



Dialogues with Durban Law Enforcement

An overview of discussions on the policies, approaches and effects of the policing of street level drug use

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DIALOGUES WITH DURBAN LAW ENFORCEMENT

An overview of discussions on the policies, approaches and effects of the policing of street level drug use.

This report is a joint collaboration between TB/HIV Care Association and The Urban Futures Centre at The Durban University of Technology.

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All the law enforcement officials and members of the National Prosecuting Authority who attended the workshops between 2015 and 2017.

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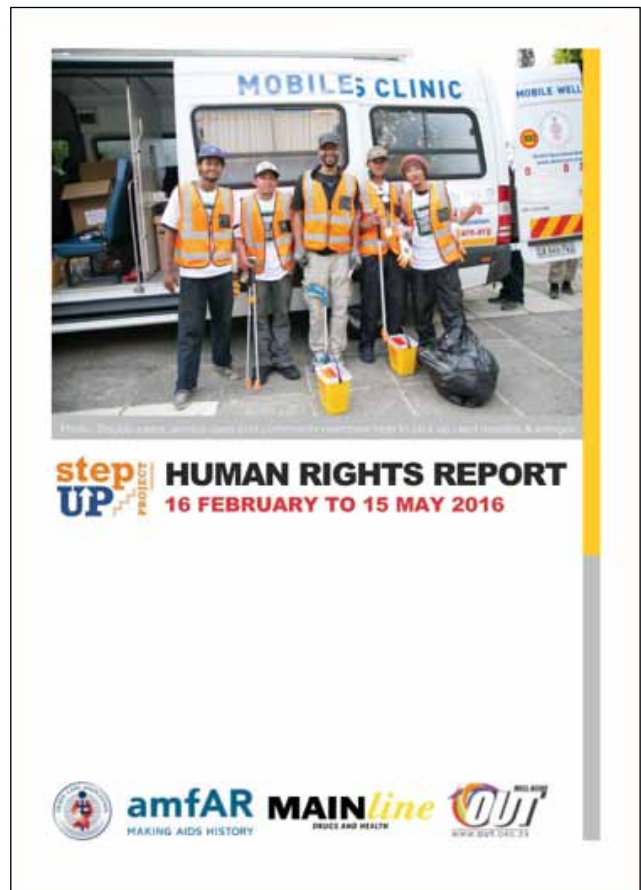
BACKGROUND

TB/HIV Care Association (THC) is a non-governmental organisation providing health services to communities across South Africa, with a focus on services relating to TB and HIV. The Key Populations programme provides services to those most at risk of and affected by HIV: sex workers and people who inject drugs (PWID).

HIV risk reduction requires that all people, especially key populations, have access to health service provision. Since 2015 THC, together with OUT Wellbeing (OUT), has provided a package of HIV prevention and harm reduction services to people who inject drugs (PWID) in Cape Town, Pretoria and Durban. A fourth city (Port Elizabeth) was added in 2017. Services include HIV counselling and testing, TB screening, the provision of sterile injecting equipment and behaviour change interventions. From the outset the Step Up project has sought to listen to PWID, recognise the challenges they face, and be responsive to these. This has been done through empathic service delivery, community advisory groups and through the ongoing documentation of human rights abuses suffered by PWID.

The Step Up Project work has highlighted the extent to which PWUD suffer pervasive stigmatisation and struggle to access public services. It has also revealed the human rights abuses they experience on multiple fronts, including from law enforcement agencies (LEAs). While law enforcement officials should protect human rights, they commit some of the worst rights infringements that PWID experience. This is often in partnership with neighbourhood watches. Violations are supported by the criminalisation of drug use, law enforcement mandates and an overarching punitive approach to drug use, and drug users.

In contrast, HIV prevention services, such as those provided by THC, require that a supportive, non-judgemental, approach is taken in service provision. This means that LEAs and harm reduction service providers can find themselves operating under



A quarterly human rights report

mandates which seem to conflict. Moreover, current policing has does not seem to have notable effect on drug use. The little data which does exist indicates a low conviction rate and an increase in the prevalence of drug use and a decrease in the nominal price of drugs.

UNODC. (2014). National PWID community consultation. Report. Cape Town: UNODC.

GENERATING A CONSTRUCTIVE RESPONSE: DIALOGUES & WORKSHOPS

Based on the conviction that human rights abuses partly rest on a lack of knowledge and understanding of the rights, realities and experiences of PWUD, and the recognition that opportunities for law enforcement officials to express their opinions and experiences about drug-related policing creates an important source of knowledge, the THC and the Urban Futures Centre, Durban University of Technology, implemented a series of dialogues between PWUD and law enforcement officials.

These dialogues sought to:

- Provide project leaders and researchers an opportunity to learn about the issues that law enforcement officials confront in their work.
- Provide law enforcement officials information about the complexities, rights and particular health concerns that PWUD face.
- Build relationships between the police, members of the drug use community, relevant service providers, and academia.
- Create a forum to disrupt understandings both about the police and about people who use drugs, in conversational dialogues, as a means of breaking from adversarial relations.

The processes, run in 2015 and 2016, were held at the Urban Futures Centre at the Durban University of Technology (DUT). A diverse range of LEAs were invited to participate in the workshops. This included, amongst others, representatives from the Durban Metropolitan Police Service (DMPS), the South African Police Service (SAPS), and the Directorate for Priority Investigations (DCPI, colloquially known as the Hawks).

Each workshop was designed with a set of objectives in mind. While the workshops were stand alone, as a package the overall aim of this process was to begin sincere dialogue with the police about their experiences of policing street level drug use, and to familiarise the police with the harm reduction approach to issues of drug use and to the harm reduction approach. All workshops were organised on the basis that all participants have knowledge and expertise, feeding into a general Participatory Action Research approach to knowledge generation. A note-taker recorded the meeting participants, aims, process and recommendations. These notes have been reviewed together for the development of initial findings and recommendations presented here. The table below summarises the events and participants.

WORKSHOP	1 26 NOV 2015	2 11 FEB 2015	3 5 APRIL 2015	4 19 SEPT 2015
Number of Participants	15	13	17	35
Organizations Represented	DMPS KZN Department of Health	DMPS SAPS	DMPS SAPS DPCI eThekweni Urban Management Durban City Health	DMPS SAPS DPCI (Hawks) KZN PHQ Border Control Authorities Crime Intelligence National Prosecuting Authority (NPA) University of Cape Town (UCT) Institute of Security Studies (ISS)

SUMMARY FINDINGS & RECOMMENDATIONS

This section summarises initial findings from the workshops described in this document and makes recommendations for harm reduction advocates and implementers. These are not exhaustive, nor are they necessarily generalisable to the varied South African context. They are intended as a starting point for thinking and action towards harm reduction promotion in South Africa, particularly in regard to law enforcement.

1. Policing agencies are limited in very structural ways in their ability to intervene appropriately and effectively with drug use issues, particularly within a human rights and community policing frame.

Police officers and LEA duties and actions are set by the overarching national legislative framework, rather than on more localised priorities and experience. The requirement to meet performance targets is particularly influential in determining their actions, and limits the police in their capacity to be responsive and creative in determining interventions that have both good public health and public safety outcomes.

Recommendation: Change should be sought at a policy level, particularly in regard to key policing policies and the harmonisation with health care policy.

2. Police are representative of the broader population. In South Africa, police officers often operate in harsh and traumatic working conditions, with little recourse to the support and help they may require. They are also representative of (mostly conservative) discourses and perspectives embedded in society. Holding individual officers accountable for prejudices and misunderstandings that are deeply embedded in the fabric of social groupings further isolates them and generates unnecessary antagonism and conflict. An adversarial approach is counter-productive to the initiation and implementation of harm reduction projects.

Recommendation: Support learning in police and LEAs. Do not stigmatise the police as creating more harm, but rather try to understand the organisational and policy landscape that they are required to operate within. Work with the police – not against them – in lobbying for alternative performance management practice.

3. Changing perspectives requires open dialogues. There is a history of antagonism between different interest groups related to drug use. Putting differences aside and truly seeking honest discussion is required for all parties to find a constructive meeting place. Police are able to view their own work and roles critically and to develop new perspectives on the work they do and the people they work with. However, this requires that all parties are committed to open dialogue.

Recommendation: Recognise that police are able to think about their own work critically and change their views on their work and the people they work with. It is critical to provide police with the space and the processes to express their concerns, dilemmas and street knowledge without fear of reprisal or condemnation.

4. Dialogues require safe spaces. Police officers are subject to organisational frameworks and principles which may stifle opposing viewpoints. This may be particularly prevalent for LEAs due to an occupational need for discretion and an organisational culture of secrecy and mistrust. Consequently, individuals voicing support for harm reduction may be risking their own professional standing amongst peers and superiors. A demonstration of mutual respect and trustworthiness from harm reduction advocates allows for mutually beneficial and supportive relationships to develop.

Recommendation: Any willingness to engage in dialogues should be appreciated and explored. Appropriate care should be taken in the use of the knowledge gained in such dialogues.

5. LEAs concerns and solutions require carefully considered responses. Law enforcement officials raised concerns about the risks of incorrectly disposed needles to them and to the general public and about the dereliction of duty. Once these concerns are viewed as authentic and complex, partnerships can be cemented and further facilitated by treating these concerns seriously.

Recommendation: Respond timeously and seriously to concerns raised by the police and work with the police in finding solutions to tricky problems.

6. Police are valuable partners. Police do hold positions of power and authority, particularly given their mandate to restrict freedoms and to use force within a legislative and operational landscape. These powers that the police hold mean that they have the capacity to undermine or even prevent interventions or projects from achieving their goals. At the same time police make sense of the streets and of the most local of communities extremely well. They also remain a first line responder agency given both their visibility and their 24/7 operational hours. This means that if police knowledge and capacity is mobilised effectively and respectfully they can contribute in very positive ways to project design and implementation. Engaging their knowledge as valuable, while facilitating a human rights framework for sense making makes the police excellent potential advocates of harm reduction strategies and programmes.

POSTER PRESENTATION

A poster was presented at the IAS conference in Durban: Opportunities to work with law enforcement, community members & political leaders to enhance the effectiveness of HIV prevention programmes for people who inject drugs in three South African cities.



The poster described the rights violations suffered by PWUD, and examined the relationship between violations by LEA and political opposition to harm reduction.

Recommendation: Facilitate harm reduction programmes and discourse that recognise and engage police as valuable partners. Seek out police who are likely to be harm reduction advocates. Their opinions and perspective do count and they have the capacity to facilitate harm reduction initiatives, and to legitimise them in the eyes of the general public.

OUTCOMES

These workshops as a set have achieved the following outcomes:

- Strengthened mutually supportive relationships between LEAs and harm reduction groupings, fostering trust and understanding.
- Provided novel insights into the unique position many law enforcement officials occupy in relation to the drug-using population.
- Provided insight into the ways in which LEAs impact on the health and wellbeing of PWUD, and how current practices can be ameliorated or changed completely.
- Generated an informed conference poster and a journal article, with more to follow.

WORKSHOP 1

Number of participants: 15
Date: 26 November 2015
Participant institutions: Durban Metropolitan Police Services
KwaZulu-Natal Department of Health

AIMS	DISCUSSION AREAS
<ul style="list-style-type: none">• To sensitise law enforcement officials to the problems and needs of PWUD, both individually and as a community.• To develop an understanding amongst LEAs of the positive roles they can play in keeping communities safer and healthier.• To establish the parameters of the common purpose(s) shared by LEAs and the THC.• To encourage discussions around how LEAs can aid, support and operationalise the delivery of harm reduction based services.• To create a base for positive future dialogue.	<ul style="list-style-type: none">• The Step Up Project.• Harm reduction.• The role of LEAs in improving public health outcomes.• The challenges that LEAs face in policing related to drug use.

KEY POINTS

1. Police mandates

Police focus on street level drug users, rather than on supply chains. Police officers are mandated to focus on PWUD, and to enact arrests and searches with a year on year increase of 13%. The knock on effect is that very little police attention is given to drug production and supply, despite police understanding the importance of this. Police are frustrated by the futility of ongoing arrests of 'low level' drug users.

2. Police experiences

Frustration. Police felt frustrated by the judicial system's failure to translate their arrests into meaningful convictions for dealers or high-level syndicates. They were also frustrated by their on ground

understanding that arrest of street level drug users has no effect on minimising drug use and supply, and that the focus on this performance requirement deflects police resources from what they view as more core functions such as maintaining public order and combatting serious crime.

Compassion. While not necessarily unanticipated, the police did express compassion for PWUD. Police have some understanding of the drivers of problematic drug use and its impact on individuals and on families. In addition, problematic substance use is prevalent within the police organisation as well.

This compassion that emerged in the dialogue session was, however, intertwined with the othering of drug users and with a moralising discourse of drug use.

3. Recognition developed

Lack of appropriate current services. Officers believe that current 'rehabilitation' programmes are ineffective (as is backed up by relevant research) and that there is a serious lack of referral options for the police when they are confronted with people who use drugs and are in need of help.

Discretion. It was accepted that officers have some discretion in their activities and that this can result in both positive and negative actions. Senior managers and commanders did note that use of discretion, at their level, is tempered by a concern with dereliction of duty for more junior officers. In other words, if according to existing legislation drug use is criminalised and police, based on discretion, opt not to make arrests, they can be held liable by the various policing authorities. This weighs heavy on police commanders who are genuinely concerned with those under their command in more junior ranks.

RECOMMENDATIONS FROM THE POLICE

- Alternative solutions to current drug problems and to tricky law enforcement issues were crafted in the workshop. Police, for example, came up with innovative means for branding needles and syringes meant for NSP projects so that these are not confused with others that are found discarded in public places. Innovative contribution such as these, where possible, should be piloted, where possible.
- Provide supportive alternatives beyond the criminal justice system, and for police to be empowered as a referral agency. This requires buy-in from top level cops and from politicians, as well as the development and recognition of evidence based interventions.
- Continue the dialogue between police, harm reduction advocates and academics. These should take place within a neutral space such as the university.

KEY QUOTES

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There is currently a focus on end users and not on the producers of drugs, or a particular drug syndicate. There is also a relationship between drug syndicates getting involved into other crimes, like human trafficking. In the past 10 years drug [laboratories] have increased from 3 per annum to 95 per annum.

“

Police culture is very slow to evolve. Our senior managers are from those orthodox systems. It's hard to get these senior managers to accept new methodologies, usually because of capital expenses and also their general mindset and paradigms.

“

We don't like drug dealers because they don't care about users, but with drug users we understand them, and we feel sorry for them – they can't help it, they don't want to take drugs.

WORKSHOP 2

Number of participants: 13
Date: 11 February 2016
Participant institutions: Durban Metropolitan Police Services
SAPS

AIMS	DISCUSSION AREAS
<ul style="list-style-type: none">• Critically review and discuss current policing operations related to street level drugs.• Critically review and discuss the rationale and outcomes of policing whoonga in the Durban CBD.• Possible innovations within the	<p>existing system for alleviating the growing problem of street level drug use and its associated harms.</p> <ul style="list-style-type: none">• International trends in the policing of drug use.• The March 2016 UN Special Assembly on Drugs.• The Opioid Substitution Therapy (OST) Demonstration Project planned by THC and Durban University of Technology.

KEY POINTS

1. Mandates

National pressure. The demand to act decisively, despite having little evidence of success, comes from national directives to 'clean' cities of crime, as well as public and political pressure. This pressure undermines the police officials' responses, and decreases the opportunity for them to seek more humane alternatives to simple arrests.

2. Local particularities

Localised policing. The Durban Central Business District is policed differently to other areas. There are currently approximately 10-12 officers who focus on the primary area in the inner city in which whoonga users congregate, patrolling in plain clothes and uniform. Such policing practices, along with targeted raids, were seen as having a temporary 'dampening' effect of both drug and other crimes. Despite being part of a broader crime prevention unit, little is actually been done to prevent crime because of the focus on the low hanging fruit i.e. street level drug users.

Increasing levels of whoonga. The prevalence of whoonga continues to increase in Durban despite strong law enforcement tactics. Markets are diverted not halted. Some officers reported that high-level distribution was undertaken by foreign nationals, while in reality South Africans are deeply embedded in the drug market chain at all levels.

Minors, females and homeless individuals are involved. Police are limited in what they can do regarding minors found to be suspected of criminal activities. This is because there are limited facilities available for the most vulnerable of the drug use community, and because social development agencies are never open in the evenings or on the weekends. The result is that apprehended juvenile drug users are kept in police holding cells which the police recognise is not an appropriate response.

3. Weaknesses in the current approaches

Lack of diversion programmes. The police spoke about the need for proper diversion programmes for low-level drug users. Most felt that criminalisation was not beneficial to drug users as this further marginalised them from society.

Poor relations between PWUD and police. The police are well aware that currently drug users fear the police and that this relationship is not beneficial to drug users or to the police themselves.

Absence of an integrated approach. The group consensus was that responding to 'on the street' PWUD should be the responsibility of the combined social services framework, which falls under the National Departments of Health, Social Development and Education. The absence of such an integrated strategy was viewed by the police officers as contributing to the growing population of homelessness and other societal concerns, which the police are not equipped or trained to effectively engage with. Leaving the response to police adds to their stress.

Inappropriate metrics of success. Officers noted that current key performance indicators (arrests) and policing tactics (including planned raids, dispersals and 'bust and buys') are ineffective. The impracticality of arresting the same people numerous times for the same offences, often within a day or so of the previous arrest, was underlined and acknowledged as futile. It was recognised that these methods do not address the drivers of whoonga use.

4. Police experiences

Frustration. Officers consistently described themselves as frustrated by their own organisational structure and by the lack of understanding of the limited role that law enforcement does and should be playing in regard to drug use issues.



Police interrupt service delivery while a staff member waits.

Sympathy. That such a large contingent of officers wanted to attend the workshop was felt as indicative of their sympathy and concern, but it was also noted that acting on this 'sympathy' is incredibly difficult in the current political and organisational climate that the police work within.

5. Recognition developed

PWUD have citizens' rights. Through the dialogue process police officers recognised that pressure to act harshly against drug users did not mitigate the fact that drug users are members of the community and should be afforded the same protection and rights as other people.

RECOMMENDATIONS

1. Senior officers must be targeted if ground level change is to be realised. The police are currently constrained by existing targets, managerial practices and legislation.

2. Introduce diversion programmes. There are currently no real diversion programmes in Durban for the police to refer PWUD to. In addition, the police openly spoke of their support of OST programmes and also of the creation of drug consumption rooms.

3. Develop new metrics, supported by research. New metrics need to be developed that are not numerically driven and additive in nature. Research should be done on 'best practices'. Supportive legislative changes should be sought

4. Continue the discussion. The workshop was seen to be useful in that it identified core issues. Participants felt that discussions would contribute to the formulation of more appropriate operational policy in this context. The group agreed to meet every two months to continue with the critical reflections and to discuss identified issues about drug use. It was agreed that the following meeting was to be held to report back on the United Nations General Assembly meeting.

KEY QUOTE

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A major problem is that many users are homeless, and they revert to crime to feed their habit and to sustain themselves. There are also a lot of street children involved in drugs. Child Welfare should be more involved as there is a limit to what police officers can do.

WORKSHOP 3

Recorded no. of participants: 17
Date: 5 April 2016
Participant institutions: Durban Metropolitan Police Services
SAPS
DPCI Hawks
eThekweni Urban Management
Durban City Health

AIMS	DISCUSSION AREAS
<ul style="list-style-type: none">• To review heroin use in eThekweni and KZN.• To present global evidence supporting harm reduction interventions, and stimulate debate around interventions such as OST and NSP programmes.• To identify, prioritise and seek to resolve drug related concerns held by enforcement, health and municipal bodies.• To introduce the THC demonstration project that delivers HIV prevention services to injecting drug users in the eThekweni district of KZN.• To create a platform for dialogue around drug use interventions, including OST.• To draw out common goals between public health, social services and law enforcement in improving the health, wellbeing and safety of all people in the City through an evidence-based, rights-affirming approach.	<ul style="list-style-type: none">• Identification and prioritisation of concerns and queries relating to drugs and their use.• Explanation and review of some of the basic principles of drug use, the definition of problematic drug use, and primary treatment strategies.• Identification of the problems faced by PWID service providers.• Description of the interventions that have been shown to be effective against the spread of HIV and related health matters.• Comparison of the role of public safety and public health within the present legislative framework.

KEY POINTS

1. Concerns about the Step Up Project.

Encouraging drug use. Some law enforcement officials expressed concerns that the project was encouraging drug use, and aiding and abetting crime.

Safety. A number of police officers that were participating in this workshop were worried about the safety of law enforcement officials as a result of needle injuries due to improper waste disposal.

Lack of appropriate current services. Law enforcement officials indicated that there was a lack of appropriate facilities for PWUD and appropriate treatment interventions.

Police image. Some police officers had concerns about what would happen if LEAs were seen to not be responding to drug use. This is primarily because of the strong support by political leaders and the local community of a strong law enforcement and prohibitionist stance. The police are stuck in the middle of their own tacit knowledge about the lack of efficacy of current policy and interventions and the pressure placed upon them from the top down and from the bottom up.

Questions about Step Up Project legitimacy.

Alternative sources for syringes. Participants asked what alternative sources of syringes existed. THC staff explained that research in the city showed that needles were previously bought from pharmacies, but stigma was a barrier to PWID repeatedly purchasing new needles. Alternatively, needles are bought and/or rented from drug dealers.

Legality of provision of needles and SAPS approval. Participants asked whether provision of needles was legal and asked whether approval had been received from the national office of SAPS. THC staff clarified that provision of needles is not illegal. THC has received written support both regionally and nationally from the SAPS and is currently awaiting a formal position from the SAPS legal office, which will be distributed nationally.

Reasons for project implementation. Participants questioned why the project was implemented and asked what would happen if it was not implemented. THC staff explained that the provision of needles reduces HIV infections. Shaun Shelly provided the example of Scott County in Indiana (United States) where the rate of HIV infections increased from 5 per year to 170 in six months due to a lack of appropriate services for injecting drug users. Other consequences include an increase in related infectious diseases, deteriorating social spaces, and the high expenditure of 'cleaning up'.

Finding common ground. Despite the differences in roles and mandates, the group was able to establish the common ground of seeking safer communities.

RECOMMENDATIONS

1. Implement needle for needle return. Needle return is not possible if police action for needle possession is feared. Where this is the case risk of repeat needle use and needle sharing increases. Beneficiaries should be encouraged to return needles, but it would be counter-productive to insist on a one-to-one exchange. Incentives for needle return can rather be used.

2. Implement a public awareness campaign. A public awareness campaign should be established to provide information and educate the wider public, and should include national press releases. This should draw attention to the risks of drug use, and how to best reduce these. The campaign should include a contact number for the public to report needles that have not been correctly disposed. A collection team should respond to these calls working with Durban Solid Waste disposal;

3. Brand of needles and syringes. Project needles and syringes should be easy to identify. (This, however, raised concerns about service users being identified and targeted by LEAs.)

4. Distribute descriptions and pictures of project equipment to LEA and Durban Solid Waste to inform officers and employees. This should include the acquisition, instruction on use, and use of appropriate and sealed sharps bins, which should be easy to identify.

5. Provide training for at-risk personnel. This training should be organised for the SAPS, the DMPS, Solid Waste personnel and other relevant parties. This will include training on disposal, risks, the programme, HIV and infection, post-exposure prophylaxis and associated protocols.

6. Set up needle drop boxes. In areas with high concentrations of PWID, special public sharps bins can be strategically placed so as to make the disposal of needles easy and safe.

7. Determine legal framework. Ensure that there is a clear legal framework for the operation of the NSP.

8. Set up a Step Up Project contact system. Have a dedicated national number to report needles in public spaces.

9. Pilot decriminalisation of possession of used needles. Suspend arrests in experimental policing zones for PWID carrying used needles and ascertain if this has any positive spin offs particularly in regard to the return and proper disposal of used needles and syringes.

10. Pilot decriminalisation of drug use. Pilot a project that suspends the arresting of drug users in a specific area, while focussing attention on public health concerns. This should be a long term, formal research project drawing on best practices from other contexts.

11. Set up controlled spaces for injecting drug use. Explore what a safe injecting facility would look like in the eThekweni environment and establish a facility where PWID could inject with the required resources on hand.



Used syringes are returned & counted.

KEY QUOTE

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We all share the common goal of safer communities. We want to protect life and ensure that all people can live safely in their communities. The biggest challenge is to work out how we reach our common purpose while operating within and meeting our separate mandates, knowing that there are unintended consequences from both law enforcement and health interventions.

WORKSHOP 4

Recorded no. of participants:	35
Date:	9 September 2016
Participant institutions:	Durban Metropolitan Police Services Crime Intelligence SAPS The National Prosecuting Authority DPCI Hawks The University of Cape Town Border Control Authority The Institute of Security Studies

AIMS	DISCUSSION AREAS
<ul style="list-style-type: none">• To engage with LEA on the changing policy context with regards to the Kunjana ruling by the Constitutional Court.	<ul style="list-style-type: none">• Realignment of policy and legislation in light of the implications for the policing of drugs of the ruling in the case of the Minister of Police and Others versus Kunjana.• Relationship between the courts system and the police, especially with regards to the obtaining of warrants to conduct searches and seizures.• Changes to policing modes and strategies.

BACKGROUND

In May 2016 the South African Constitutional Court determined that Section 11 of the Drugs and Drugs Trafficking Act (140 of 1992) was too broad. Prior to this ruling officers could enter premises and conduct searches on suspicion without obtaining a warrant. The Constitutional Court found that random searches based solely on officer discretion are unconstitutional, as they infringe on personal privacy rights of citizens. The ruling introduces restrictions that require that where possible a search warrant must be obtained.

KEY POINTS

1. Changes in Section 21.

Officers' names on warrant. The changes in Section 21 require that the names of the police officers who will be conducting the search are mentioned on the search warrant list. This needs to include any forensics team members. Officers raised concerns about the time this would take and the difficulties of

knowing exactly who would be part of a team, especially in relation to the names of officers who would only be used to secure the premises. The NPA noted that if there is a reason to have extra officers present then this should not be a problem in court. They indicated that officers should record everything correctly and meticulously, justifying all their actions.

Section 22. The NPA advised officers to secure statements from those who enter the premises. In situations where rapid action is required officers can consider applying Section 22.

2. Application of Section 22.

Searches without a warrant. Police can search a premises without a warrant if the owner consents, or if the officer has grounds to believe that they would be able to obtain a search warrant in reasonable time, but the urgency of the situation does not allow it. This could be if, for example, a crime is taking place or a vehicle is on the move. Concerns were raised about this.

NPA members provided guidance. NPA members advised the officers to use their discretion within the parameters of the law:

- **Suspects should not be misled.** Police need to rather record their intentions for a search honestly in their statement and to record the search results. Actions must be justifiable.
- **Section 22 can only be used on reasonable suspicion.** An attempt must first be made to verify some of the facts before searching without a warrant. This is particularly important with unreliable informants.
- **A J50 is needed to conduct an arrest.** If an officer enters a premises on suspicion of something illegal and something illegal is happening, they may read the person his/her rights and make an arrest.

Time to secure a warrant. Concerns were raised around how long it takes to secure a warrant. Verifying information, creating and formatting a statement are all time-consuming. If questions are raised about the drafted warrant in court these may need to be addressed before the warrant is resubmitted. This can take a few hours. Mobilising police officers and lab staff who are available to be part of the search add further time burdens.

Training. Lower level police officers need to be trained on these changes so that they are able to defend their actions and so that they are confident to use Section 22.

Spectrum of drugs. The discussion also touched on the broad spectrum of drugs that the police are responsible for, including pharmaceutical medications.

3. Mandates

Contradictions between performance expectations and targets and Constitutional restrictions. Further discussions were suggested about key performance indices and the ways in which 'success' should be defined.

Police work in a complex environment. The difficulties of being a police officer in a complex environment were highlighted e.g. within a context of changing policy, and with demands made by social activists, vulnerable groups, city management, police scapegoating and programmatic limitations on policing. This raises the question of how police can operate effectively and develop efficient practices within this environment.

4. National Drug Master Plan

Suggestions for development of a National Drug Master Plan. In relation to the development of the new National Drug Master Plan it was suggested that PWUD should be included in policy design; harm reduction should be introduced as a focal point; and a framework for the decriminalisation of users and low-level crime should be included.

RECOMMENDATIONS

1. Develop phone application. Develop a new phone application for all police officers which would include a basic checklist of how to respond to specific events or situations, and provide templates for accurate statements. The 'Police Pad' in the US is an example.

2. Inform police about policy changes. Ensure that police, at all levels, have access to knowledge about important changes in legislation that impact on practice.

3. NPA Training. Take up the Prosecuting Authorities offer for training sessions for specialised and uniform officers.

4. Appropriate training for police. Restructure training to include an emphasis on field training, and continued learning, with training provided by specialised units such as the Border Police, Public Order Police, crime intelligence and detectives.

5. Police accountability. Police need to find ways of holding themselves accountable at an individual and an organisational level. A system needs to be cemented which links performance with duty. Further, police need to be trained in how to argue and defend themselves, and taught the importance of accountability.

6. Collaboration within government. Ensure that other government departments fulfill their mandates, so that the police can focus on their core duties, and so that they cannot be charged with dereliction of duty.

7. Appropriate performance indicators. Challenge the current performance indicators in line with the human rights framing of the police landscape.

8. Decriminalisation. Attention should be given to the subject of decriminalisation, and whether such changes will make regulation and policing easier and more productive.

KEY QUOTES

“

It is important that Section 22 is not abused as the resulting search will be under intense scrutiny in court. If you are keeping surveillance, then you have time for a warrant and Section 22 may not apply.”

SIGNIFICANT OVERALL LEARNINGS

We often forget that police are fundamentally pragmatic in the way that they understand the world in which they work. This gives them many tools to be creative problem solvers and to engage in projects or programmes that function. While initially police were somewhat sceptical to be part of the dialogue sessions once they had authorisation from police commanders at the highest level they attended in larger numbers than were anticipated and were active participants in every one of the dialogue sessions. In fact, in the fourth workshop more police came to the session than had been catered for. There are two ways of understanding this. Firstly, the police had come to realise that these forums were places where police from all ranks were able to express their opinions, recommendations and dilemmas without fear of reprisal. Secondly, the police took great pride in being hosted by a university, a place from which South African police are often excluded. Not only were they provided the opportunity to learn, but also to contribute to significant knowledge building.

Through their tacit knowledge of the streets and of drug use, as well as their pragmatic approach, police enacted an approach. This is not to say that the police bought into every harm reduction intervention discussed; given their fear of needle stick injuries and the pushback from communities in regard to what is viewed as a controversial programme they were conflicted about the needle syringe programme. However, they strongly backed OST programmes as appropriate services sites to refer people that clearly want assistance in dealing with heroin use disorders. They were very adamant in their support for drug consumption rooms. This support stemmed from their 'on street' experience of dealing with daily overdoses; it was obvious to them that drug consumption rooms could dramatically assist with preventing the overdoses that they witness on a daily basis. Secondly, for them drug consumption rooms provide the possibility of consolidating police resources rather than dispersing them in the quest to make random arrests and to conduct stop and search operations.

In short, harm reduction activists must recognise that police are not the enemy, but rather are a significant social institution whose support is critical in the success of harm reduction programmes. Furthermore, police are capable of providing innovative and practical solutions to problems that might appear tricky, even to those who consider themselves as experts. To engage the police in this manner, however, requires prior buy-in from management levels within police organisations and certainty about the privacy of conversations in dialogue sessions. Dialogues with law enforcement remove the stigma that is often placed on the police as the enemy of people who use drugs, and replaces this with a view of police as problem solvers and as public good providers who themselves feel powerless in a policy environment that often makes little sense to them but to which they are obligated to comply.

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