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Published version

LYNCH, R. (2006). Coercion and social exclusion: the case of motivating change in drug-using offenders. British journal of community justice, 4 (1), 33-48.

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Coercion and social exclusion: the case of motivating change in drug-using offenders

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Abstract
Drug-using offenders have come to be a special focus for policy concerns within community justice. A more punitive penal climate and narrow conception of social exclusion may have created a policy environment that undermines the growth of treatment opportunities now available. The emphasis upon coercion in community justice treatment responses is questioned as it may inadvertently aggravate broader pressures towards custody within the sentencing climate. Since such penal environments aggravate factors associated with social exclusion it is argued that this may undermine rather than enhance individual motivation for change. Research evidence on drug treatment is examined and a case study from probation practice described. The complexities of both suggest that the current policy direction may need to do more to provide treatment when needed and enhance social networks rather than coerce change. This would complement rather than undermine approaches to practice that build on factors related to desistance and the existing resilience found in drug users' lives.

The focus on crime control within social policy (Stenson, 2001; Gilling and Barton, 1997) has provided a new environment for developments in the field of drug treatment. Punitive sentencing and coercion have come to represent some of the defining features of community justice policy in this area. This has been underpinned by 'partnership' between medical and legal discourses that aims to create a new climate for ensuring that the harm perpetrated by drug using offenders is reduced. In contrast theories for use by practitioners in the field have emphasised the self-determination, rationality and capacity for change of problematic drug users within their social situation (Miller and Rollnick, 2002; George, Iveson, and Ratner, 1999; Trotter, 1999). Both policy and practice neglect the relationship with social exclusion (Buchanan, 2004). Furthermore, coerced drug treatment itself is currently being questioned because of the high rate of 'failures' on court supervised Drug Testing and Treatment Orders (Hough et al, 2003).

Building on the author's previous experience as a specialist DTTO case manager, and using a case example from practice, the difficulties of the new policy environment are examined. It is argued that the current climate of punitive sentencing has an adverse impact on the living conditions of drug users subject to social exclusion through their experience of imprisonment. This creates a negative motivational effect upon drug treatment because of the emphasis upon coercion and punishment rather than choices, consequences and constructive contexts for change. This is important given recent analyses that start to question the universal panacea of coerced

treatment (Norland, Sowell, and DiChiara, 2003; Rumgay 2004; Hunt and Stevens, 2004). The variability in the nature of drug-using offenders' behaviours is also neglected in the policy discourse creating a distortion in perceptions of risk. Human agency and social network approaches provide an alternative focus for policy development. These are utilised by community justice practitioners through motivational interviewing, solution focused brief therapy and pro-social modelling. The case study illustrates the futility of coercion, the risks of prison undermining treatment goals and the power of personal history for drug users in the processes needed to promote change. An alternative approach might usefully provide more flexible treatment support, communicate the community's disapproval of the negative behaviour, rather than the individual, and ensure proportionate punishment based on harm rather than perceived risks of reoffending.

Punishment, responsibility and social exclusion

Anthony Bottoms (1995) first detailed contemporary trends towards 'popular punitiveness'. This has had an effect upon all offenders including those involved with drug using offences. Fines and discharges have been displaced by community sentences (Morgan and Smith, 2003). The absolute level of custody has increased dramatically with a 66 per cent increase in the ten years to 2003 (Home Office, 2004a: 8.1). This can be explained in Anglo-American terms as the emergence of a 'new penology' encompassing 'offender' risk, actuarial based criminal justice responses and the management of offender groups rather than individuals (Simon and Feeley, 1994). Individuals and community agencies are provided with new opportunities to respond to crime as the state recognises the limits of its power and engenders a process of responsibilization in others (O'Malley, 1992; Garland, 1996). This can also be understood as the extension of disciplinary and regulatory frameworks from a custodial setting into the wider community (Lowman, Menzies and Palys, 1987). It is no longer just the 'criminal' who is subject to monitoring, control and the normalization process inherent in rehabilitation but also the 'drug addict' who needs to be coerced into treatment to effect a cure and return to a clean human existence. These complex changes in the strategic field of 'offender corrections' have come as criminalised behaviour is subject of more public fear and victims are used as a symbolic instrument to leverage change (Garland, 2001).

In relation to drug users, the amount of drug-related crime is cited as simple proof that 'drugs causes crime' within a simple unilinear relationship (Godfrey, et al, 2002). The new balance between victim, offender and the system itself was spelled out in 'Justice for All' (HM Government, 2002) and seen in the Criminal Justice Act 2003. Victims are placed in the foreground of the policy context through instruments such as the victims' charters (Home Office, nd), victim impact statements and more recently a service delivery plan to improve their satisfaction with the system (Office for Criminal Justice Reform, 2004). Drug use is therefore subject to greater punishment because of the harm that it does to individuals and the community.

In respect of drug treatment, coercion has become a stronger feature of the legislation for drug-using offenders (Hunt and Stevens, 2004) with testing of arrestees, bail linked to drug treatment referrals, generic community sentences with drug treatment and drug treatment in prison (House of Commons Library, 2005; Rumgay, 2004). The Criminal Justice Interventions Programme, in conjunction with the National Treatment Agency, is tasked to ensure individual drug users access the most effective treatments as they travel though the system. With the merger of prisons and probation creating the National Offender Management Service (NOMS) the journey is intended to be smoother in any case. The aim is for rehabilitation and punishment to focus on the offender rather than on organisational issues (Carter, 2003; Home Office, 2004b). The effect is that punishment in the community and punishment in prison join up in addressing the crime problem within the context of punitive sentencing trends, the continuing politicisation of crime and, according to Tonry (2004), selective use of research to support policy. There is, however, some recognition by the government of the part social exclusion plays in crime (Social Exclusion Unit, 2002) which cannot be addressed by purely systemic reform.

The expansion of deeper, broader and more rigorous forms of punishment in society seems set to continue. These are recognised by government as impacting upon people subject to some of the severest forms of social exclusion by virtue of their presence in the criminal justice system (Social Exclusion Unit, 2002). Other forms of social exclusion may also have contributed to their presence and in the system in the first place (Drakeford and Vanstone, 1996; Finer-Jones and Nellis, 1998). This is particularly important for considering drug use as the Advisory Council on the Misuse of Drugs (1999) pointed to the strength of evidence that social exclusionary factors cause drug problems in communities. Government policy seems to be informed by a desire to be seen to punish the crime and help the offender where they are subject to exclusionary forces beyond their control which contribute to their crime. These complementary and contradictory trends in rebalancing rights and responsibilities within New Labour policy are perhaps explained by Blair's 'moral authoritarianism' and the communitarian ideal of community regeneration and individual responsibility (Hughes, 2000; Green, 2002). This was made explicit in relation to community justice through (the former Home Secretary) David Blunkett's civil renewal agenda and the promotion of active citizenship (Blunkett, 2001). The ways in which these aspects of ideology are related to each other are crucial to policy formation.

The form in which social exclusion is conceptualised and applied in the field of community justice policy therefore becomes crucial to understanding new practices of 'offender management'. According to Young and Matthews (2003) a narrow conceptualisation is used which focuses on individual agency whilst acknowledging the impact of global economic forces. The context of social exclusion is recognised by New Labour as being beyond individual control as broadly based social, economic and political factors play a part. Nonetheless this context is ignored when it comes to the responsibility for action as the impact of globalization is seen as beyond government action (Young and Matthews, 2003). As a result it becomes expected that people subject to

social exclusion have a responsibility to help themselves, when government provides the tools to do so, even though government denies their own political agency within the global context. It is here that the historical criminal justice concern to engender repentance and reform in order to be reintegrated - apparent in the moralistic tradition of police court missionaries - becomes evident in a contemporary form. The offender has to present as ready, willing and able to enter into the treatment made available within the system. As Parker (2004: 383) suspects it may be that drug users come to 'construct their biographies and accounts with great care' to ensure entry into treatment if this is what they want. If they do not engage in a rehabilitative programme then punishment, preferably out of the community, becomes desirable within the public policy discourse to protect further victims from the harm associated with crime. In this context offender rehabilitation is demanded of lawbreakers. This marks a process of exclusion rather than inclusion in contemporary approaches to dealing with crime for those who are not successful in the rehabilitative enterprise (Kemshall, 2002). Julian Buchanan (2004) has shown how this is translated, within community justice drugs treatment, to an emphasis upon psychological rather than social context factors in the policy approach. This elaborates the approach to social exclusion and individual responsibility within the sentencing discourse outlined above. Unfortunately, combined with the punitive trend in punishment, the social context of drug-related offending is only likely to be worsened by a policy that pushes perpetrators towards prison.

The drugs and crime control policy environment

The broad social concerns about 'risky' individuals (Hudson, 2003) resonate strongly in the community justice and penological policy environment in relation to drugs (Fischer, 2003). It reflects historical conceptions of drug users as pathological individuals who must be cured of their addiction because it takes control of them and threatens others. Drug using offenders often score highly on risk-needs predictors because of their previous level of offending and seemingly intransigent behaviour - or 'chronic relapsing condition' as it is pathologised within the medical discourse. In health terms the public risks from HIV and hepatitis add to the concern. In a sentencing climate dominated by 'popular punitiveness' (Bottoms, 1995) drug users in the criminal justice system have come to be regarded as a prime target for intervention. This has been supported by research that suggests that users have often not received treatment previously (Edmunds et al, 1999) and that such treatment is effective (Polkinghorne et al, 1996; Holloway, Bennett, and Farrington, 2005).

Another line of research suggests that people are not simply 'addicted to drugs' but rather have variable phases of use in their lives (see for example, Heather and Robinson, 1985; Rumgay, 2004: 251; Barber, 2002: 130). This echoes Matza's (1964) delinquency and drift thesis that illustrates offending is not a state but a dynamic personal and social process. This indicates that for drug-related offending the timing and nature of treatment may well be as important as simply providing it universally. More controversially Norland,

Sowell and DiChiara (2003) argue that those receiving treatment may do no better than those who drop out and coercion may not be successful in retaining people in treatment. In reviewing the key American literature they present the data in simpler terms than the original studies, allowing a comparison between those who continue to receive treatment and those who drop out. Whilst there is support for some types of treatment being effective they argue that there is little empirical evidence for real differences in the outcomes of the two groups. This suggests not that voluntary and coerced treatment is equally effective but that there is little evidence that sustained treatment is any more effective than self directed change by those who present for treatment and then drop out. This is supported by Orford's (1999) review of a robust treatment evaluation within the alcohol field that suggests little difference between treatment types and, indeed, questions whether it is treatment that is the operating variable in any case. In the drug treatment field there is parallel equivocation in research related to the impact of coercion (Hunt and Stevens, 2004). The benefits of coerced drug treatment may therefore not be as clear as current government policy supposes.

If this is really the situation then the ramifications for policy are significant as the tendency towards prison in sentencing may push those who do not comply with coerced treatment towards criminogenic environments. Thus Holloway, Bennett and Farrington's (2005) recent narrative and meta-analytic review of drug treatment in the criminal justice system is important. It shows government policy, in utilitarian terms, is working as treatment is associated with positive outcomes in relation to drug use and offending. In doing so it acts to support the policy of coerced treatment within a punitive sentencing climate where many drug using offenders do not complete treatment and are returned to court for further sentencing, possibly imprisonment. If left to continue with an improvement in their drug-using behaviour within the community then they may fare better than being placed in custody. At the very least it is possible to conclude that treatment may be suitable for some people at some times in their life but it is not a universal panacea as currently stated, especially when coerced. As Holloway, Bennett and Farrington (2005) acknowledge in their conclusion, far more research is needed on the relationship between drug use, treatment and crime especially as there are limitations in current evaluations.

Furthermore Hough and Turnbull (2001), using evidence from the Home Office, point out that it is not all drug users who are a cause for concern in the criminal justice system. Those who are actively offending and drug-using represent only a proportion (albeit a significant one in policy terms) of a bigger group of persistent offenders and smaller proportion of all drug users. This reflects something of the complex aetiology and understanding of drug-related crime but also shows that drug use and crime are not synonymous. The issue with the drug-related offending group is that the harm they cause others may or may not be ameliorated if they choose to enter treatment. Whilst their criminal activity cannot be seen in isolation from their drug use it may, nonetheless, continue once drug use is reduced. Simply addressing drug use without attention to the broader criminogenic factors at play in the drugs-crime relationship may undermine the outcome of reduced offending (Rumgay,

2003). This is why the neglect of social exclusion as a factor within drug use is significant (Buchanan, 2004). Also, what seems to be missing from recent analyses of the problem is a recognition that changing patterns of personal drug use and offending are affected by more than the external interventions of the criminal justice systems upon individuals as indicated by Norland, Sowell and Di Chiara's (2003) review above. Farrall (2002) addresses this in relation to the desistance from crime within community sentences in general. For drug-related offending it is these same personal and social processes that impact upon motivation and participation in a drug-free lifestyle that avoids crime. Thus relationships, occupational activities and community connections have an effect within the social domain (Barber, 2002). This is important not just in relation to abstinence from drug use and desistance from crime but also in reducing harm where levels and methods of drug use are improved. These factors potentially impact upon the broadest range of drug-related offending. This can span low level sporadic offenders through to those who commit offences regularly (Allen, 2005). The desistance literature also suggests a distinct change in emphasis for community justice interventions (Maruna and Immarigeon, 2004). This would be away from just the individual towards the situation of the user.

Whether the treatment available in the community justice system is in any case effective for the diverse range of drug users found in practice, such as women and those with mental health problems, is also a moot point (Fowler, 2002). Women offenders have been found to use drugs and heroin in greater proportions than comparable groups of men before arriving in prison (Home Office, 2003: 37). Mental health issues are also more prevalent for this group (Nacro, 2002). Drug services in the community tend to be geared towards patterns of delivery suitable for white male heroin users, who although significant, do not constitute the only group of policy concern. More generally what is hard to support is the idea that incarcerating drug using offenders is likely to address their underlying problems, even with all the facilities now available from the prison service. Whilst the policy position that 'prisons make bad people worse' may have slipped from view the relationship between incarceration, social exclusion and further offending is accepted albeit with the limitations discussed above.

The particular case of drug treatment for people involved in criminal behaviour illustrates some of the problems inherent in policy. This field has been subject to the same wave of evidence-based policy associated with the social science disciplines (Young et al, 2002). It was Michael Hough's literature review for the Drugs Prevention Initiative in 1996 that first highlighted the research support for coerced drug treatment and was used in subsequent government policy development (Home Office, 1998). This cited American evidence that voluntary and coerced clients fared equally well in many forms of treatment. A distinction was also drawn in ethical terms between coerced and compulsory treatment with informed consent supporting the former. The implications for the British system became clear when a coerced treatment scheme was judged a 'success' (Barton, 1999) and a pilot for Drug Testing and Treatment Orders was swiftly evaluated ahead of a national roll out (Turnbull, 1999). Hough and Mitchell's (2003) more recent review of the literature on coercion

and treatment addresses ethical issues by considering not just positive outcomes but also proportionality. They argued that the treatment mandated needs to be balanced with any punishment that might otherwise have been provided. Whilst this is reminiscent of welfare and justice arguments that led to the Criminal Justice Act 1991, such debates are now undertaken in a policy setting that is underpinned by research purporting to show the significant and widespread harm that can be done by drug-using offenders to victims in society. The difficulty here is that not all drug users are offending and not all drug-using offenders are prolific in their offending as Hough and Turnbull (2001) acknowledge.

The current central assumption of the need for treatment or punishment within the system misses the key part that broader motivational forces play in the social lives of drug users. This is also missing from Hough's earlier summary of the literature on coercion and treatment that relies heavily on American work. The positive outcomes which are relied upon often refer to research which conflates coercion with the referral status of those in, or seeking, drug treatment. In other words, those who come from a court, probation or prison source must inevitably be coerced.

Anglin, Prendergast and Farabee (1998) suggest that whilst coerced treatment is effective, the place of internal motivation amongst those participating in treatment has been neglected in the literature. This finding, combined with an earlier study by Marlow et al (1996) that found informal psychosocial pressures were more effective in coercing treatment than law enforcement ones, suggests that Hough's earlier influential interpretation of the literature may have overplayed the role of legal coercion as a factor in facilitating treatment. This review, combined with the punitive sentencing climate, has supported the development of coercive drug treatment initiatives. The point made by Wild, Newton-Taylor, and Alletto (1998) is that coercion is experienced subjectively with not all criminal justice drug users being averse to the prospect of treatment. This places considerations of the ethics of coerced treatment in the fluid context of fluctuating levels of consent.

The ambivalence which Hough and Mitchell (2003) acknowledge amongst drug users is perhaps more dynamic than they appreciate and strongly influenced by factors outside of the community justice system. By pointing to law enforcement coercion as simply another external source of motivation the part that existing social networks might play in promoting treatment is lost by the community justice system. Probation officers and criminal justice drug workers may be better employed in social interventions rather than enforcing legal sanctions for failing to comply with treatment. Miller and Flaherty (2000) suggest that coercion works by providing 'alternative consequences' for those entering and remaining in drug treatment. In other words, those who undertake treatment do so to avoid the negative consequences of prison, family or social censure. Young (2002) found perceived coercion was strongly related to the extent to which American criminal justice agencies exercised coercive strategies. This supports the logic of law enforcement coercion but strong punishments for failure and monitoring were not found to be effective in retaining people in treatment programmes. An alternative approach is also

possible. Gregoire and Burke (2004) found, based upon standardised assessments of different levels of motivation, that people who perceived that they were under legal coercion to enter treatment exhibited higher levels of motivation to change. Once again the subjective experience of those undertaking treatment was found to be significant. This research, which clearly relates higher motivation and positive treatment outcomes, places coercion in a different place in the treatment process. It becomes the product rather than cause of the willingness to engage with treatment. An alternative interpretation, that legal coercion resulted in more motivated people obtaining treatment, suggests that self-selection effects are still related to personal motivation. Whilst it is not argued that only people who have a high motivation should receive treatment, it is proposed that people's motivational state can be influenced by the policy climate of law enforcement and sentencing interventions. This is supported by Barber (2002: 39-40) who sees individual substance use problems as amenable to influence by social policy. As illustrated here the case for punishment and coercion may have been overstated in recent times. The tendency towards coercion in policy frameworks may be built on a narrow conceptualisation of research on offender rehabilitation. If punishment and legal coercion do little to build motivation to change, then the components of policy environments that may enhance motivation need to be considered. It could be that positive practices from the field are suggestive of likely ways forward that will empower individuals, make them responsible for their own actions and encourage the strengths found in some of their social networks. The locus of policy action therefore changes from external motivation to building on internal personal motivation to change once the inevitable harms of problematic drug use arise.

'Generous constraints' in policy and practice

The discussion so far has highlighted the connection between punishment and social exclusion, the neglect of social networks in the literature on coercion and drug treatment and the importance of personal motivation to entry and retention in treatment. The ethical debate on coercion has centred on notions of treatment efficacy and proportionality within a broader continuum of drug users exercising choice or being pressured by law enforcement and other forces to enter treatment. Gomart (2002) shifts the debate conceptually by considering drug users as actors within social networks. The drug users' activities are constructed within this setting rather than within traditional notions of autonomy and human agency. Whilst his ethnography focuses upon a single treatment setting the approach suggests broader theoretical lessons. The framework also fits better with what is known about the influences upon drug users entering treatment without denying the choices they make to do so, or indeed to stay or leave once there, within the social context that they inhabit. This broad social context also contains the legal actors and community justice practitioners who result from the drug using and offending lifestyle. These are not simply potential sources of oppression but rather the 'generous constraints' (Gomart, 2002: 521) in the world of the drug user. The official and social actors facilitate action chosen by the drug user within the organising frameworks of the social situation. Policy

can both ensure these are 'generous' and encourage the self-directed positive behaviours of individuals or, as may be present to a degree at the moment, tend to push people towards custody.

The personal choice of drug using offenders is therefore located within a social context. They are not a homogenous group but are treated as such within the policy discourse. The policy framework provides a climate that provides 'generous', or otherwise, constraints for individual decision-making. The punitive sentencing ethos promotes the use of carceral environments that bring on the negative conditions associated with social exclusion. This in turn undermines the capacity of social networks to support change processes and the opportunities available to individuals. Systemic solutions can provide clear avenues for improvement, but their linkage to patterned mechanisms of health and justice delivery can result in self-determined change processes being undermined. This is particularly the case for people from minority groups such as women. More generally the decisions of drug users to reduce or improve their drug using behaviour are not encouraged in a system geared towards formal compliance and legal coercion. The partnerships between health and justice have created a system which matches the prevailing policy frameworks rather than the reality of change for drug-using offenders. Such change is in itself heterogeneous and covers different types of use, at different periods, not all of which is acquisitive or street crime-related (Allen, 2005). The variability of use is only matched by the complexity involved in identifying the core of persistent drug-using offenders that are emblematic of policy concerns. Here the tendency to over predict can only be assumed as the 'drugs causes crime' mantra is repeated around the system. This can even be the case with contemporary risk-needs predictors combining actuarial and clinical assessments as high percentage scores can be interpreted, for drug using offenders, as indicative of persistent high volume crime when patterns are probably far more differentiated across the group.

By contrast contemporary approaches to working with drug users view individuals as capable of making decisions about their drug use but recognise the complex processes at play in drug-using decisions that are situated in social patterns of consumption. Nonetheless the focus on the individual case within practice can ignore the complexity of causation at personal, social and community levels in problematic drug using behaviour. Since coercion works most poignantly at an individual level, is embedded in community justice organisational and policy frameworks, and is designed to reduce harm to communities, it might be expected that practice would also support it. This is not, in my experience, generally the case although law enforcement mechanisms are factored into practice routines.

Motivational, solution-focused and pro-social practice interventions rely on a broad base of experience in the field of substance misuse and a wide array of psychological theories encompassing humanistic, cognitive and psychodynamic elements. Motivational interviewing (Miller and Rollnick, 2002) is expressly transtheoretical and builds on a greater understanding of the variability of human motivation. It sits within the cycle of change (Prochaska, Diclemente and Norcross, 1992) which helps to assess for an appropriate

intervention at the different stages of motivation. Drug users who are not aware of the risks and harms of their behaviour are considered as pre-contemplative with those who are more ambivalent and weighing up the pros and cons of their behaviour as contemplative. When action is taken then a different stage of motivation is entered and a change in drug use takes place. This can be consolidated when the change is maintained. The external motivator of the intervention is designed to build the internal motivation of the drug user. This might be through raising awareness of the risks and harms of the drug using behaviour or working jointly to produce a plan of action to reduce or stop drug-using behaviour. In this approach the worker should not argue or otherwise increase resistance to change by challenging the person directly. The approach works strategically to promote change through the amplification of positive motivation.

Similarly, solution-focused brief therapy works with the current state of the person experiencing problems (O'Connell, 1998). It is assumed that individuals have the capacity to provide the solutions to their own problems that are most appropriate for them. There is no explicit direction or even advice giving as this is considered to undermine the change process. Instead problem-free talk is encouraged illustrating how the drug user does in fact cope with many aspects of their life successfully. The 'miracle question' allows the possibility of change to be introduced and scale questions encourage incremental progress towards problem-free goals (George, Iveson, and Ratner, 1999). The obvious problem here is where a person does not regard their use as problematic. As such a motivational interviewing approach might be more appropriate. With both approaches there is no overt coercion for change but psychological processes are relied upon to engender the strategic goals of the intervention. A reduction in harm to the individual and others is the overall direction in which the worker will be going. In probation this may be explicitly framed around risk and offending. The goals of practice are therefore aligned with the desired goals of policy but the means by which they are implemented rely less on punishment than building on the strengths of the offender in the context of the problematic behaviours associated with the drug use and offending.

Pro-social modelling builds into the day to day interactions between worker and client a schedule of reinforcement for positive behaviours (Trotter, 1999). Workers need to consider the types of behaviour that they intend to reward. This might be where the offender completes an agreed goal or gives an example of avoiding criminal associates. Praise is provided verbally or perhaps in a more tangible way such as reducing the rate of attendance. Modelling by the worker involves behaving towards the person, as they would want the person to behave in the community. This modelling would show respect for the person so that they demonstrated appropriate respect to others.

All three approaches seek to change behaviour but do so in ways which promote positive choices rather than by imposing punitive solutions. In the final part of this study of practice the application of such approaches is illustrated in a case example. The interventions of workers are contrasted with

the impact of the system of justice upon motivation and the personal capacity for change. The causal factors of drug misuse associated with community, social setting and life history are examined to see how appropriate the new punitive ethos in sentencing is for effectively addressing the harm from drug using offenders. Whilst the criminogenic factor of drug use is given primacy it is recognised that a broader array of factors may be at work in the offending history and current risks of individuals. As such other interventions and penological considerations may also be applicable.

Case Study

Jenny was a 21 year old woman. She had 10 previous sets of convictions sating back to when she was 13. Her family was middle class with one parent working as a health service professional and the other as a homemaker. An older sister had no involvement with the law. Jenny described having been sexually abused by a close relative during her early childhood although she did not want to report it to the authorities, as she feared the effect upon the family. Offending had predominantly involved theft and shoplifting. Jenny had experienced the full range of court sentences including two short periods in custody when she was 18 and 20 years. Substance use had started at 14 years with cannabis and then a variety of other drugs. At 16 years Jenny started to use heroin regularly and at the same time her offending escalated. This included theft from members of her family and she was not allowed to stay at the family home although contact was maintained with the mother and sister. She experienced periods of homelessness and started to work in the sex industry. A number of relationships were maintained with partners who also used drugs regularly. The most recent one perpetrated domestic violence against her.

During periods of probation supervision attempts were made to stabilise Jenny's situation through work on housing, relationship and drugs issues. Concerns at the risk of self harm and risk from unsafe injecting practices were also addressed. Her motivation wavered from precontemplative to contemplative with progress limited by intermittent offending which resulted in court appearances. There was some contact with voluntary sector drug and support services and this was encouraged. Medical contact did not result in any sustained drug treatment as Jenny did not want to embark upon a methadone prescription as she saw this as being more problematic than heroin itself.

A further offence and breach of an existing community rehabilitation order led to a Drug Testing and Treatment Order (DTTO). This provided a more structured programme of drugs work, regular oversight from the sentencing court and a strict regime of tests and appointments which, if breached, could lead to imprisonment. This response was undoubtedly a benefit to Jenny from the joining up of medical and law enforcement responses to drug use as custody was likely to have been imposed if it was not for the more intensive monitoring and intervention that followed from the new order. Jenny indicated that she would comply with drug treatment and did not want to go to prison

again. She wanted to enter training and education, continue her relationship with her sister and have a home. Her level of motivation appeared to be improving albeit that she missed several probation appointments, was using drugs regularly funded, she said, from work in the sex industry and had been convicted of shoplifting. During the first two month period on the DTTO a prescription of methadone was provided but Jenny continued to use heroin albeit at lower levels than prior to sentencing. There were two drug tests that indicated that Jenny had periods where she had complied with the treatment regime although she was still maintaining regular cannabis use. Her homelessness situation was stabilized with residence at a voluntary sector hostel. She did not fully engage with the plans initially agreed with her there and when drug using paraphernalia was found in her room she was asked to leave. More chaotic drug use took place and the prescription of methadone was stopped. Contact with the probation service and drug treatment provider was maintained. Eventually, after further breach proceedings, Jenny went out of contact with probation and a warrant for her arrest was issued but she did not come to the attention of the system in the following six months.

Discussion

This account is perhaps not untypical of the variation in motivation than can take place in practice and the personal resilience of offenders. Whilst drug users have also been known to die from an overdose or have their health severely affected they can also sustain themselves in adverse circumstances. From the communities point of view prolific shoplifting would have added to the costs of goods for all, affecting those less well off the most. Arrest and incarceration would provide respite for shop staff and business income. It would also seem to appease the public call for protection from crime although the 'punitive turn' may not be embedded in public opinion (Roberts and Hough, 2002). The conjunction of crime control policy with social policy concerns apparent in the DTTO provided an opportunity for further community treatment in a sentencing climate that has seen vast increases in the level of imprisonment.

For community justice practitioners work with cases such as Jenny takes place in the 'shadow of the prison' as the external motivator of a custodial sentence acts as a threat. Whilst it is a real risk that can be pointed out to offenders it does not necessarily act as a catalyst for change. The deterrent effect of prison is therefore limited and the effect of incapacitation time bound, if not actually harmful in itself. The depth and breadth of Jenny's problems and triggers for offending are obvious to see even in the brief picture presented here. What cannot readily be argued is that removal from the community, sharing accommodation with other people with similar problems and the limited interventions that come from short stays in prison provides overwhelmingly positive motivational reinforcement to change behaviour. This may be regarded as a necessity by sentencers and politicians but it is not consistent with what may well work in practice. Social exclusion and community deprivation does not appear as stark causes of the onset of offending in this case but in some areas this will be a stronger contextual

influence in embedding offending. The social context of exclusion from main stream services in Jenny's case may well have been important in reinforcing existing patterns and routines of behaviour. Whilst interventions at this level were successful in providing new accommodation and a potential new personal network there remained a strong connection with existing social and drug-using relationships. This leaves the individual level and likely impact of work on drug problems and attitudinal change.

The 'generous constraint' of coerced treatment provided an opportunity for a different context in which Jenny could operate. The same social networks that may have prompted her to seek refuge in treatment may also have proved alluring when it came to leaving treatment and breaching the DTTO. The ambivalence which became clear to see was no longer situated in just a legal framework but also a personal and social one. In Jenny's case the 'alternative consequences' of likely imprisonment proved to have little influence upon her actions.

There were indications in practice that motivational and solution-focused approaches contributed to, or sustained, Jenny's desire to change her level of drug use. Nonetheless her personal history shows the strength of the barriers that would need to be overcome. Clearly treatment and interventions provide opportunities to develop the process of change but this is taking place for drug users in any case. It is the harm done through imprisonment that may be greater than the external motivation provided for coerced treatment. The sentencing balance between treatment and custody seems to have swung in favour of more treatment and more custody for breach of the treatment. Both may be mistaken though neither need be excluded on public policy grounds.

The key issue is that drug users either are changing or they are not changing and there is no evidence that prison assists in this process. This leaves only the possibility of recognising the limitations of criminal justice and medical interventions and the need for long term perspectives to be adopted in assessing success or failure of work with drug using offenders. To dismiss DTTOs as a failure because of the high proportion of cases that do not complete the order is to mistake the outcome statistics for the reality of offender's lives and the policy climate for the practicalities of change on the ground. DTTOs, and now the new generic community sentence with treatment requirements, appear as a reflection of broader policy concerns and their impact upon the motivational context for offenders may be limited in comparison to personal histories and the opportunity they provide for support in a change process. The consequence of imprisonment for breach of such orders may be an impediment to long term change rather than a support for the motivational impact of treatment. Perhaps flexible treatment is more important than whether it is coerced. This could usefully support social rather than individual change factors (Buchanan, 2004) and recognise that drug users are not all the same. Thus risk assessments could highlight the potential harm of imprisonment, the variability in drug use and crime with some practice wisdom on the need for long term perspectives to be adopted if sentencing is to contribute positively to the process of change.

Acknowledgements

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