



**PENAL REFORM FOR ALCOHOL
AND DRUG-RELATED CRIME**

TWS Policy Paper

Albert Beardow
December 2010

INTRODUCTION

In 2009, alcohol-related violent crimes in the UK numbered close to one million, possibly costing the taxpayer up to £13bn; and alcohol-induced crimes are estimated to number up to 70% of all violent offences. Similarly, drugs are expected to be a factor in more than 20% of violent crimes. Furthermore, addiction to alcohol and drugs results in many crimes being committed where the violator receives money to pay to satisfy their addiction. Drink-driving remains another significant form of alcohol-related crime, with approximately 2000 people being killed or seriously injured as a result of driving under the influence of alcohol.

Current penalties are largely ineffective in tackling the source problem of the underlying addiction, particularly when nothing is done in most prisons to deal with addiction, and when drugs can be readily available in many prisons. Often, more than 10% of inmates are tested positive for illegal drugs when random tests are performed. Almost two thirds of prisoners admit to being hazardous drinkers, and more than 3 in 5 of these will re-offend within two years. This is particularly so in the case of short jail sentences of under a year, which have not only notoriously ineffective in deterring crime or rehabilitating criminals, but also lead to prison overcrowding and are a costly burden on the taxpayer. Clearly a more effective, cheaper method of preventing such offences is necessary, whilst retaining a deterrent against future crime.

PROPOSAL

This proposal is based on the success of the 24/7 Sobriety Project currently in place in South Dakota. It essentially involves those participating in the programme to be tested for drugs or excessive alcohol levels, and upon failure, offenders will be placed in prison for 24 hours. Offenders can be placed on the programme by a court, in addition to a prison sentence for serious violent crimes, or in place of short, ineffective prison sentences for more minor crimes, such as drink-driving. It is expected that this will be a normal penalty for crimes committed under the influence of drugs or alcohol. Whilst on the programme, participants must pay a small fee for each test taken in order to subsidise

the cost of the project – in South Dakota this can be as little as \$2 a day, so the cost will not be a great burden on participants.

Participants are expected to attend a test for alcohol or drugs (depending on the court order and earlier conviction) twice a day, in the morning and evening, with an interval of about 12 hours. The participant should pay £1 for each test, which will be taken as a weekly or monthly subscription. Those participants who, for transport, job or location reasons, are unable to submit themselves for testing regularly, can for an additional cost have an Electronic monitoring device installed, which will be placed around their ankle and will monitor their body for excessive alcohol or drug abuse.

If a participant fails a test, they will instantly be imprisoned for 24 hours. This will not require a further court session or order, and the period will be set only as 24 hours from the moment the test was failed.

The test will normally be quick and, upon a pass being declared, the participant will be free to leave until their return 12 hours later. If a participant is unable to attend a test for an acceptable reason e.g. due to their job, they should notify the relevant authorities and provide evidence more than 24 hours beforehand. If this is any more than an occasional occurrence, participants must use the electronic monitoring device. Where an electronic monitoring device is used, tampering with this device will result in the participant returning to court.

If a participant fails to turn up for a test, they will be given 12 hours to inform the test centre of why they were not present. If they do not provide an acceptable reason and evidence for their absence, they will be imprisoned for 72 hours (this proposal does not define what an acceptable reason for absence is). Participants will be able to appeal against this decision. Failure to comply with this order will result in the participant returning to court, where further penalties such as fines or longer sentences will be set.

The period that an offender must participate on the programme for will be set by the court, but is likely to be a few months to a year or more for the most serious offenders. If an offender fails a test, this time period will be reset.

ADVANTAGES

The idea behind this proposal is that short, sharp sentencing that can be imposed on a regular basis is more effective at changing the lifestyle of offenders than the 6 month, 1 year or longer short sentences that are applied after each conviction. Participants essentially have the choice between freedom for a day, or alcohol and drugs for a day, and in the long term they will usually choose the former. As long as offenders do not overindulge, they will be allowed to carry on with their lives, jobs and family normally. If they attend a test twice a day, those carrying out the test will also be able to provide help and support on a regular basis. The testing is not excessively restrictive on alcohol as well, which can be counterproductive if participants are completely denied this – a moderate amount of drinking at night will result in a pass the next morning.

In South Dakota (where the scheme has the same basis but differs slightly from the above), the pass-rate for the twice daily test is 99.6%, showing that those with previous addictions are unlikely to continue excessive drinking, at least as long as they participate in the scheme. Given their improved prospects as a result of overcoming the addiction, they are less likely to re-offend when the scheme is over than when they leave prison. Deaths due to drink driving fell by over a third one year since the scheme was implemented.

Furthermore, this programme is relatively cheap due to the subsidy by those participating, and the reduction in costs compared to imprisonment. Prison populations have markedly decreased in the South Dakota counties where this was applied, and the annual budget savings are tens of millions of dollars. Thus, if such a scheme worked effectively in the UK, savings would be expected in the order of one billion dollars from the Justice budget.

POSSIBLE DISADVANTAGES AND UNINTENDED CONSEQUENCES

The restrictions on peoples' lifestyles are an intended result of such a proposal, but the restriction of movement could be an issue especially in avoiding tests, or if participants wish to regularly transfer between test centres. However, as this punishment is often an

alternative to prison, such restrictions are actually less than what they would have been – and in any case, somebody who needs and is able to travel frequently will be able to pay for the continuous electronic monitoring device.

Participants lacking income might also be an issue, but they will certainly be paying less for the tests than they would have spent on alcohol or drugs, so they should actually be making savings. However, the possibility or reality of being in prison for 24 hours on extremely short notice will make participants less favourable to employers, and so in the short term, this will not help with the offenders' employment prospects, which are also important in their rehabilitation.

Because most participants will be tested solely for alcohol, with only those convicted of drug abuse being tested for drugs, it is possible that addicts could turn from the detectable alcohol to drugs in order to satisfy their addiction. Furthermore, there could be participants who are happy to sacrifice their freedom occasionally in exchange for overindulging on alcohol or drugs, in which case this does not solve their problem – however, the statistics from South Dakota show that this number is relatively small.

CONCLUSION

This is a highly invasive and restrictive rehabilitation process – however, the alternative being imprisonment, those convicted of alcohol or drug abuse are in many ways less fettered, and free to continue their normal lives to a limited extent. It is a cheap alternative to prison that is likely to be highly successful in ending serious drinking and drug problems, thus reducing crime. This programme also has promising prospects for other criminal issues – it could be applied within prisons resulting in solitary detention for 24 hours for those tested positive for illegal drugs, or could be applied to further reduce the demand for drugs in Western nations.