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Drug-related police encounters across the globe: How do they compare?

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ABSTRACT

Background: Drug law enforcement subsumes the majority of drug policy expenditure across the globe. Fuelled by knowledge that much of this investment is ineffective or counter-productive there have been increasing calls for cross-national comparisons to identify where policing approaches differ and what types of approaches may be more effective. Yet, to date cross-national comparison of drug law enforcement has proven a methodologically hazardous affair. Using a new drug policing module added to the 2017 Global Drug Survey, this study seeks to provide the first cross-national comparison of the incidence, nature and intensity of illicit drug-related police encounters amongst people who use drugs.

Methods: The Global Drug Survey was administered in late 2016. Across 26 countries including Australia, Germany, Italy, Mexico, Switzerland, the UK and the USA a total of 45,942 people who had recently used drugs completed the drug policing module. Key variables assessed included the incidence and frequency of drug-related police encounters in the last 12 months that involved: a) being stopped and searched; b) encountering a drug detection dog; c) being given a caution or warning; d) being charged and arrested; and e) paying a bribe. Multi-level models were used to control for pre-existing national differences in drug use prevalence and non-drug specific policing (including the total number of police personnel in each country).

Results: Drug-related police encounters were most commonly reported in Italy and Scotland. Conversely, police encounters were most likely to lead to arrest in Norway, Finland and Sweden. The type and locations of encounters further differed across countries, with for example stop and search most reported in Greece and Colombia, and encounters with drug detection dogs most reported in Scotland, Italy, UK and Australia. Multi-level models showed that the incidence of reported policing encounters continued to differ significantly across countries after controlling for pre-existing national differences in drug use prevalence and policing, and that drug policing encounters were 4 to 14 times more common in some nations than others.

Conclusion: The findings unearth significant cross-national differences in the incidence and nature of drug-related policing of people who use drugs. This suggests that there may be opportunities for countries to learn from each other about how and why they differ, and the potential benefits of switching to lower intensity modes of drug policing.

Introduction

Drug law enforcement subsumes the majority of drug policy expenditure across the globe (Babor et al., 2010; Ritter, Hughes et al., 2016; Ritter, McLeod, & Shanahan, 2013; Ritter & Stevens, 2017). For example, 64% of Australian government expenditure on illicit drugs is directed at policing and enforcing laws (Ritter et al., 2013) and in the USA, UK and Sweden, 59%, 65% and 75% of government expenditure respectively is directed at this domain (Ritter, Hughes et al., 2016). But research has shown that much of this investment does not achieve its intended goals: and indeed that investment is making the problem worse (Babor et al., 2010). For example, street-level drug law enforcement has minimal capacity to deter drug use or supply (Hughes, Moxham-Hall et al., 2017; Friedman, Cooper et al., 2006). Equally, studies from across the globe, including the USA, UK, Australia, Russia, Mexico, Thailand, and Canada have shown that criminal justice

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responses have typically targeted people who use drugs not drug traffickers (Babor et al., 2010; Caulkins & Reuter, 2017; McDonald & Hughes, 2017), which has encouraged high risk drug use practices such as rapid or unsafe injecting (Aitken, Moore, Higgs, Kelsall, & Kerger, 2002; Hayashi, Small, Csete, Hattirat, & Kerr, 2013; Maher & Dixon, 1999; Sarang, Rhodes, Sheon, & Page, 2010), limited access to harm reduction and healthcare services (Kerr, Small, & Wood, 2005), and increased overdoses and HIV/AIDS (Csete, 2007; Csete et al., 2016; Kerr et al., 2005). Furthermore, as evidenced by studies from Mexico and Russia, specific policing practices can lead to added harms, including unlawful arrests of people who inject drugs (PWID) for syringe possession (in spite of laws permitting carrying of injecting equipment), physical and sexual violence and police corruption and bribery (requiring people who use drugs to pay money to avoid arrest and/or jail) (Lunze et al., 2014; Miller et al., 2008; Sarang et al., 2010; Volkmann et al., 2011; Wood et al., 2017). The large investment but growing evidence of harms has spurred increasing calls for cross-national comparison of drug law enforcement approaches: to learn about where policing approaches differ and what types of approaches *may* be more effective (Kilmer, Reuter, & Giommoni, 2015; Reuter, 2017).

As outlined by Ritter, Livingston et al. (2016) and Burris (2017) comparative policy analysis or cross-national comparisons in the illicit drug policy arena can be a very valuable method to unearth differences (and similarities) in approaches, as well as to show why these have emerged and the worth of different approaches. Variations in countries' legal approaches to drugs are well documented, including what psychoactive substances countries prohibit, the chosen model for responding to psychoactive substances – particularly whether countries criminalise, decriminalise or legalise and regulate drugs, as well as the penalty regimes and legal threshold limits for possession for 'personal use' versus 'supply' (Babor et al., 2010; Belackova, Ritter, Shanahan, & Hughes, 2017; Chapman, Spetz, Lin, Chan, & Schmidt, 2016; Kilmer & Pacula, 2016; Klieger et al., 2017; Pacula, Powell, Heaton, & Sevigny, 2015; Ritter, Hughes et al., 2016). Each regulatory component can impact on the extent and nature of harms to people who use drugs as well as the broader community. For example, there are now more than 25 countries that have introduced some form of decriminalisation (or the removal of criminal penalties) of drug use and possession (Rosmarin & Eastwood, 2013). Compared to criminalisation of drug use and possession, decriminalisation can lead to significant social, health and criminal justice benefits such as reducing imprisonment, overdose and drug-related HIV (Babor et al., 2010; Belackova et al., 2017; Hughes & Stevens, 2010; Massin, Carrieri, & Roux, 2017; Single, Christie, & Ali, 1999; Stevens & Hughes, 2016). Moreover, Pacula et al. (2015) mapped the variation in medical cannabis laws across the USA, showing that some schemes were associated with more adverse outcomes. Of note, those that employed legal protections for dispensaries were associated with much more recreational cannabis "use and abuse" among adults (Pacula et al., 2015). Yet, while there has been a lot of attention paid to comparing drug laws across nations, there has been negligible attention to comparing drug law enforcement. This is a significant omission. For example, as argued by Kilmer et al. (2015, p. 279) "focusing on drug law enforcement is much more important for cross-national drug policy comparisons than focusing on drug laws." This is particularly as leading scholars now argue that one of the biggest determinants of drug-related harm is not laws, but the intensity and severity of drug law enforcement (Caulkins & Reuter, 2009; Caulkins & Reuter, 2017; Kleiman, 2010).

Stumbling blocks to cross-national comparative research of drug law enforcement have been both methodological and conceptual (Kilmer et al., 2015). First, it is much harder to assess what police do, than to assess laws which are written or recorded in laws, regulations and guidelines (Wagenaar & Burris, 2013). This is particularly true in relation to illicit drugs (McDonald & Hughes, 2017). Second, the available metrics of drug law enforcement such as on "arrest" are seldom directly comparable across countries due to marked differences in reporting and recording practices (Kilmer et al., 2015). Third, there are no current metrics on any form of pre-arrest activity or different types of policing responses e.g. warning versus stop and search. This is vital data to measure the overall frequency and intensity of policing approaches, as well as the punitiveness (defined as the likelihood of stops converting to an arrest) and to improving assessments of drug law enforcement across the globe (Kilmer et al., 2015). Police culture and police organisational performance metrics can further affect agencies willingness to attend to research evidence and/or new drug policing approaches (Bear, 2016). This is particularly in a climate of continuing popularity of law and order politics (Weatherburn, 2004) and the new punitiveness of crime control (Pratt, Brown, Brown, Hallsworth, & Morrison, 2013), which directly or indirectly incentivise traditional crime control policing approaches.

One recommendation of Kilmer et al. (2015) for gathering comparable cross-national drug law enforcement data, is through capitalising upon existing cross-national surveys. This can ensure that the same set of metrics can be employed in all nations: thereby eliminating incompatibility and capturing multiple indices of drug-related policing encounters (pre-arrest and arrest). Herein we employ this approach. Using a new drug policing module added to the 2017 Global Drug Survey, this study seeks to provide the first cross-national comparison of the incidence, nature and punitiveness of illicit drug-related police encounters amongst people who use drugs. Specifically, the aims are:

1. To compare the incidence, nature and punitiveness of drug-related police encounters amongst people who use drugs across multiple countries
2. To identify which countries, have the highest (and least) intense and punitive policing responses, after controlling for pre-existing individual and national differences in policing and drug use prevalence

Controlling for pre-existing individual and national differences is important as within country studies have shown a number of factors that shape the likelihood of being policed for drugs. The first such factor is ethnicity. For example, Mitchell and Caudy (2015) found that at age 22, African-Americans had 83% greater odds of a drug arrest than whites, and at age 27 African-Americans had 235% greater odds of a drug arrest than whites. Moreover, analysis of official statistics provided by the Ministry of Justice and the Metropolitan Police Service for 2009/10 by Eastwood, Shiner and Bear (2013) showed that black people in the UK were 6.3 times more likely to be stopped and searched for drugs than white people. Other factors that can shape the likelihood of being policed for drugs are sex, employment status and criminal justice history. For example, Koch et al. (2016) found US males were 2.4 times more likely to be arrested for drug use and possession, and that those who were unemployed and those with prior histories of incarceration were 1.6 and 6.4 times respectively more likely to be arrested. Moreover, through analysis of 12 years of sanctions for possession of drugs for personal use in Denmark, Houborg et al. (2016) showed that males, young people, unemployed, and those with prior criminal records were most likely to be arrested and sanctioned for this offence.

Criminological studies have further shown how regional differences can affect policing experiences, and if not controlled for may lead to erroneous conclusions being drawn (Gelman, Fagan, & Kiss, 2007; Levchak, 2017; Ross, 2015). For example Gelman et al. (2007) and Levchak (2017) examined the extent of racial bias in the New York City Police Department's stop and frisk policy. Using multi-level logistic models Levchak showed that precinct-level differences accounted for some apparent racial bias as the percent of blacks and Latinos in a precinct increase the odds of being frisked, and the percent of Latinos in a precinct increases the odds of being subject to the use of force. Importantly, Levchak (2017) also showed that after controlling for precinct-level differences the odds of being frisked or having force used remained greater for blacks and Latinos, thus indicating that there were

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