts, and Supreme Courts, relating to the rights of high-risk groups and HIV positive people in police detention, pre-trial detention, prisons, drug addiction are drug testing are also reviewed.

Methodology

This research was conducted as a desk review of English speaking law enforcement agencies' policies and practices that relate to HIV prevention, treatment and care. Data collection included:

- written police policies, guidelines, standard operating procedures and directives.
- laws/statutes and administrative documents covering rules and regulations needed to carry out policing duties relevant to HIV prevention, treatment and care.
- national documents, such as national strategic plans and frameworks produced by governments that outline police policies and practices that are endorsed as good practice and effective in controlling the spread of HIV.

Scope

The term 'English speaking law enforcement agencies' included those operating in Australia, Canada, India, Kenya, Malaysia, New Zealand, Pakistan, the Republic of Ireland, South Africa, the United Kingdom of Great Britain and Northern Ireland, and the United States of America.

Scope

The research has been broadened to include examples of similar policies and guidelines developed in custodial settings and other elements of the criminal justice system (courts etc).

Limit of this presentation

Australia

New Zealand

Canada

United States of America

Great Britain

Malaysia

Australia

All Australian Police Services base their policies and practices on the premise of 'Harm Minimisation' which has been the National Policy in Australia since the late 1980's and is based on three strategic directions; supply, demand and harm reduction.

Australia

Documented policy evidence supporting:

- **Needle and Syringe Programs**
- **Custodial medicine**
- **MSIC**
- **Arrest and referral to treatment**
- **'Therapeutic jurisprudence'**
- **Court programs – C.I.S.P. - C.R.E.D.I.T. – M.E.R.I.T.**
- **Prevention of overdose**

New Zealand

New Zealand Police has developed an Illicit Drug Strategy to 2010 based on three strategic directions; supply, demand and harm reduction.

Regulation 7 specifically outlines guidelines for police when dealing with needle and syringe possession:

'Although Police have a duty to investigate drug offences including the unlawful possession of instruments, Police policy requires Regulation 7 to be adhered to.

This provides that no person shall be prosecuted for the possession of any needle or syringe if it was purchased by or on behalf of that person from any pharmacist, medical practitioner, or authorized representative.'

New Zealand

Another documented harm reduction approach is the Mental Health / Alcohol and Other Drug Watch-House Nurses Project established under the Effective Interventions Work Program at watch-houses (custody Suites) in Christchurch and Counties Manukau.

This initiative aims to enhance the mental health of offenders, assist in reducing their rate of alcohol and drug addiction and assist in reducing their offending.

This will be done by placing four nurses who specialise in mental health, alcohol and drugs into two Police watch-houses.

Canada

Historically Canada built its reputation as a strong supporter of harm reduction through the "Framework for Action: A Four-Pillar Approach to Drug Problems" which identified four drug strategies:

1. Education and Prevention
2. Treatment and Rehabilitation
3. Harm Reduction
4. Enforcement

Canada

Vancouver City Council had unanimously adopted the "Framework for Action: A Four-Pillar Approach to Drug Problems" in 2001 and this approach has been the foundation of this city's drug strategy since that date and is still the current approach.

A commitment to harm reduction has been demonstrated through:

'Insite' a Supervised Injecting Facility (SIF)

'NAOMI' (North American Opiate Medication Initiative)

Canada

Vancouver Police Department (VPD) has maintained a consistent approach toward the four pillar approach and harm reduction with police policy strongly supporting drug user access to social and health services.

Since its inception, the Vancouver Police Department has expressed official policy support for the SIF.

However whilst local police have approved of its establishment and have facilitated the referral of injecting drug users to the SIF, external police agencies such as the Royal Canadian Mounted police have been quite vocal in their opposition.

United States of America

Whilst many police agencies in countries such as Australia, New Zealand and Great Britain have documented policies demonstrating their commitment to harm reduction, the American situation is very different.

The jurisdictional approach in the USA is inconsistent and ad-hoc and most initiatives undertaken by law enforcement agencies in support of needle exchange is done so when a 'state of medical emergency' has been declared and 'paraphernalia laws' have been removed.

United States of America

At the Federal level, the United States of America has had a long-standing ban on funding needle exchange programs (lifted recently).

This is mainly due to a moral stand taken by previous administrations.

Despite this ban, the National Black Police Association wrote a letter to then President Clinton in March 1998 which stated that:

'We are hopeful that Secretary Shalala will exercise her waiver authority immediately and allow federal resources to be used for needle exchange. Our members support the lifesaving effects that needle exchange promotes — including reduction of HIV disease in our communities and bridging the gap between those addicted.'

United States of America

An official memo sent to operational police in California includes information setting out the various regulations relevant to NSPs:

California law permits authorized needle exchange programs and exempts program workers from paraphernalia charges.

Needle exchange programs that distribute sterile syringes to injection drug users may be locally authorized pursuant to H&S Code 12134.9.

California law exempts needle exchange personnel from prosecution for furnishing drug paraphernalia under H&S Code Section 11364.7.

California permits over-the-counter sales of up to 10 syringes.

Pursuant to local authorization of (Business & Professions Code 4145 (2)(c)), adults may obtain up to ten syringes from a pharmacy or physician without a prescription.

United States of America

City of New York Police Department Operations Order 19 specifically states that:

'.....New York State Public Health Law Section 3381 (1) © permits a pharmacy, health care facility or health care practitioner to sell or furnish ANY individual, 18 and over, with a hypodermic instrument or needle without prescription.. ..'

As a result of the change in the law as discussed above, persons who are 18 and over and are found in possession of an unused hypodermic instrument or needle may not be arrested solely for the possession of that device.

In addition, SEP participants who are found in possession of hypodermic instruments or needles containing traces of controlled substances may NOT be arrested for violation of Criminal Possession of Controlled Substance in the Seventh Degree (Penal Law SS220.03) or Criminally Possessing a Hypodermic Instrument (Penal Law SS220.45).'

Great Britain

Across Great Britain, including Northern Ireland, Scotland and Wales, there are numerous documented examples of evidence of police policies and practices that support the prevention of the spread of HIV and reduce other harms associated with drug use.

Arrest and referral programs, methadone in custody services, policies that support needle exchange either by policing facilitating access to clean injecting equipment or through police refraining from targeting the vicinity of these sites are common place.

Great Britain

In 2006 the Association of Chief Police Officers (ACPO) and the Home Office in conjunction with the National Centre for Policing Excellence produced comprehensive guidelines on custody procedures, namely the 'Guidance On The Safer Detention and Handling of Persons in Police Custody'.

These guidelines take police through every step of the detention process with the key message being safety of those taken into police custody. The need for proper assessment and subsequent action is emphasized and drug assessment is seen as a critical issue:

'All detainees believed to be under the influence of drugs should be seen by a healthcare professional as a matter of course.'

Great Britain

Kent police have agreed to adhere to a number of procedures when a person is taken into custody in possession of needles and syringes by developing documented guidelines called 'Protocol for the Replacement of Injecting Equipment in Police Station Custody Suites.'

The purpose of this document is to provide;

- Operational guidelines to custody officers engaged in safe disposal of used injecting equipment from detainees at arrival in custody
- Guidance on providing replacement sterile injecting equipment to detainees on release from custody.

When the detainee arrives in custody with either a used or unused needle(s)person is then informed that their used needles will be disposed of to safeguard othersperson is then advised that they will be provided with a needle replacement pack and this will be added to the detainee's property on arrest.

Great Britain

Cleveland Police, which includes Hartlepool, Stockton, Middlesbrough & Redcar police services, has articulated in their 'Corporate Policy Document - Emergency Needle Provision in Custody Suites' the legislative basis for their decision to offer clean injecting equipment in custody suites by identifying relevant laws:

1. Article 2 Right to Life. Human Rights Act 1998
2. The Police have a duty under Common Law to protect Life.
3. Health and Safety at Work Act 1974
4. Misuse of Drugs (Amendment) (No2) Regulations 2003 (SI No. 1653/2)

Malaysia

The HIV epidemic in Malaysia has largely been driven by ongoing transmission from and amongst injecting drug users. In order to contain and subsequently reverse the trend of the escalating infections in the country, prevention measures that have been proven to be effective have been implemented, these include needle exchange and methadone maintenance programs.

In 2005 a National Task Force on Harm Reduction, made up of representatives from the National Anti-Drugs Agency, Ministry of Health, Royal Malaysian Police, Prisons Department, academics and representatives of NGOs, acted in a steering and guidance capacity.

In January 2006 the publication of the 'Needle and Syringe Exchange Program Pilot Project - Standard Operating Policy' was released.

Malaysia

These guidelines recognized the important role that police would play in facilitating the effective conduct of needle exchange programs. Police are specifically mentioned as an agency that will be required to develop specific guidelines for local police operations:

'3.1.4. The success of this exchange model will also largely depend on the local police operations. Local policies and National Guidelines for police will have to be developed to assist in this pilot project'

The 'National Guideline for Police on NSEP' have also been developed and endorsed by the Malaysian Royal Police (PDRM).

Malaysia

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'3.1.4. The success of this exchange model will also largely depend on the local police operations. Local policies and National Guidelines for police will have to be developed to assist in this pilot project'

The 'The Malaysian Needle and Syringe Exchange Program Guidelines for Police' were subsequently developed and endorsed by the Malaysian Royal Police (PDRM).

Malaysia

'Police Discretion'

'There is the need for police to consider the operation of Needle and Syringe Exchange Programs (NSEPs) when carrying out their duties in the areas where these programs are situated.

Without restricting their day to day duties and obligations, police should be mindful not to carry out unwarranted patrols in the vicinity of NSEPs that might discourage injecting drug users from attending.'

Malaysia

In 2006, the Malaysian Prisons Department agreed to implement a MMT program and a pilot project was introduced in Pengkalan Chepa Prison in April 2008 with 50 prisoners participating.

This MMT program was accredited by the Health Ministry of Malaysia with the support of Malaysian AIDS Council. Treatment consisted of regular methadone dosing and individual counseling sessions.

A week prior to their release, the prisoners on the MMT are treated at government hospitals or clinics and they may continue their MMT post release at the same hospital or clinic. The program is claimed as a success because it relies heavily on collaboration and inter-agency cooperation as well as the involvement of civil society and inmates' families.

Conclusion

The research indicates that police, courts and corrections sectors have developed policies, guidelines, standard operating procedures and other documents supporting harm reduction programs in their various forms and purposes across the countries looked at in this research.

Countries that have a more formal structure in terms of strategic planning and multi-sector approaches appear to have a more clearly articulated path for police in the development of harm reduction policies, best examples being Australia and Great Britain.

There is scope for these research findings to influence other police in countries that take a more 'hard line' approach to injecting drug use such as Russia, Eastern European and South East Asia.

The End

Thank You

greg.denham@nych.org.au