EUROPEAN CENTRE FOR SOCIAL WELFARE POLICY AND RESEARCH

Co-funded by
the Health Programme
of the European Union

EPPIC

Exchanging Prevention Practices on Polydrug Use among Youth in Criminal Justice Systems

Young offenders are likely to be affected by a myriad of health and social inequalities, and in particular they are at risk of developing drug problems. During adolescence interventions are needed to prevent onset into different forms of substance use, reduce escalation and reverse problematic drug consumption. However, there has been very little attention paid to young people in contact with the criminal justice system in relation to drug prevention policy and practice.

In this paper we present preliminary findings from an ongoing European project, funded by the Health Programme of the European Union, which examines interventions in polydrug use of young criminal offenders. The project covers research on prevention programmes in prison settings and on rehabilitation programmes ("therapy instead of punishment") in six European countries - United Kingdom, Italy, Denmark, Poland, Germany and Austria.

The objective of this project is to identify transferable principles of good practice to prevent illicit drug use and the use of new psychoactive substances (NPS) among young people in touch with the criminal justice system. Personal interviews with young offenders in all partner countries have helped to describe drug trajectories and hence identify key intervention points to facilitate prevention efforts in the future.

Funding: Third EU Health Programme (2014-2020): Consumers, Health, Agriculture and Food Executive Agency (Chafea)

Coordinator: Drug and Alcohol Research Centre, Middlesex University (UK)

Project partners: Change Grow Live (UK), Aarhus University (Denmark), Eclectica (Italy), Frankfurt University of Applied Sciences (Germany), Institute of Psychiatry and Neurology (Poland), European Centre for Social Welfare Policy and Research (Austria).

Time: Jan. 2017 – Dec. 2019

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Paper presentation

In this paper I will introduce the project EPPIC. This project is about youth; hence the acronym was given by a teenager, one of our coordinator's children in the UK. "Epic" seems to be the "buzz-word" of today, if something is really good, young people say it is "epic". The coordinators picked this up and created the title with their ideas for this project in mind. They added another "p" to make it more distinctive and came up with: "Exchanging Prevention Practices on Polydrug Use among Youth in Criminal Justice Systems – EPPIC".

The project EPPIC is funded by the "Consumers, Health, Agriculture and Food Executive Agency (Chafea) in the "Third EU Health Programme (2014-2020)"; it was started in January 2017 and will end in December 2019. Now, in August 2018, we are about mid-way in this research project. The project is coordinated by the "Drug and Alcohol Research Centre" at Middlesex University in the UK. Project partners come from Denmark, Italy, Germany, Poland, and Austria. They are predominantly research institutions and specialised in alcohol and drug research. However, with "Change Grow Live" and "Eclectica" we also have service providers with academic backgrounds on board:

- Change Grow Live (UK)
- Centre for Alcohol and Drug Research, Aarhus University (Denmark)
- Eclectica (Italy)
- ISFF - Institut für Suchtforschung, Frankfurt University of Applied Sciences (Germany)
- Institute of Psychiatry and Neurology (Poland)
- European Centre for Social Welfare Policy and Research (Austria)

The starting point and basic idea for this project was given in a general statement:

"Young offenders are considered one of the most vulnerable or at-risk groups of developing drug problems and are often affected by numerous health problems and social inequalities."

By "young offenders" we mean young people between 14 and 25 years of age[1], and "offenders" we have rather vaguely defined as "young people who have come in touch with the criminal justice system". Strictly, the possession and consumption of drugs is considered illegal, and therefore young people are generally criminalised as soon as they are found out. However, as we will see, there are a number of alternatives in restorative justice to confront young people with drug offences. Secondly, young people may have come to the attention of the police for other than drug-related offences. We also consider these cases in our project, as empirical studies show that many young people with a criminal record have severe drug

[1] The legal age varies significantly in national laws in the partner countries. For example, in the UK legal responsibility starts at the age of 10, in Austria the "youth-code" is applied to young people at the age of 14 to 18, with a separate group of "young adults" (18-21 y.o.) in transition to adulthood.

problems. In short, the target group in this project are young offenders with a problematic use of illegal drugs.

With regard to the term "prevention practices" in the project title, we address two of the prevention categories given by the EMCDDA[2]: In "selective prevention" and "indicated prevention" we focus on young people as a vulnerable group and as vulnerable individuals. The population at large ("universal prevention"), social environments, social norms and drug markets are minor aspects in our project.

1. **Universal prevention** addresses a population at large and targets the development of skills and values, norm perception and interaction with peers and social life;
2. ***Selective prevention*** *addresses vulnerable groups where substance use is often concentrated and focuses on improving their opportunities in difficult living and social conditions;*
3. ***Indicated prevention*** *addresses vulnerable individuals and helps them in dealing and coping with their individual personality traits that make them more vulnerable for escalating drug use.*
4. **Environmental prevention** addresses societies or social environments and targets social norms including market regulations.

The objectives for the project have been framed in the project proposal and were laid down in the contract with the funding body:

- Identify innovative drug prevention practices for young people in contact with the CJS
- Study the views of service providers on preventive approaches for this target group
- Research trajectories of young people and crucial turning points in their criminal career / drug career
- Examine the effectiveness of current European drug prevention quality standards for young people and facilitate collaboration and knowledge exchange across countries.

Hence, we will analyse innovative interventions both in prison settings and in settings outside the criminal justice system where treatment is offered as an alternative to punishment. This requires the review of legal codes and official statistics to frame our empirical research in 6 European countries: United Kingdom, Denmark, Germany, Poland, Austria and Italy. In these countries, in total, 63 service providers have been selected to conduct explorative interviews with managers and experts in drug therapy for detailed descriptions of their approach in drug prevention, and 240 interviews with young people have been conducted to study some of the trajectories, critical moments and crucial life-events, for developing criminal careers and drug careers. Finally, we are aiming at developing close contacts with a selection of experts in each country to set up a "mirror group" for continuous discussion of preliminary results.

[2] EMCDDA: European Monitoring Centre for Drugs and Drug-Addiction, based in Lisbon.

EPPIC is a cross-sectional project. We study the link between the criminal justice system and the health system in the partner countries with a special focus on social services for both health promotion and crime prevention[3].

In this presentation I will review preliminary results from Austria. The presentation will be structured in three parts: First I will present, from a rather amateurish non-legal perspective, optional key exit strategies from criminal proceedings as laid down in the Austrian criminal code and I will present some official statistics with regard to restorative justice. Second, I will explain the legal requirements for social service providers to offer drug treatment to young offenders. I will conclude with some remarks about narratives of health promotion in the criminal justice system which have crystallised from our interviews with both service providers and juveniles.

Exit strategies from criminal proceedings

In the criminal process there are several authorities: police, prosecutor, court, prison services and probation services. On each level of the process and under certain conditions the respective authority has an option to transfer the criminal case from the criminal justice system to the health system. Let us begin with a case that does not immediately get to the attention of the police: Assumingly, a teacher raises a suspicion of drug abuse in his class. He or she reports it to the school director, who will assign a medical doctor to examine the case. If the suspicion proves to be founded, the case will be reported to the local health authority, who can order some form of therapy. Only if the pupil does not follow this order, the case will be reported to the police.

Secondly, if the case gets to the attention of the police or the police has itself raised a suspicion (or evidence) for an offence according to the drug law, they must file the case in the crime records and report it to the prosecutor. However, the police may immediately refer the case to the local health authority for further treatment. This represents the second exit strategy from criminal proceedings. Again, the health authority has to monitor the compliance with the order for therapy. In the case of non-compliance, the young person will be reported to the prosecutor and the criminal process will become effective.

Thirdly, the prosecutor can simply stop the criminal process and dismiss the case altogether or waive the prosecution for the time being and set a probation time of 1-2 years. Again, the waiver will be conditional to the successful undertaking of health-related measures.

If, fourthly, the prosecutor forwards the case to the court, the judge has the opportunity to temporarily dismiss the case and set a probation time. Also, the judge may sentence the young person and at the same time defer the execution for the time of health-related measures. In the case of non-compliance, the execution of the sentence (e.g. imprisonment) will enter into force.

[3] For pragmatic reasons we limit ourselves to the two disciplines of criminal justice and health studies. However, we are aware that other disciplines are inherent in the project: pedagogy, social work, medicine, employment and work economics etc.

Fifth, a combination of unconditional imprisonment and subsequent therapy provides a further alleviation for the offender with various forms of mental and social problems. Here, officials at the Juvenile Court Assistance together with experts at the probation services are important authorities to prepare the release and provide a good transfer to health and care facilities. They first investigate the social environment and then help guarantee appropriate treatment for the client.

We may now take a look into statistics to get an idea of some empirical data about these exit strategies. Here I can only present a short summary of my data analyses:

1. The police report a constant increase of drug offences in the crime statistics
2. Approx. 50% of all suspects of drug-related crimes are 24 years or younger
3. Approx. 60% of youth drug-crimes are dismissed by the prosecutor, 17% are offered some form of diversion, 23% are forwarded to the court.
4. Approx. 50% of all offers to diversion refer to drug prevention programmes.
5. Juveniles get convicted predominantly for property offences (50%). Convictions for drug-related offences: 13%.
6. The most frequent penalty for juveniles is conditional imprisonment.

I will now turn to my second point: the services and service providers.

Services and service providers

As I mentioned above, in EPPIC we focus on health-related treatment both in prison settings and in external facilities. Obviously, the particular drug treatment in the various exit strategies are balanced according to the severity of illness or addiction of the offender. The worst cases receive treatment in hospitals or in-patient homes, minor cases are allocated to out-patient drug treatment centres or receive support and counselling from probation services inside and outside of prison.

It is important to understand that drug treatment facilities must fulfil certain legal conditions to take on clients via the criminal justice system. Today more than 200 organisations are registered with the Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice in Austria[4]. In-patient and out-patient facilities must comply with the law („Gesundheitsbezogene Maßnahmen“ §11/2 SMG - drug law) and commit themselves to offer the following services in order to receive an official mandate.

1. Medical surveillance of health status
2. Medical treatment including substitutional therapy
3. Clinical-psychiatric counselling and care
4. Psychotherapy
5. Psycho-social counselling and care

[4] Formerly called “Ministry of Justice” – re-named after the federal election in 2017 by the Conservative Government.

In our explorative interviews with leading officials and experts in health-care facilities we found a variety of interventions. In addition to clinical, psychiatric and substitutional therapy, institutions apply psychological support using cognitive therapy, motivational interviewing, group therapy, and systemic psycho-therapy. Very often drug therapy is only one component of a more comprehensive personality training, including anti-violence and self-control trainings. However, it is argued, most important and most promising for a life free of drugs is social support and counselling for self-management: In many cases it is fundamental to provide clients with a regular structure for everyday life, getting out of bed in the morning and finding a routine into the day. Treatment is focused on the preparation of a self-responsible life in the future. Furthermore, in-patient care facilities offer education in terms of apprenticeship in workshops and garages, and general education (language, mathematics, engineering, etc.). Generally, interventions are described as “global care for the person”, “multi-disciplinary integrated intervention” or “partnership approach”, and we can collate and express them as “holistic interventions”.

These services - medical, psychiatric, psychological, pedagogical, social – are often augmented with social counselling through the probation services (search for job and housing). Probation services also focus on case-management, i.e. finding the most suitable treatment for the clients. Moreover, out-patient organisations often cooperate directly with prisons, they offer psychological services for inmates, and they examine the fitness of inmates for later therapy after release.

It was found that the provision of health-related services is more complicated for clients in pre-trial detention, because the time in custody can hardly be planned. This also seems to be a very difficult period for the offender as he or she cannot make plans and does not anticipate the immediate future.

Narratives of health promotion in the criminal justice system

In the final part of my presentation I will turn to some of the narratives that have crystallised from our interviews with practitioners, experts and juveniles. Here I can only very briefly touch on these issues, but we will certainly work towards a more elaborated analysis in the remainder of the project.

In terms of methodology, these narratives are not arbitrary or superimposed to our project. Rather they result from our particular way of asking questions when addressing interview partners both in administration and clients in health-related services. For example, our entry question in interviews with young people was: “How did it all start? Can you describe the situation when you first took drugs?”. Later in the interview we asked: “How does your criminal record relate to your drug consumption?” Answers to these questions shaped our understanding about the onset of consumption, and in particular about motifs for persistent drug use. Here we can isolate a pattern of two sub-groups: The first group of respondents included refugees from Syria, Morocco, Iran and other countries, who went through traumatic experiences before and during their flight to Austria. In these cases, drugs have become a means of self-medication to find relief from mental strain. Without a work permit and without any chance for illegal work, they started dealing drugs to make a

living. Some of them developed a certain expertise and became very “successful” – until they got caught by the police. However, we know from earlier studies that foreign juveniles benefit from diversion with intervention to a lesser extent than native juveniles in Austria. They are convicted to a great extent and they also receive more severe sentences than Austrians (Bruckmüller et al. 2010). We had to learn that imprisonment merely meant an interruption to their criminal career and their drug career respectively. Without formal education or professional skills their chances for formal employment are low. Moreover, their experience of making large amounts of money in a “quick deal” lowers their tolerance for frustration in official job applications and limits their patience within formal employment relationships. The process of job applications, job interviews, job-discipline and routine may present a particular burden and an impediment to change their attitudes about drugs and drug dealing. This finding clearly gives evidence for the need to link individual and economic interventions in a holistic approach in “selective prevention”. On the other hand, we found a positive effect with regard to desistence from drug consumption in the guarantee given by an employer for re-employment after punishment. Together with suitable drug therapy (psychotherapy) this backing clearly contributed to the rehabilitation and stabilisation of the client.

The second group we identified in terms of onset and persistent drug consumption includes lower-middle class youth with a particular curiosity in drugs and their psychic effects. This mindset, I will argue, resembles the concepts of “edgework” and risk-taking (Lyng 1990, 2008). Combined with easy access to drugs in cultures of night-time leisure activities this mindset of thrill-seeking presents fertile grounds for persistence in drug consumption. Also, young people in this group were often sentenced for violence and property offences rather than drug offences. Hence, their drug consumption was not at stake in the criminal process and consequently is not being critically examined. On the contrary, this group of offenders is convinced to “have it under control”. This argument applies to consumption of cannabis and cocaine in particular and in fact conforms justifications for alcohol consumption. Here, the differentiation of legal and illegal drugs is deliberately ignored. Our interviewees reported situations of responsibility and mutual trust among friends when taking drugs (“one of us stays sober”). This finding supports our preference for the concept of “edgework” and rational risk-taking over older arguments of lacking self-control. In “A General Theory of Crime” Hirschi and Gottfredson (1990) argued that low self-control is the cause for criminal propensity developed in early childhood. This position rests on psychological rather than sociological factors: People with low self-control are characterised as “impulsive, insensitive, risk-taking, short-sighted and non-verbal and will therefore tend to engage in criminal acts such as smoking drinking, drug-use, etc. (Hirschi and Gottfredson quoted in Carlsson and Sarnecki 2016:32)”. In contrast, Lyng presents the idea of “edgework” as an extremely skilled performance in risk management: “Edgeworkers claim to possess a special ability, one that transcends activity-specific skills such as those needed for driving a car, riding a motorcycle, and flying an airplane or one’s body in free-fall. This unique skill, which applies to all types of edgework, is the ability to maintain control over a situation that verges on complete chaos, a situation most people would regard as entirely uncontrollable” (Lyng 1990:859). This change in perspective from control theory to edgework theory may fundamentally change

concepts in psychotherapy if the problem of drug abuse is addressed and reflected in that way[5].

I will now move on and briefly discuss another narrative that emerged throughout our empirical work with service providers and young people: the coercive character of treatment in the criminal justice system. One could argue that the "offer" by the prosecutor or judge is forged because it is experienced as an obligation in the eyes of the offender when the "other choice" is imprisonment. The basic principles in psychotherapy - of voluntariness and the feeling of permanent strain - seem to be suspended in the coercive context of the criminal justice system. However, we will see that the nature of drug treatment is a very special case in the field of psycho-social therapy.

As a starting point for a discussion we may first address the concept of addiction and the attitude towards taking treatment. The client in our specific target group of young offenders with problematic drug use, is confronted with two problems at a time: First, the drug problem that is private, and secondly the problem of criminal delinquency that was discovered by the criminal justice system and has become a public concern. In restorative justice, more precisely in cases of partly suspension of imprisonment with an official requirement for drug treatment, the two sides converge, and the client has to overcome two impediments when he or she walks through the door to see a therapist.

The nature of addiction is itself ambivalent as people oscillate between pleasure and pain. They feel pleasure when taking the drug that eases their troubles or simply entertains them at social events, but they feel pain when the effect is over. This permanent up and down of emotions, we suggest, is represented in their attitude about taking treatment. In those moments of withdrawal, they may feel the need for therapy and voluntarily turn towards treatment, and the next day they will turn away again and reject any intervention in their lives. It will be interesting to hear what experts have to say about this partial commitment to treatment by their clients, which is again aggravated by the coercive "offer" from the criminal justice system. Does the coercive context present a second hurdle on the way of successful treatment that clients need to take in addition to the psychological temptations of feeling the pleasure of drug use?

For further discussion of compulsive treatment let us consult some of the academic literature. In a journal article published in Criminology and Criminal Justice Toby Seddon (2007) discusses the criminal justice system "as a means of channelling and coercing drug users into treatment" (2007: 269). However, he is quick to explain that his aim is not to revisit the evidence base for the connection between addiction and acquisitive crime or whether coerced treatment is effective in reducing drug-related crime. Rather, he discusses some conceptual statements about coercion and treatment, explores ethical issues concerning justice and human rights, and concludes with criminological remarks related to freedom of choices and risk management in late modernity.

The conceptual issues are introduced by a definition for what is to be understood by "coercion", Following the Compact Oxford English Dictionary, Seddon argues:

[5] For a discussion of edgework in criminology see: J. Katz (1988): The Seductions of Crime.

"..., the idea of coercion breaks down into three component parts: (1) persuading someone to do something (2) which they are unwilling to do (3) by using force or threats" (Seddon, 2007: 271).

From the element of persuasion in this definition Seddon follows that there is a certain need for information and communication about the options on offer. He comes to the rather astounding conclusion that the concept of coercion implies a process of convincing or encouraging someone to undertake a particular course of action. Hence, Seddon identifies an element of freedom of choice in coercion and contrasts it against the concept of compulsion, which he says, does not contain this element of choice. However, coercion as "constrained choice" is put into perspective when the other components in the definition are considered. Seddon quotes studies that reject the idea of equating criminal justice referrals with coercion. We could assume that in most cases clients simply follow an advice given by a lawyer and ask for treatment in order to avoid conviction. But with regard to the second component in the definition above, Seddon argues that it cannot be denied that people who are referred to treatment by the criminal justice system are also willing to take therapy. So, even though clients are referred to therapy by a prosecutor or judge, the client may still hold a positive attitude towards treatment. And this is what we also have found in our interviews with young people, when they said that they are grateful for the "order" to take treatment. This is particularly true for clients who have "grown out" of heavy drug use and are now capable to look back and reflect their behaviour. From this we conclude with Seddon that coercion is most usefully conceptualised as a continuum rather than as a dichotomous variable of free will or compulsion (Seddon 2007: 272).

A second line of argument follows empirical findings that emphasise informal, extra-legal pressures stemming predominantly from psychological, financial, social, familial, and medical domains (Marlowe et al. 2001). The authors argue that treatment as a juridical condition for the (temporary) suspension of imprisonment should not be understood merely as an "offer that he can't refuse", to use Marlon Brando's phrase. Rather, it has been argued, that "even for drug users entering treatment under criminal justice pressure, the threat of adverse legal consequences is not necessarily the most salient reason to remain in and complete treatment" (Longshore et al., 2004: 112). Financial, social and family concerns usually occur together with criminal justice coercion and are sometimes perceived by clients as the dominant motive for taking drug treatment. In general, coercion is interpreted here as "an inherently subjective concept because it is the perception of persuasion by threat that influences behaviour and not the level of threat that objectively exists" (Seddon 2007: 273). Hence, external coercion as a seemingly objective phenomenon is transformed into a subjective element of internal motivation. Seddon concludes: "Unravelling these complex interactions between legal pressure, other external pressures, perceptions of coercion and internal motivation is vital for more conceptually robust research on 'coerced treatment'" (ibid.).

I want to close with some general remarks. The project EPPIC is concerned with drug prevention practices for young people in the criminal justice system. We take a particular problem-oriented approach to elaborate best practice models for youth as a vulnerable group where substance use is often concentrated, and we focus on improving their opportunities in difficult living and social conditions. However, this project also renders some interesting insights on a macro-level of political system

analysis as it is designed to study the particular intersection of the criminal justice system and the health system in a polity. This intersection has some relevance for practice when we look at the administrative transitions young people have to experience. They adopt a double-image as offenders in the criminal justice system and as clients or patients in the system of health and care. However, it is not so much the particular image but the question of health administration that is at stake. We must focus on the continuity and quality of health services at the entrance to the criminal justice system, in prison, in restorative justice, and after leaving the criminal justice system. When offenders are offered therapy instead of punishment, the service provider is responsible to report to the court about the progress of the client. This raises some interesting questions about medical confidentiality: We learned that the report on treatment is limited to only some formalities about the client's attendance and does not include any details about the process of therapy. For example, no potential relapses are reported as they are accepted as normal in drug therapies. This gives evidence of a high level of trust between the criminal justice system and providers of drug treatment both in-patient and out-patient facilities. The particular trust of the court toward the proficiency of experts is at the heart of preventive effects in this field of restorative justice. The rehabilitation in physical and mental wellbeing shall result in legal behaviour in the future.

Nevertheless, the cooperation between justice and health administrations is dynamic and subject to legal changes according to political ideologies. In Austria, the law has been changed recently to allow a maximum of only 6 months therapy. This has ambivalent effects, as one therapist tells us: Before, "luxury" drug therapies of up to 18 months were offered at in-patient institutions. Now treatment is limited to 6 months with an option to extend the treatment depending on the patient's social security coverage. On the other hand, it is argued that the patient is unleashed from the criminal justice system; the therapy loses its coercive grounding and becomes truly voluntary. However, the problem is simply transferred from one administration to the other and from the criminal justice system to the system of insurance and social security and finally leads to the question who should pay for health services for citizens while they are within the criminal justice system, whether they are in pre-trial detention, fulfilling a prison sentence, or taking in-patient or out-patient treatment during a probation period.

Next to discussions on these political matters among EPPIC consortium partners, the remaining time in our project will be used to review existing national and international standards and guidelines on health promotion within the criminal justice system. We are aware of national guidelines for the treatment of people with drug addiction in the criminal justice system in Austria and in our partner countries, and of a variety of international documents published in recent years by the European Monitoring Centre for Drugs and Drug-Addiction (EMCDDA), World Health Organisation (WHO), United Nations Organisation on Drug and Crime (UNODC), the U.S. Department of Justice and others. These guidelines will be reviewed together with our findings from EPPIC partner countries to elaborate standards that are better tailored to the needs of young offenders with problematic use of illegal drugs.

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