

Proposal to draft a bill for the MEC Welfare: subsidizing and monitoring welfare NGOs

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Research report
Drug trade in inner-city Johannesburg
first draft - June 1998

1 Introduction

- 1.1 Provisional data gathered informally from a number of persons who are either in the drug trade¹, previously in the drug trade or closely associated with the drug trade indicates that there are probably in the region of 10 000 drug dealers in inner-city Johannesburg, each of which have a turnover of approximately R 2 000 a day. This would mean that approximately R 20 million a day is spent on drugs in this area (R 600 million per month and R 7 200 million per annum). The annual figure equates to 51% of the 1998/99 budget allocation for police², almost three times the allocation for courts of law³ and twice that of housing⁴.
- 1.2 Further data suggests an average of 5 clients per dealer and therefore an aggregate of at least 50 000 drug addicts linked to the inner-city drug trade⁵.
- 1.3 In addition to the direct cost and opportunity cost of drugs as indicated above, research has indicated a positive link between drug usage and other crimes⁶, and between drug usage and the likelihood to contract and spread HIV⁷.
- 1.4 Drug abuse induces a variety of pathological conditions ranging from cardiovascular failure to pulmonary diseases, gastrointestinal disorders, hepatic disease and neurological disorders⁸. In addition, the ability to participate in productive economic activity is adversely affected amongst heavier drug users⁹.
- 1.5 The aggregate affect of the costs identified above will be referred to as "the social cost of the drug problem".

¹ The term "drug" in this report refers to dependence-producing substances proscribed under the Drugs and Drug Trafficking Act, No 140 of 1992, and more specifically to those listed under schedules one and two of that Act. However, because cocaine is the most prevalent amongst the drugs sold in the area under consideration, the data relates particularly to cocaine.

² R 14 142 million

³ R 2 499 million

⁴ R 3 949 million

⁵ It is highly probable that many clients buy for multiple consumers. This means that the number of addicts may be much higher than 50 000.

⁶ See Swarts, M. Evil bedfellows: drugs, alcohol and crime. In focus forum, vol. 4, issue 5, p. 18 et. seq., Mar 1997 and Nature, extent and development of alcohol/drug related crime. Nexus, p.58, Feb 1997.

⁷ []

⁸ See Steven B. Karch, The Pathology of Drug Abuse, CRC Press, 1993 for empirical data.

⁹ Robert Kaestner, New estimates on the effect of marijuana and cocaine use on wages, Industrial and Labor Relations Review vol 47, p 454 - 70 April 94 and Charles A Register & Donald R Williams, Labor market effects of marijuana and cocaine use among young men, Industrial and Labor Relations Review vol 45 p. 435 -48 April 92.

- 1.6 This report deals specifically with the problem of drug trade in inner-city Johannesburg: it identifies the various parties involved in this business, analyses their respective behaviours and considers possible causes for these as a basis for a solution.
- 1.7 Although drug trade in South Africa is by no means confined to Johannesburg or to the inner-city of Johannesburg, the quantitative data collected thusfar¹⁰ indicates that the inner-city problem is significant enough to warrant special investigation.

2 Nature of the difficulty

- 2.1 Drugs are available in almost every society where individual freedoms and human rights preclude summary execution and the amputation of limbs as appropriate sanctions against their use or possession.
- 2.2 Because drugs are effective in very small quantities and easily concealed, no country has ever considered the complete eradication of drugs as a policy option. Rather, drug policy is aimed at reducing the supply of drugs and increasing the price in order to reduce consumption.¹¹ This strategy is based on the premise that the social cost of the problem is reduced by a reduction in consumption.¹²
- 2.3 If this is correct, it enables us to define the drug problem with reference to market price and the amount in supply (see * below). This leads to a slightly different analysis of problematic behaviours, aimed at isolating those behaviours which are responsible for "plentiful supply" and "inexpensive retail prices" rather than those related to the production, use and distribution of drugs *per se*. Solutions will similarly aim at increasing cost and decreasing supply.
- 2.4 It is a fundamental principle of economics that the price of a good is determined by its scarcity. Scarcity is the extent to which demand for the good exceeds supply. Any decrease in supply or increase in demand should thus affect the price of the good.
- 2.5 Because of the addictive nature of drugs, demand is far more difficult to control than supply, although demand-side interventions should not be dismissed altogether.¹³ It can further be accepted that a low or declining price in circumstances of high demand indicates that the problem is on the supply-side.

¹⁰ Data needs to be confirmed by formal research using a larger sample.

¹¹ United Nations International Drug Control Programme, Report, August 1994.

¹² Graham Farrell, Kashfia Mansur and Melissa Tullis, Cocaine and Heroin in Europe 1983 - 93, British Journal of Criminology, Vol. 36, No. 2, Spring 1996, p. 255.

¹³ See * below.

- 2.6 The relationship between the price of a good and level of consumption depends on the price elasticity of demand.¹⁴ The effectiveness of a strategy aimed at reducing consumption of a drug by increasing its price is dependent on a reasonably high price elasticity of demand.¹⁵ This needs to be established.
- 2.7 Research has been difficult given that the drug market is not open or accessible to empirical research. Findings are thus inconclusive. Research undertaken on other (legal) dependence inducing products such as tobacco and alcohol have shown a relatively low degree of elasticity ascribed to the addictive nature of the product.¹⁶ These findings have nonetheless been criticised on two grounds: (i) that the research is focussed on an established market (ie. those persons already addicted to the substance) and fails to consider whether the market expands (number of consumers increase) when prices are low¹⁷ and (ii) that alcohol and tobacco constitute a relatively low proportion of disposable income, while a drug like cocaine constitutes a much higher proportion. Farrell et. al.¹⁸ conclude that a higher price elasticity of demand exists for a price increase sustained over a period and a lower elasticity for a temporary increase in price. The Economist¹⁹ - taking cocaine-related admissions to public hospitals as an indicator of cocaine use in general - reported a marked decline in cocaine use at a time of rising prices.
- 2.8 Given the price of cocaine as a percentage of disposable income, the following assumptions are considered to be fair: (a) that a higher price would inhibit market expansion (fewer non-addicted persons will be able to afford the commodity) and (b) a higher price sustained over a period will result in addicts consuming less.
- 2.9 In light the above, the following statistics provided by the South African Narcotics Bureau are significant:

Current retail cost of cocaine (crack) per gram (prices in US dollars) ²⁰	
South Africa	US\$ 39
USA	US\$ 78
Europe	US\$ 65

¹⁴ The price elasticity of demand is the percentage by which demand for a drug will change with every percentage by which demand for a drug will change with a one percent change in price.

¹⁵ See Farrell et. al., op. cit., p. 269.

¹⁶ See M H Moore, "Supply reduction and and Drug Law Enforcement" in M Tonry and J Q Wilson (eds), *Crime and Justice: A review of resarch*, Chicago University Press, 1990, p.114.

¹⁷ See A Wagstaff and A Maynard, *Economic Aspects of the Illicit Drug Market and Drug Law Enforcement Policies in the United Kingdom*, London, 1988.

¹⁸ op. cit., p. 270.

¹⁹ vol. 316, p 28-29, 8 September 1990.

²⁰ RSA prices are calculated at a rate of one dollar to 5,1 rand and parity in quality is assumed.

- 2.10 On the assumption that the data set out in paragraph 1.2 above is accurate and that this represents a relatively high demand in comparison with other countries, the significantly lower retail price of cocaine in South Africa indicates a significant problem on the supply side. Farrell et. al.²¹ come to similar conclusion in respect of declining prices in Europe between 1983 - 93.
- 2.11 While price is the only determinant to consumption, Moore²² identifies other factors such as search-time spent by the consumer, risk and effort in making contact. There is a further aspect to price which should not be ignored.

3 Role occupants and problematic behaviours

- 3.1 This section seeks to identify the various persons (role occupants) who participate in, contribute to or could possibly ameliorate the problem. It attempts to identify those of their present behaviours which are problematic (in other words, acts or omissions which may be regarded as causes of the problem).
- 3.2 In keeping with the definition of the problem, problematic behaviours are those which contribute to the high level of supply, high level of demand and low prices of drugs.
- 3.3 For purposes of the analysis, role occupants are divided into supply side and demand side. Since supply side role occupants have the greater affect on availability and price of drugs²³, their behaviours are analysed in greater detail.
- 3.4 The behaviours of the South African Police Services (SAPS) and Department of Justice are relevant to both supply and demand sides. (For example, better policing should result in more traders and more consumers being apprehended, decreasing both demand and supply.)
- 3.5 Since the object of this report is to propose mechanisms whereby problematic behaviours may be altered by the introduction of appropriate laws, role occupants outside of the South African jurisdiction have been excluded from this analysis²⁴.

²¹ op. cit. p. 270.

²² Quoted in Farrell et. al., op. cit., p.277.

²³ See paragraph 2.10 above.

²⁴ Although drug producing countries have come under increasing pressure from the United Nations and from their major trade partners – particularly the USA – to implement measures to curtail drug production and exportation, I have consciously ignored this option since South Africa has considerably less influence in the Latin American countries than the USA, and there seems little chance that South Africa can exert sufficient additional pressure to impact significantly on production and exportation.

3.6 Banks are not listed as a role occupant since data indicates that the proceeds of drug sales are converted into US dollars outside of the formal financial sector.

3.7 supply side

drug importers

- export RSA currency to pay for drugs
- conclude agreements with overseas suppliers (extra-jurisdictional)
- import drugs through commercial channels – drugs not accompanied by the importer

drug mules

- export RSA currency to pay for drugs
- purchase from overseas suppliers (extra-jurisdictional)
- import drugs through direct air transportation – drugs accompanied by the drug mule

customs officials

- fail to detect drugs
- accept bribes to allow drugs in

wholesalers

- employ drug mules
- process powder ("crack") into crystals ("rocks")
- distribute to retailers

retailers

- sell drugs to users
- recruit new users

landlords and night club/restaurant owners

- allow drug traders to operate from their premises

SAPS

- fails to apprehend drug wholesalers and dealers
- fails to record apprehensions
- accept bribes from wholesalers and retailers

Department of Justice

- fails to prosecute and convict persons arrested for dealing in drugs

3.8 demand side

drug users

- start to consume drugs
- continue to consume drugs
- recruit new users

SAPS

- fails to apprehend drug wholesalers and dealers

Department of Welfare

- fails to educate the public on the dangers of drugs

Department of Justice

- fails to prosecute and convict persons arrested for possessing drugs

4 Investigation into cause

4.1 To limit the enquiry, the report treats any problematic behaviour which is not specific to the drug trade as a constraint. For example, the rate of convictions following arrested for either drug use or drug trading (even though unacceptably low) is better than that for other crimes.²⁵ The low conviction rate is part of a more general problem and any solutions would thus have to be the product of a far broader enquiry than the present one. Corruption – on the other hand – although not limited to customs officials and the SAPS, nor to crimes involving drugs, are particularly endemic to the current role players and in the drug industry and has been investigated in this context.

4.2 Complimentary to the investigation into cause is a search for opportunities to address the cause²⁶ – it is of little value to fully understand the causes of behaviours if there are no practical opportunities to alter them. The analysis is thus predisposed to behaviours in respect of which such opportunities are evident.

4.3 Using the ROCCIPI mnemonic as a tool,²⁷ possible causes of behaviours identified in paragraphs 3.7 and 3.8 above are set out below (numeric references in roman numerals refer to the solutions section).

4.3.1 drug importers and drug mules export currency to pay for drugs

Rule

Exchange Control Regulations currently regulate the purchase and sale of foreign currency. All traders need to operate through authorised dealers and may only exchange RSA currency for defined trade or investment purposes. With the volumes of trade and relaxation of controls, it is impossible to verify the legitimacy of transactions. It is in any event the stated intention of government to do away with exchange control as soon as possible. There is thus

²⁵ Precise data was not available at the time of publication.

²⁶ This is not an enquiry into opportunities for the role occupants to continue with problematic behaviour, but rather an enquiry into opportunities to take remedial action against causes of those behaviours.

²⁷ Ann and Robert B. Seidman, *State and Law in the Development Process*, Macmillan Press Ltd, London, 1994.

limited if any opportunity to address the drug problem through a more stringent application of these regulations.

Opportunity

Currency can easily be exported under the guise of a legitimate cause. Customs officials do not check the baggage of departing passengers at airports and notes are easily concealed. (i)

Capacity

Very little skill is required for this action.

Communication

Exchange Control Regulations are well known.

Interest

An importer or drug mule is likely to make R 40 000 for each 500g of cocaine successfully imported into South Africa. Chances of apprehension and conviction are relatively low – the ratio of arrests to number of traders (compare Annexure 1 and paragraph 1.1 above) is less than 1 to 500²⁸.

Process

not applicable

- 4.3.2 drug importers import drugs through commercial channels (drugs not accompanied by the importer)

Rule

The Drug and Drug Trafficking Act (DTA) creates criminal sanctions against dealing in drugs (section 5). The DTA further creates criminal sanctions against the acquisition or conversion of any property which is the proceeds of any drug crime (sections 6 and 7 respectively). Rules of confidentiality such as attorney-client and bank-client are qualified by section 9, which expressly allows otherwise confidential information to be disclosed if this could lead to the prevention of combating of drug crimes. Subject to the protection of bona fide third parties in section 26, section 25 of the DTA effects a forfeiture to the state of any property by which the crime was committed, or found in the possession of a convicted person.

Opportunity

Drugs are valuable in small quantities. Powder is easily concealed amongst legitimate imports or mixed with other substances. A problem for drug traders is that legitimate business operations are unlikely to jeopardise their core business for drug importation and that sham operations may be detected and exposed by their auditors. This mode of import also depends on a high degree of trust between the importer and exporter, since delivery and payment are not concurrent.

Capacity

Since the importer does not accompany the goods, detection is less likely to result in conviction.

Communication

²⁸ On the very conservative assumption that there is at least five retail traders for every importer.

It is unlikely that importers are ignorant of the provisions of the DTA.

Interest

See 4.3.1 above.

Process

not applicable

- 4.3.3 drug mules import drugs through direct air transportation – drugs accompanied by the drug mule

Rule

See 4.3.2 above.

Opportunity

Risk of detection is higher than with unaccompanied imports. Many mules ingest cocaine in capsules or hide them in body cavities to escape detection. **(ii)** Customs officials are prone to bribes – see 4.3.5 below.

Capacity

This act requires little skill – mules are often drug addicts who can no longer fund their addiction through legitimate income or retailers at the lowest end of the scale, who are struggling to produce sufficient income. This means that drug mules have certain distinguishing characteristics which may help in their detection. **(iii)**

Communication

The rule is well known.

Interest

See 4.3.1 above.

Process

not applicable

- 4.3.4 customs officials fail to detect drugs

Rule

not applicable

Opportunity

Customs officials have limited opportunities for detecting drugs. For every commercial flight, only a few of the passengers can be searched. However the South American routes are far more prone to drug trafficking and there are other opportunities for improving prospects of detection. (Same opportunity as identified in **(ii)** and **(iii)** above.)

Capacity

Better training and increased staff for high risk routes may improve capacity. **(iv)**

Communication

The illegality of drugs is well known.

Interest

There is no incentive for detecting and confiscating drugs. **(v)**

Process

not applicable

- 4.3.5 customs officials accept bribes to allow drugs into the country
- Rule*
The Corruption Act²⁹ makes it a crime to offer or accept bribes or inducements. It is ineffective because the only persons who hold the evidence necessary for conviction are the parties to the bribe, both of whom can be reasonably assured of the other's silence.
- Opportunity*
It is very difficult to prove that a failure to detect drugs was due to intentional rather than natural oversight. In any event it would require that the drugs be detected by another agent before the drug mule leaves the airport building – which is unlikely.
- Capacity*
not applicable
- Communication*
The rule is well known.
- Interest*
Data collected in Hillbrow indicates that every drug dealer contributes an amount of R 200 per week for bribes. This amounts to approximately R 2 million per week or R 8 million a month. The average cost for having customs officials turn a blind eye is not known.
- Process*
not applicable
- 4.3.6 wholesalers employ drug mules
- Rule*
The DTA creates criminal sanctions against dealing in drugs (section 5). Wholesalers will be liable vicariously or as an accessory to any crime of the drug mule.
- Opportunity*
The heavily addicted drug users, once they have lost their employment and sold all their possessions, are easy prey to the wholesalers.
- Capacity*
No particular skill is required.
- Communication*
The rule is well known.
- Interest*
See paragraph 4.3.2.
- Process*
not applicable
- 4.3.7 wholesalers process powder ("crack") into crystals ("rocks")
- Rule*
See 4.3.2.

²⁹ Act 94 of 1992.

Opportunity

The process is relatively simple, requiring no more than a hot-plate and some basic chemicals. The process does not emit any significant odours and is difficult to detect.

Capacity

No skill is required.

Communication

The rule is well known.

Interest

Rocks are sold in smaller quantities, are easier to transport and conceal and fetch a higher price per gram than crack.

Process

not applicable

4.3.8 wholesalers distribute to retailers

Rule

The DTA creates criminal sanctions against dealing in drugs (section 5).

Opportunity

Wholesalers and retailers live together in high-rise apartment buildings and residential hotels, most of which have tight access control. These buildings are controlled by syndicates, and are relatively well protected from police interference. Distribution to the retail network is thus fairly simple.

Capacity

No skill is required.

Communication

The rule is well known.

Interest

Wholesalers can have incomes of about R 60 000 per month and more.

Process

not applicable

4.3.9 retailers sell drugs to users

Rule

The DTA creates criminal sanctions against dealing in drugs (section 5).

Opportunity

There is little enforcement – the SAPS are prone to bribes and the drug trade happens openly and extensively throughout the area investigated. Cellular telephones are used extensively to arrange private meetings between traders and more discreet users.

Capacity

There are no skills required.

Communication

The rule is well known

Interest

An average retailer would probably earn in excess of R 3 000 a week.

Process
not applicable

4.3.10 retailers recruit new users

Rule

This action is not prohibited. (vi)

Opportunity

Because there is a growing number of retailers, there is continual pressure to recruit new users. Existing users lose their employment and run out of money. Some of them turn to prostitution and recruit new users as additional income. Others simply earn drugs by introducing new users for their dealers. In a society confronted with social tensions and uncertainties about the future there is a ready market.

Capacity

No skill is required.

Communication

No rule exists against recruitment. (vi)

Interest

Increase earnings.

Process

Drug addicts are often no longer capable of making rational decisions or considering the consequences of their actions.

4.3.11 night club/restaurant owners allow drug traders to operate from their premises

Rule

Section 10 of the DTA places obligations on any occupier or manager of a "place of entertainment" who has "reason to suspect" that anyone is selling drugs inside the premises to report it to the police.

Opportunity

Drug trade is generally difficult to detect in the night club environment. Even where traders are apprehended (a prerequisite for prosecuting an owner or manager under section 10), the knowledge or reasonable suspicion of an owner is difficult to prove.

Capacity

No special skill is required.

Communication

The rule is well known.

Interest

Owners share in the profits (exact extent of sharing is not known).

Process

not applicable

4.3.12 landlords allow drug traders to operate from their premises

Rule

Section 30 of the Proceeds of Crime Act³⁰ provides as follows: "Any person who acquires or uses or has possession of property knowing, or having reasonable grounds to believe, that it is or forms part of the proceeds of crime of another person, shall be guilty of an offence, unless such a person reports his or her suspicion or knowledge as contemplated in section 31." Section 31 obliges any person "who carries on a business or is in charge of a business undertaking who has reason to suspect that any property in his or her possession or the possession of the said business undertaking forms the proceeds of crime" other than attorneys under circumstances of client privilege, to report the suspicion to a person designated by the Minister.

Opportunity

The above-mentioned section applies to landlords, but it is difficult to prove knowledge or reasonable grounds for suspicion. **(vii)**

Capacity

There are no special requirements regarding tenants which would make it difficult for landlords to house drug traders. **(vii)**

Communication

The SAPS do not seem to be familiar with the relevant provisions of the PCA.

Interest

Most buildings are situated in previously popular areas which have been in decline and are not affordable to the average working person³¹. Drug traders make good tenants.

Process

not applicable

4.3.13 the SAPS fails to apprehend drug wholesalers and dealers

Rule

not applicable

Opportunity

The syndicates are dangerous and corrupt police officers make it difficult for others to do their jobs. It is easier for straight policemen to turn a blind eye.

Capacity

not applicable

Communication

not applicable

Interest

There are no incentives for policemen who apprehend dealers. **(viii)**

Process

not applicable

4.3.14 the SAPS accept bribes from wholesalers and retailers

Rule

³⁰ Act 76 of 1996.

³¹ The average room rate is between R800 and R 1000.

See paragraph 4.3.5 above.

Opportunity

Corruption is endemic. Street patrols find many opportunities for bribery. The drug dealers budget for bribes and welcome corruption since it keeps them out of jail. More regular rotation of officers may decrease the opportunity. **(ix)**

Capacity

SANAB (SAPS narcotics unit) have jurisdiction in all areas but are understaffed.

Communication

The rule is well known.

Interest

Officers are poorly paid and many are disillusioned because arrested criminals don't get prosecuted. Many of them earn many times their monthly salaries through bribes.

Process

Selection of and additional allowances for key personnel in high crime areas could change behaviour. **(ix)**

- 4.3.15 the Department of Justice fails to prosecute and convict persons arrested for dealing in drugs

This is treated as a constraint.

- 4.3.16 drug users start to consume drugs

Rule

The DTA creates criminal sanctions against the use and possession of drugs (section 4).

Opportunity

Drugs are freely available and chances of apprehension are minimal (the ratio of number of arrests for possession to number of drug users is less than 1 to 1 200).

Capacity

No skill is required.

Communication

The rule is well known

Interest

The substance offers an escape from reality.

Process

not applicable

- 4.3.17 drug users continue to consume drugs

Rule

as above

Opportunity

as above

Capacity

Addiction increases the capacity and desire for drug use.

- 4.3.18 drug users recruit new users
Rule
 This action is not prohibited. (x)
Opportunity
 Friends and acquaintances are a potential market.
Interest
 This is a means of sustaining the drug habit when money runs out.
 See 4.3.10 above.
- 4.3.19 the Department of Welfare fails to educate the public adequately on the dangers of drugs
Rule
 not applicable
Capacity
 Department resources are limited.
Communication
 The responsibilities of the department regarding drugs are well known.
Interest
 The cost of rehabilitation of drug users and the social costs of drug use identified in the introduction section are very high. Preventative action is the most effective way of spending welfare budget.

5 Solutions

- 5.1 Opportunities for altering existing problematic behaviours were identified in the analysis under section 4 and have been referenced with roman numerals. These opportunities are taken as potential solutions and are further investigated in this section.
- 5.2 The viability of each potential solution is determined on the basis of a superficial cost and benefit analysis.
- 5.3 Item (i) identifies an opportunity to search outbound passengers on known drug routes for excessive amounts of foreign currency. Section 11(1) of the DTA permits - on reasonable grounds for suspicion - searches of property and of person without a search warrant. This solution is rejected because it is costly (labour intensive), without adequate remedy (exchange control violations are not considered a serious crime), the imminent demise of exchange control and the ability of drug traders to alter their behaviour and export currency in different ways.
- 5.4 Items (ii) and (iii) identifies an opportunity to improve surveillance and detection for inbound passengers. Two mechanisms that have proved successful in the USA are (i) "drug courier profiles" and (ii) infra-red scanning. Drug courier profiles were developed in the late 1980s to assist customs officials to identify