

Mind your own business

A LONG TIME ago – before my time – police court ‘missionaries’ hung around court buildings waiting to save intoxicated defendants. They seemed fairly sure that some people’s offending was related to their drinking. Ninety years later these missionaries evolved into probation officers. We still hang around court waiting to pounce on any unsuspecting drunk but have now acquired a new, more eloquent cause: “to extricate offenders from the revolving door of drug misuse, crime and custody”.¹

Inebriated defendants are still our concern, but now they are only a part of a collection that includes heroin injectors, acid heads, dope smokers and an assortment of other folk devils. Time has seen new drugs manufactured, such as LSD and ecstasy, and the drug scene has become more varied and complex. To combat the various harms associated with drug misuse the new, modern, case management probation officer is encouraged to entice and cajole offenders to reveal all about their drug misuse.

Some offenders are very open about their drug misuse and have no difficulty with disclosure. Indeed, for a number, “there is seldom a reluctance to talk about drugtaking”.² It is a part of their lifestyle and identity which they feel a need to portray publicly.³

Other offenders, probably the majority, are enormously reluctant to disclose their drug misuse. When I ask defendants about drug misuse while preparing pre-sentence reports, I am often met with a blunt and colourful retort: ‘Mind your own business’ is the common theme. Why do they say this? Why do I feel they don’t trust me?

Reasons to keep quiet

Having suffered derision and ridicule in response to my questions about drug misuse, I decided to try a new approach. Instead of asking offenders about the drugs they used, how often, their cost, their effects, I began asking them what they believed might happen if they told me they were still using drugs. This they found little difficulty disclosing. Displayed opposite are some of their

One strand of national policy encourages offenders to own up to their drug problems – but do other strands give them overriding reasons not to? This probation officer’s eye view suggests schemes to divert offenders into treatment could fail at the first hurdle

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SUMMARY

Official guidance exhorts probation officers to encourage all offenders to disclose any drug misuse. Such guidance is unrealistic as offenders fear that they will lose more than they gain by disclosure. At risk are their liberty, their sources of drugs, their relationships with parents and school, their children, their partners, and their jobs or welfare benefits. New drug testing provisions in prison will add yet another disincentive.

misgivings and apprehensions. Those highlighted were only part of a very long list of reasons for non-disclosure including social disapproval, labelling, lack of confidentiality, being forced into treatment, and being vulnerable.

With this litany of understandable reasons not to disclose, it’s no wonder that the good intentions of probation officers and policy makers run up against a blank wall. From the offender’s point of view, the disincentives simply outweigh the incentives.

Probation service areas in England and Wales prepare more than 200,000 pre-sentence reports annually. Officers are encouraged to ask “all offenders about the possibility of drug misuse. We believe this is good practice, even in cases where there is no obvious indications that drug misuse is an issue.”⁴

What do we offer in return? Referral to a psychiatrist? Referral for a community care assessment? As the Probation Inspectorate recently asked, “How does the probation officer get to the point where the offender actually believes there may be some advantage in disclosing information?”⁵ The idea of disclosure from everyone is attractive – it is also unrealistic.

National crime and drugs policy sets the environment within which the disincentives operate. Recent calls by high ranking police officers for the decriminalisation of the possession of some drugs were met with a swift rebuttal from the Home Office. The Government cannot be perceived to be ‘soft on drugs’, and currently that translates to not being soft on drug users. If the message to drug misusing offenders is that they will be prosecuted and perhaps dealt with more harshly by the courts, then few of them will take a risk in disclosing their drug misuse to a probation officer.

The Advisory Council On The Misuse Of Drugs may advocate disclosure and the Home Office, in its *National Standards for the Supervision of Offenders in the Community*, may also encourage more openness from offenders

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Reasons to keep quiet about drugs

What offenders believed might happen if they told a probation officer they were still using drugs

1 LOSING YOUR LIBERTY

There was fear that courts might respond to disclosure with a remand in custody or action for breach of a court order. Drug misusers are often portrayed as drug-crazed junkies who cannot control their habit nor associated crimes and, therefore, need to be remanded in custody rather than given bail in order to prevent reoffending.

The risk of a harsher sentence was also a major concern. Scottish legal history was recently made when the Court of Criminal Appeal in Edinburgh quashed a probation order on a 19-year-old for supplying LSD to two school girls and substituted a three-year custodial sentence.⁹ Courts still believe in the theory of deterrence and drug misusing offenders are easy targets.

2 LOSING YOUR DEALER

Offenders were concerned that disclosing drug use might mean they'd be seen as informants and that police would target their suppliers, who might use or threaten violence in revenge.

For offenders unafraid of their suppliers there was still the anxiety that dealers may be busted, robbing them of a valuable source of drugs.

3 LOSING YOUR HOME

Having your accommodation searched was an anxiety. What is there to prevent the probation officer notifying the police, who in turn would pay the offender a home visit with a search warrant?

Coupled with this was the fear that landlords who learn of drug misuse on their premises would swiftly evict the tenants. Probation hostels automatically exclude residents when drug misuse is discovered.

4 LOSING YOUR JOB

We are seeing the advent of drug testing as part of the application process for some jobs and part of the in-job health and disciplinary process in others. Losing employment because of having committed an offence is always a fear, but if the defendant is known as a drug misusing offender, it increases the chances of being given the sack.

5 LOSING YOUR SCHOOL

Young drug misusing offenders were especially wary of disclosing because they felt their parents would immediately be notified. Adolescence is difficult enough without aggravating parents any further.

Exclusion or expulsion from school was an equal concern. "The fear of school exclusion, a visit to the police station and catharsis at home almost guarantee denial."¹⁰

6 LOSING YOUR BENEFITS

Benefit agencies may deny that they suspend or reduce income support payments to drug misusing offenders, but that doesn't stop this being a major concern for many if this is their only source of income.

7 LOSING YOUR CHILDREN

Fear of having children taken into care was especially pertinent to female drug misusing offenders, who believed revealing drug misuse would mean they would be seen as 'bad mothers'. Recent research in Glasgow would support this view.¹¹

8 LOSING YOUR PARTNER

The shock felt by wives, husbands and lovers when they found out that their partner was taking drugs was often described as similar to that of disclosing or discovering adultery. Some offenders said they would be happier to disclose infidelity than drug misuse.

about drug misuse, but there needs to be some incentive for them to do this, or at least less discrimination shown towards

them.

When drug misusing offenders are stereotyped and labelled and perhaps sent to prison more quickly for using drugs, then they will continue to remain reticent. When magistrates and judges continue to perceive drug misusers as chaotic and a threat, then offenders will continue to remain reticent.

But policy seems to be moving in the opposite direction. The 1994 Criminal Justice and Public Order Act provides for compulsory drug testing of prisoners. Home Secretary Michael Howard has said there will be "targeted testing of all known drug users" and that "any prisoners testing positive – or who refuse the test – will be liable to disciplinary action". This could include another month in jail, confinement to cells and loss of privileges.⁶ The policy framework into

which this fits emphasises stamping out drug use in prisons, not the care of problem drug using prisoners.⁷ For prisoners, or defendants who know they may end up as prisoners, these provisions are bound to add a major new disincentive to disclosure.

THE DILEMMA for probation officers has been nicely summed up in a Home Office research paper: "On the one hand [they] were expected to act as part of the criminal justice system, reporting illegal behaviour, and on the other hand were supposed to find out what was contributing to offending behaviour and work on it".⁸ Only when probation service areas develop clear policies and strategies to resolve this dilemma will the offenders I interview refrain from telling me to 'Mind your own business'. ○

1. Advisory Council on the Misuse of Drugs. *Drug misusers and the criminal justice system*. HMSO, 1991, p. 10.
2. Bean P. *The social control of drugs*. Robertson, 1974, p. 124.
3. Laurie P. *Drugs*. Penguin, 1967.
4. Advisory Council on the Misuse of Drugs op cit, p. 11.
5. H.M. Inspectorate of Probation. *Offenders who misuse drugs. The Probation Service response*. Home Office, 1993.
6. Home Office and Prison Service News Release 198/94, 19 October 1994.
7. UK Government. *Tackling drugs together*. HMSO, 1994.
8. See C + Sibbitt R. *The probation response to drug misuse*. Home Office Research and Planning Unit paper 78 (1993)
9. *Independent*: 24 September 1994.
10. Parker M. and Measham F. "Pick 'n' mix." *Drugs: Education, Prevention and Policy*: 1994, 1(1).
11. Green S.T. et al. "Female streetworker – prostitutes in Glasgow: a descriptive study of their lifestyle." *AIDS Care*: 1993, 5(3).