

TRENDS IN

DRUG ENFORCEMENT

Over the past few years there have been a series of major initiatives within the criminal justice system to respond to a perceived 'drugs menace'.

In each policing area, drug squads have been set up, regardless of local views about the scale and nature of illegal drug use in the area. In some big cities, bids for increased funding have been made for additional officers to combat drug trafficking. In many forces, police have mounted publicity campaigns on drugs — and have been under some pressure to come up with results.

In the courts, a series of judicial decisions has established deterrence as the key policy. Courts continue to rely substantially on information from police about drug use. In our adversarial legal system, this has its dangers. Sometimes it has appeared there is a cosy understanding between the police and the courts, with police evidence on drug use largely untested. This trend may be set to continue under the terms of the Drug Trafficking Offences Act.

Release is researching the attitudes of both police officers and magistrates towards drug cases. Relying on information provided by solicitors in criminal practices, our research indicates a wide disparity of practices by both police officers and the courts in different areas of the country.

Police and enforcement

Officers of different ranks appear to have different attitudes towards drug use. Senior officers speaking to the media say that they are interested in arresting traffickers, not users. Were this policy being carried through, one might expect the number of offences involving simple possession of drugs to be in relatively sharp decline, with perhaps an increase in the percentage of adult defendants cautioned. This would appear particularly appropriate following Home Office encouragement on the use of the caution.

In some areas — Leicester is an example — police have directed alcoholics who have been picked up to 'drying out' units. Such work is not undertaken in relation to drugs offenders, and it remains clear that the police are concerned with enforcement even when trivial offences have been committed.

Statistics show that cautions for drugs offences have increased from 254 in 1981 to 2140 in 1984. However, nearly all these cautions were given for offences involving

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Many whose jobs involve defending the welfare of drug using clients have feared that the crackdown on 'pushers' will trickle down the scale to drug users. Release's recent survey of solicitors indicates this is exactly what's happening, but with wide geographical variations.

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possession of small amounts of cannabis. Looking at reports in individual policing areas, it is clear that use of the caution for petty offences is unusual. In some areas, however — Avon, Devon and Cornwall, West Yorkshire — cannabis users are often cautioned. Use of the caution in heroin and cocaine cases does not, so far as we are aware, take place.

● **Quality v quantity:** If the statistics are to be believed, the police are having major successes in catching traffickers. But police continue to influence decisions concerning the prosecution of cases, despite the introduction of the Police and Criminal Evidence Act, where decisions on prosecutions were to be made by an independent authority. In most cases, police remain responsible for drawing up charges at the conclusion of a criminal investigation.

Prosecutions are based on the possibility that a small quantity of drugs can be divided and sold in minute quantities.

Police influence on charges at different levels of seriousness may mean the statistics for 'major' trafficking convictions are inflated.

In our experience, questionable decisions are made about the prosecution of certain offences, particularly possession with intent to supply, a trafficking offence subject to the same maximum penalties as actual supply. Shored up by verbal admissions in police stations and police statements on drug use, these cases are often bitterly contested.

Police perceptions of 'suppliable' quantities have changed recently. Increasing numbers of prosecutions are based on the theoretical possibility that a small quantity of drugs can be divided again and sold in minute quantities.

In our research, we found some cities where defendants who might have been charged with simple possession of say one gram of heroin five years ago, would these days be charged with a supplying offence. This despite the fact that purity levels of heroin are decreasing, and the smoking of heroin (which needs more heroin than injecting for the same effect) is more common, so users may now possess less pure substances in larger quantities.

Despite the statistics, the number of major trafficking convictions relating to drugs in class A — the most serious — of

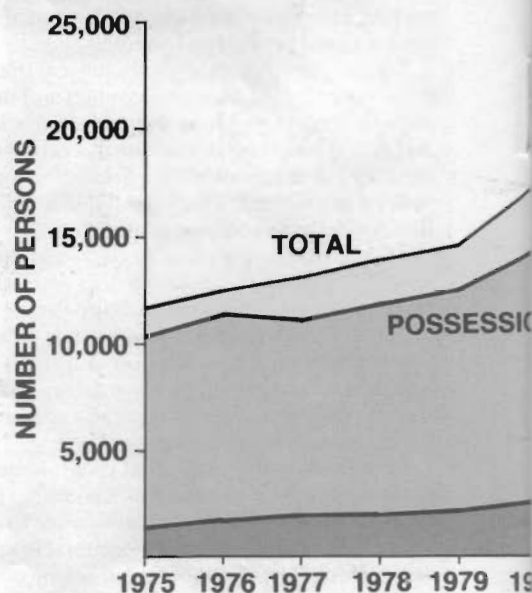
the Misuse of Drugs Act is surprisingly small.

● **Street policing:** One might expect that over the years, police operations would have become more sophisticated. 'Stop and search' — the police's authority to stop and search people on reasonable suspicion of possessing drugs — is notoriously unpopular, and has been related to some recent public order incidents which might have deterred police from relying on these powers on an operational, rather than individual, basis.

Instead we found many areas where large numbers of drug arrests had occurred in a series of 'purges', with defendants appearing in batches on minor charges, following indiscriminate raids on housing estates, clubs and other obvious targets. These unfocused operations were often favoured in preference to longer term criminal investigations.

Telephone 'hot lines' have been set up in some towns, with police responding to tip-offs from the public that are often anonymous. There are obvious dangers in relying on unchecked and potentially malicious information. There is also the problem that low-level user-dealers are often easily identified by potential callers, while

Persons found guilty of or cautioned



Despite attempts to concentrate enforcement on major drug convictions are still for possession.

major suppliers are not.

Police are having occasional successes, we conclude, but the priority in practice has remained the policing of drug use, with some ordinary drugs users now unjustifiably promoted to 'trafficking' status.

Courts and sentencing

Courts dealing with drugs offenders are bound by the rules and precedents of the criminal legal system. Drugs offences cannot be taken in isolation. Under English law, the courts have a duty to examine the individual circumstances of the offender, and look at the case in context, as well as taking account of public policy.

On the basis of information received from defending solicitors, it seems the defendant's circumstances are often disregarded by courts dealing with drugs cases, in a manner that would not be acceptable in offences such as theft, or even offences involving violence. We found a clear tariff operated in almost all courts at every level, regardless of individual circumstances.

However, the level of the tariff varied from area to area.

● **Minor heroin offences:** Looking at the way different courts dealt with heroin offences, we found that in rural areas, where the courts saw fewer cases, it remains popular to fine heroin users.

In large cities, where they may be 'case-hardened', we had the impression that courts attempt different approaches. Some investigate treatment or supervision options as a matter of routine. Others always reject supervision, and some courts sentence heroin users to imprisonment, whatever the circumstances. Some magistrates and judges see prison as a forcible detoxification facility.

Heroin users face prejudice in relation to bail decisions, as well as sentence. The reasoning behind most bail refusals is dubious to say the least.

Some courts remand heroin users in custody despite clear indications that bail is appropriate, on the basis that an admitted addict is going to commit further offences. This has occurred in cases where it has seemed likely that a non-custodial sentence will eventually be passed. Magistrates often see bail refusal as an opportunity to 'cure' the addict by quick detoxification. (Bail provisions were modified in 1976 precisely *because* magistrates were misusing their powers to grant bail, particularly where social enquiry reports were being prepared.)

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Stipendiary (salaried) magistrates often appear harsher than lay magistrates, who will sometimes take a long-term view on rehabilitation. Certain lay benches seem inclined to ignore deterrent policies, and appear better informed than judges and stipendiary magistrates about the nature and treatment of drug use.

● **Cannabis and amphetamines:** Defendants on cannabis possession charges normally face a tariff that ranges according to area from a £25 fine to £200 fine plus costs on a first offence. Some courts give conditional discharges. Usually, the only factor influencing the penalty is the number of previous convictions. A millionaire and a social security claimant might appear on similar charges and be fined similar sums.

There is a great deal of confusion over amphetamine sulphate. Some courts seem inclined to deal with it as if it were a class A drug. Others view it more leniently than cannabis. We noted extreme variations in

sentence in relation to both serious charges and simple possession.

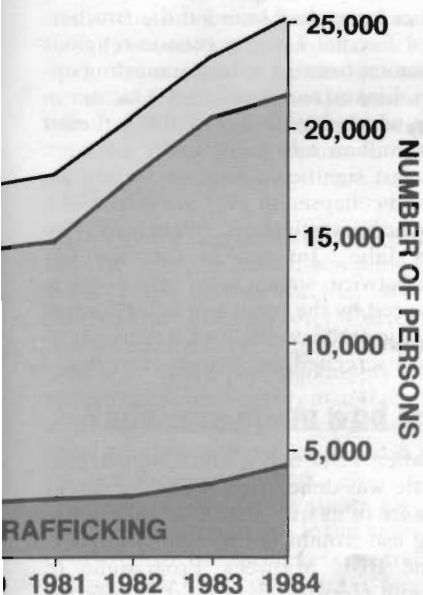
Only a minority of courts sentence amphetamine offenders at the *same* level as they would cannabis users — and this, after all, would appear to be the logical option, given that both drugs are in class B of the Misuse of Drugs Act. No court appeared to consider the possibility of imposing an order that would facilitate rehabilitation.

IN LOOKING at the treatment of drugs offenders by the police and the courts, the most disturbing factor is the absence of information. There appears to be little organised training for those dealing with drugs offenders and little information available on the effects of different drugs. Instead, there is a naive reliance on police information about the illegal drugs market and lifestyles of drug users.

Illegal drug use is an issue about which many people feel strongly. It's possible to say almost anything about it and be taken seriously, in a situation where research can be ignored and little training is made available. Many of the views confidently put forward by police, judges and magistrates are appallingly misguided. We need to make information available to those responsible for administering the criminal justice system, and, in return, we need more information on how the courts deal with different types of cases.

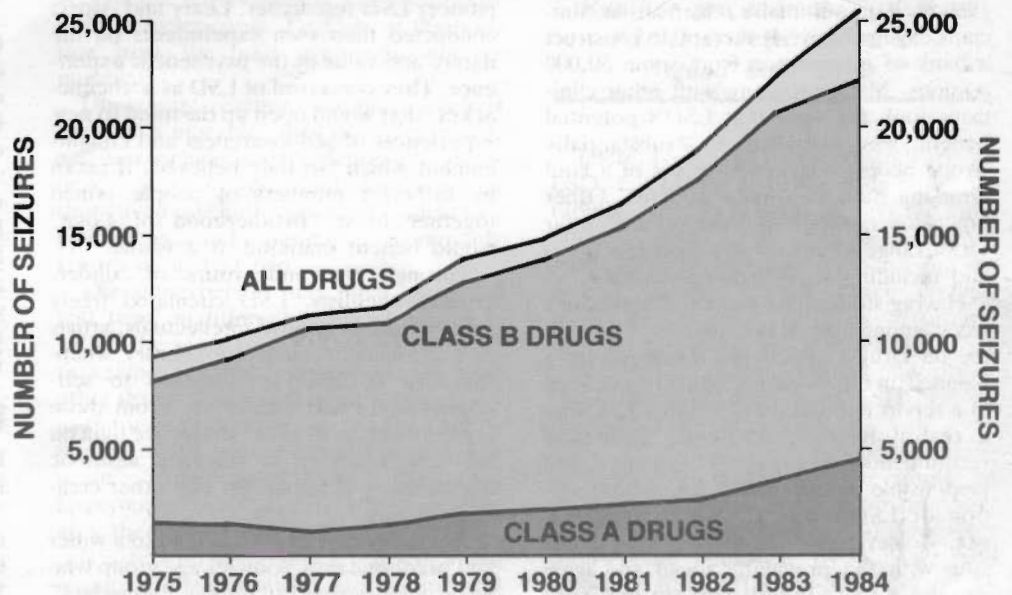
This article is based on the interim findings of Release's 1986 telephone-questionnaire survey of solicitors on their national referral list. The list probably includes the majority of UK solicitors interested and experienced in acting for those accused of drug offences. A full report is being prepared and will be made available by Release.

Number of persons sentenced for drug offences, UK



... on traffickers, the majority of

Police seizures of controlled drugs, UK



Heroin may be the main concern but the vast majority of police drug seizures involve cannabis and other class B drugs.