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## **Chapter 1**

### **Harm reduction policing: Conceptualisation and implementation**

Matthew Bacon and Jack Spicer

#### **Abstract**

This chapter examines the origins, development and current standing of harm reduction policing. It synthesises the existing literature on the topic and offers a detailed overview of developing trends and specific examples from across the globe. The aim is to bring together this growing body of work for the first time, conceptualise harm reduction policing as a distinct policing model and provide a framework for future research. Key points of discussion include enforcement-led prohibition and its shortcomings, the emergence, evolution and application of the notion of 'harm reduction' in drug policy and practice, and the meaning and types of 'harm' it is concerned with. Drawing on the concepts of the 'risk environment' (Rhodes 2002) and 'responsive regulation' (Braithwaite 2011), the chapter also considers theoretical tools that can be employed to inform harm reduction policing. To date, the application of harm reduction principles to drugs policing has only been realised to a limited extent in responses to drug use and markets. The chapter therefore concludes by considering the prospects of harm reduction policing, including the barriers and facilitators to its expansion.

#### **Introduction**

Of all the features comprising the contemporary policing landscape, drugs is arguably one of the most intriguing, complicated and contentious. It is a domain that brings into sharp focus the multifaceted nature of the police role in society, being characterised by a miscellany of tasks, goal conflicts and policy trade-offs. Under the drugs umbrella, those undertaking policing functions can be exposed to anything from violent organised crime groups to drug overdose deaths. Drugs policing is undoubtedly faced with an 'impossible mandate' (Manning 1997). Central to this is how drugs cuts across so many societal issues, presenting complex, compounding challenges that are intertwined with a range of wicked problems. Poverty, crime, addiction, inequality, homelessness, personal trauma and mental health conditions are all regularly connected in various ways to the use, supply and presence of drugs in communities. At the same time, while no drug use is entirely harmless, drugs are a source of pleasure for many and can often be used with minimal risk to both the user and the general public. Consequently, drugs and their control are bound up in thorny moral and politically charged debates that are difficult to reconcile. Policing is often caught up in this wrangling, being heavily disparaged by some, while 'fetishised' by others (Bowling et al. 2019).

Aligning with the ideologies and institutions of the global prohibition regime, drugs policing is firmly centred on law enforcement and punitive interventions. The core aim

has long been to reduce – or even eliminate – the production, supply and use of controlled substances through deterrence and criminal sanctions (MacCoun and Reuter 2001). This rather myopic view has tended to obscure the wider purpose that drugs policing could be orientated around and the harm reduction functions that the police could potentially achieve. While undoubtedly sometimes distorted, exaggerated and misunderstood, drugs and their supply are causal factors in a multitude of serious and ‘real’ harms. There are a variety of enforcement interventions that can effectively reduce drug crime and associated problems (Mazerolle et al. 2007, 2020). But it should also be recognised that there are changes and reforms that can be made to policing that can potentially reduce or contribute to the reduction of a broader range of drug harms.

There is emerging evidence that drugs policing is moving away from traditional enforcement interventions towards a greater focus on harm reduction (Bacon 2016; Beckett 2016; Cloud and Davis 2015; Kammersgaard 2019; Krupanski 2018; Monaghan and Bewley-Taylor 2013a; Perrone et al. 2021; Spicer 2021; Spooner et al. 2004; Stevens 2013; UKDPC 2009). For the purposes of this chapter, ‘harm reduction policing’ is broadly defined as policing measures that aim to reduce the adverse health, social and economic consequences of drug use, drug markets and the efforts to control them through the criminal justice system. Signs of a shift are apparent in burgeoning police-led diversion schemes. Other indicators include the carrying of naloxone by front-line officers and police support for harm reduction services, such as needle exchange programmes, heroin-assisted treatment, drug consumption rooms and drug safety testing. Indeed, many proponents of harm reduction increasingly identify the police as a key partner when it comes to implementing harm reduction programmes (Houborg et al., this volume). It therefore appears timely to provide clarity to this area by considering exactly what harm reduction policing is and how it works in practice.

This chapter examines the origins, development and current standing of harm reduction policing. It synthesises the extant literature on the topic and offers a detailed overview of developing trends and specific examples from across the globe. Our aim is to bring together this growing body of work coherently for the first time, conceptualise harm reduction policing as a distinct policing model and provide a framework for future research. While much of this research might - often quite rightly - be explicitly critical by drawing attention to the direct and indirect harms that drugs policing causes, we argue that there is also a need for a pragmatic focus on how it may be (re)configured to reduce drug harms. The chapter begins by sketching out the wider drug policy context. It offers an overview of enforcement-led prohibition and its shortcomings, before outlining the origins and development of the harm reduction movement that emerged in response. While by no means an exhaustive account, such context is important, especially for those who come to this topic from a policing standpoint and might not be overly conversant with the drugs field. The chapter then turns its attention to the topic of harm reduction policing. It suggests that the underpinning ideas represent a continuation of themes visible in earlier drugs policing research, before going on to consider more contemporary conceptualisations and the types of drug harm this policing model is concerned with. Drawing conceptually on

the ideas of the 'risk environment' (Rhodes 2002) and 'responsive regulation' (Braithwaite 2011), the chapter moves on to discuss theoretical tools that can be employed to inform harm reduction policing. We conclude by considering its prospects, including the barriers and facilitators to its expansion. By doing so we hope to add some much needed clarity to the discourse on harm reduction policing and inform its continued advancement.

## **Drug policy, prohibition and policing**

### ***The drug policy spectrum***

To understand the nature and standing of harm reduction policing, it is essential to situate it within the wider drug policy context. Drug policy refers to the 'laws, decisions, funding programmes, and instructions by which the state affects discourses and practices on illicit drugs' (Stevens 2017, p.826). There is a spectrum of policy frameworks for regulating the production, supply and use of drugs (Nadelmann 1992). Globally, however, drug prohibition is (almost) universal, but with differences in implementation. This variation 'reflects differences in attitudes toward drug use itself, toward individual rights, and toward the role of government. It also reflects the nature and history of national drug problems, the broader political structure of a country, and the different ways in which drugs affect a nation' (Babor et al. 2010, p.221). The drug policy of a state has significant implications for a wide range of stakeholders and society more broadly. For the police, it has specific consequences as they are tasked with enforcing the law and sustaining politically defined order. Drug policy sets the framework in which policing operates; it simultaneously enables and constrains what individual officers and police organisations do in relation to drugs. Because they are the most visible criminal justice institution and manifestation of state power, police also frequently find themselves as the face of drug policy.

At one end of the spectrum are those who wage a ruthless 'war on drugs'. 'Zero tolerance' approaches and the meting out of harsh punishments on those found transgressing drug laws are common. Thirty-five countries still retain the death penalty for drug offences. Every year hundreds of people are executed for non-violent drug offences, and thousands more are subject to fair trial violations and inhumane treatment (Larasati and Girelli 2021). The drug war in Latin America has seen decades of violence, corruption and human rights abuses (Lessing 2018). In the US, the phenomenon of mass incarceration, with all its associated social consequences, has been driven by highly punitive drug laws, sentences and enforcement (Alexander 2010). Recently, President Duterte's drug war in the Philippines represents a particularly vicious manifestation of prohibition, with thousands of citizens killed through extrajudicial police executions and government sanctioned vigilante attacks (Johnson and Fernquest 2018).

However, there are diverging views on drug policy among the international community and change is afoot in many parts of the world (Bewley-Taylor 2012; Hall 2018). The drug policy spectrum includes alternatives to criminalisation via a range of

depenalisation, diversion and decriminalisation measures (Stevens et al. 2019). In Europe, Colson and Bergeron (2017) trace a gradual policy convergence and the emergence of a model favouring public health strategies over a strictly penal approach to drug problems. Portugal is perhaps the most prominent example, where personal possession of all drugs was decriminalised as part of a wider re-orientation of policy towards a health-led approach. Elsewhere, cannabis prohibition has become progressively fragmented, since Uruguay, Canada and numerous states in the USA decided to regulate the market for recreational use (Seddon and Floodgate 2020).

### ***The (in)effectiveness and (un)intended consequences of prohibition***

As intensely as the police and others have waged the war on drugs, there has been little success in achieving the aims of prohibition. If the purpose of this policy regime is to create a 'drug free society' by eradicating the production, supply and use of illicit drugs, most people would concede that it has not only failed but cannot succeed (Rolles 2020). Tasked with playing a central role, the police have processed millions of people through the criminal justice system for drug offences and seized a never-ending quantity of drugs at borders, in warehouses and out on the streets. More recently, the drug war continues to widen its purview, focusing now, for example, on some of the clandestine corners of the internet (Martin et al., this volume). Yet, however intensely these strategies have been used against illicit drug markets, they have failed to have a sustainable impact on supply or demand.

Drug markets have proven to be highly resilient, demonstrating a remarkable capacity for adaptation in response to actions taken against them by law enforcement. While there are plenty of arrests of drug market actors, even occasionally of those situated towards the higher echelons, the markets themselves remain buoyant, often at least one step ahead of enforcement efforts. In the UK, the exceptional social restrictions placed on citizens as a result of the COVID-19 pandemic, combined with the high-profile international policing operation labelled 'Operation Venetic', provided a good case study of market resilience. The police were able to sweep up significant numbers of low-level dealers who became highly visible on otherwise deserted streets, while unique intelligence gathered by infiltrating the 'Encrochat' messaging system allowed them to arrest a significant number of those operating at the upper levels of the market. Yet, faced with this potentially existential crisis, the drug market remained robust (Aldridge et al. 2021).

This recent experience corresponds with wider observations that levels of enforcement activity appear to bear little to no direct relationship to levels of drug availability or use. In their synthesis of literature assessing the relationship between drug enforcement intensity and drug prices, Pollack and Reuter (2014) found that, while prohibition itself may push prices above those likely to pertain in legal markets and therefore hold down drug use, there is little evidence that raising the risk of arrest, incarceration or seizure at different levels of the distribution system will raise prices, at least for established drugs. While drug laws reinforced through enforcement approaches shape the environments in which illicit drugs are produced, sold and used, more enforcement does not appear to reduce drug problems. There is no research

showing that tougher enforcement, more prevention or even increased treatment has substantially reduced the extent of drug use and addiction in a nation (Reuter 2009). Werb et al.'s (2013) audit of international drug surveillance databases also indicates that the availability and purity of drugs has generally increased, while the price of drugs has remained stable or declined, the precise opposite of what would be expected if enforcement measures were effective as a market reduction instrument.

The criticisms of enforcement-led prohibition do not stop at its ineffectiveness. As anyone studying this area soon learns, not only has the current policy position failed in its aims, but the associated efforts at achieving them also drives a range of significant harms (Csete et al. 2016; Rolles et al. 2016). It is important to recognise that being criminalised and subsequently punished is itself a harmful process rooted in the intentional infliction of pain. For those convicted of drug offences, consequences can include stigmatisation, social exclusion, the restriction of education, employment and housing prospects, as well as disrupting health care provision and increasing risk behaviour associated with infectious disease transmission and overdose (Baker et al. 2020; Kerr et al. 2005). There are strong arguments questioning whether there is ever moral justification for criminalising individuals for what they choose to consume or do with their bodies (e.g. Szasz 1974). But even if it was accepted that this might be justifiable under certain circumstances, evidence suggests that the harms of criminalising people who use drugs are not counterbalanced by reductions in drug use. Furthermore, while there is a lack of evidence that vigorously enforcing prohibition serves as a deterrent to drug use, there is an abundance on the harmful consequences of repressive policing and criminalising people for possession offences. This is compounded considering that criminalisation is unevenly distributed across society. Shiner et al. (2018) show how drugs policing, particularly involving the use of stop and search, drives ethnic disparities through the criminal justice system in England and Wales. Similar observations have been made in the USA, with Vitale (2017, p.129) arguing that the end of drug war policing 'would be a major positive step toward radically redefining the role of police in society and improving racial justice'.

In addition to those harms typically associated with being criminalised, a further concern relating to the harmful consequences of drugs policing is the association between enforcement and increased drug market violence. There is evidence from various countries and market contexts that point to this relationship (e.g. Atuesta and Ponce 2017; Moeller and Hesse 2013). Some of the strongest comes from Werb et al (2011), whose systematic review found that intensified drug law enforcement interventions were actually associated with an increase in drug market violence, with underlying mechanisms including the destabilisation of markets, contributing to significant levels of serious violence. Such findings are of significant concern, not least because desires to reduce violence are regularly used to justify why such enforcement actions are undertaken. With this and the abovementioned evidence combined it is unsurprising that, in a frank assessment of drug law enforcement as part of the evaluation of the UK's 2010 Drug Strategy, HM Government (2017) concluded that it had little measurable impact on prevalence of use or other metrics of performance, while conceding that there are often a range of negative outcomes.

## **Harm reduction – origins, development and definition**

The ineffective and often harmful outcomes of drug war style policies and practices have long been recognised by stakeholders in the drug field. It was against this backdrop that the notion of ‘harm reduction’ emerged and has continued to develop. Rooted in the public health tradition (Erickson 1995), harm reduction typically denotes policies and programmes that seek to promote positive health outcomes and minimise the various harms (and/or risks) associated with drug use. The harm reduction movement, as widely recognised today, emerged in the mid-1980s and was triggered by two major factors: first and foremost, the need for effective strategies for minimising the risk of HIV transmission among injecting drug users; and, secondly, the increase in ‘normalised’ recreational drug use among young people (Berridge 1996; Newcombe 1987). Although the reduction of drug-related harm was by no means a new paradigm (Berridge 1993), a series of international conferences beginning in Liverpool in 1990 marked the beginning of what may formally be called a ‘harm reduction approach’ to drug policy (Erickson et al. 1997; Heather et al. 1993; O’Hare et al. 1992). Since then, harm reduction has become a crucial pillar of contemporary drug control efforts worldwide, sitting alongside prevention, treatment and enforcement, as well as the aims of demand and supply reduction. It encompasses a range of health and social services. Well-recognised examples include needle and syringe programmes, naloxone, drug consumption rooms, drug safety testing, opioid agonist therapy, outreach and education (Hunt 2003; Ritter and Cameron 2006).

There is no universally accepted definition of harm reduction and the term has been subject to robust debate (King 2020). This is partly due to it referring to a philosophical approach based on a set of principles, as well as specific types of interventions justified on consequentialist grounds of aiming to reduce net harms. The term originally referred to only those policies and programmes that attempted to reduce the risk of harm among people who used drugs. However, there are now broader, more inclusive definitions encompassing any measures aimed at reducing drug-related harm (Lenton and Single 1998). An explicit goal stated by Harm Reduction International (2021) is to ‘improve drug laws, policies and law enforcement practices, so that they are not detrimental to the health and wellbeing of people who use drugs and their communities’. This broadening of the harm reduction agenda recognises a wider range of measures that aim to minimise the negative health, social and economic impacts associated with drug use, markets and policies.

Key to harm reduction is its grounding in justice and human rights. In contrast to abstinence-oriented prohibitionism, with its roots in social control and medical and religious paternalism, the harm reduction perspective is deeply rooted in humanitarianism and libertarianism (Hathaway 2001; Newcombe 1992). For King (2020, p.328), harm reduction ‘is driven by compassion and a de facto prioritarian sense of justice, not a utilitarian calculus’. It is caring, non-judgemental and avoids marginalising or stigmatising drug users. Importantly, it is also committed to collaborating with people who use drugs in designing, implementing and evaluating

policies and programmes. Since drug use and people who use drugs are not defined as intrinsically problematic, the focus is on problems, or harmful consequences resulting from use, rather than on use directly. It is consequently free from ‘moral, legal, or medical-reductionist strings’ (Erickson et al. 1997, p.7). Harm reduction recognises that many people are unable or unwilling to stop using illicit drugs. It also recognises that many do not require treatment. People who use drugs are treated with compassion and dignity. They are regarded as capable of making choices about their life and taking responsibility for their actions, while acknowledging that agency is shaped and constrained by the environments in which drug use occurs (Rhodes 2002).

Harm reduction generally eschews simplistic and sometimes unhelpful dichotomies between prohibition and legalisation. By neither denouncing nor promoting drug use, harm reduction programmes are able to be pragmatic and consider which policies are likely to be most effective for reducing specific drug-related harms. Harm reduction policies and practices aspire to be evidence based, with advocates committed to achievable goals. This approach to harm reduction both avoids and problematises moralistic influences that are often prevalent in drug policy (Keane 2003; Stevens 2019). Of course, taking this position can put harm reduction at odds with the dominant legal-sanction-based policy. Roe (2005, p.245) stresses the activist origins of harm reduction, conceptualising it as ‘ideological and oppositional’, with a ‘political and moral commitment to altering the material and social conditions for drug users’. Yet, the pragmatic nature of harm reduction measures makes it possible for certain strategies to be tolerated, accepted, or even actively incorporated into existing drug policies, without completely dismantling the legal framework. Erickson (1995, p.284) reminds us that drug ‘[l]aws are not moral absolutes, but are instruments used to achieve health objectives that reduce risk for individuals, communities and society’. Making drugs illegal has not stopped people using them or reduced their harms. Legalising drugs overnight is unlikely to represent a silver bullet either. Pragmatically transcending the space in between, harm reduction provides a pathway for genuinely effective responses to drugs to be designed and delivered.

### **Towards harm reduction policing**

#### ***Back to the future: The empirical foundations of harm reduction policing***

It is against the backdrop of the deficiencies of enforcement-led prohibition, combined with the value of harm reduction, that an approach to drugs policing which applies harm reduction principles can be situated. Considerations of how the paradigm of harm reduction could be aligned with drugs policing is a relatively new and growing movement (Bacon 2016; Beckett 2016; Cloud and Davis 2015; Kammersgaard 2019; Krupanski 2018; Monaghan and Bewley-Taylor 2013a; Perrone et al. 2021; Spicer 2021; Spooner et al. 2004; Stevens 2013; UKDPC 2009). Certainly the concept of harm reduction has less frequently been applied to policing than other areas in the drugs field. Yet, importantly, there is some significant precedent. Earlier drugs policing researchers both implicitly and more explicitly recognised that harm



reduction was the only feasible outcome of work in this area. Going back to these studies provides a foundation for harm reduction policing, as well as recognition that contemporary drugs policing scholarship is building on what has come before. Harm reduction policing can thus be considered a progressive development, rather than a radical departure from the past.

Returning to the work of Manning (2004), for example, who provided one of the first in-depth accounts of drugs policing by studying two police drug units located in metropolitan areas in the US in the spring of 1975, is instructive. His conclusions were critical of attempts to punish drug offenders through the criminal law. As an alternative he suggested that drug use and supply could be approached through the lens of public health, with 'the risk and disease-causing factors related to drug use as matters to be mitigated, reduced, or prevented' (p.265). Also explicitly invoking the logic of harm reduction, Dorn and South (1990, p.186) suggested: 'It may now be time to discuss harm minimization in relation to drug distribution. The question is, given that we cannot totally prevent illegal drug markets ... what sort of markets do we least dislike, and how can we adjust the control mix so as to push markets in the least undesired direction'. A similar argument was made shortly after by Pearson (1992, p.15), who, acknowledging the potential role of harm reduction in this area, stated that 'there is a pressing need that the concept should be expanded to include drug enforcement, criminal justice and the penal system'. Also central to his argument was the value in minimising the use of 'counter-productive aspects of enforcement strategies through arrest-referral schemes, diversion programmes and other community-based activities which avoid the excessive use of custodial measures' (p.17), something also championed by Collison (1995) and Murji (1998). Recognising this wider application of harm reduction set a platform for considering how drugs policing could be more reflexive, pragmatic and humane.

Findings from studies grounded in the perspectives of those subjected to, rather than undertaking, drugs policing also made significant contributions in setting the scholarly foundations for harm reduction policing. Maher and Dixon's (1999) study of Sydney's principal heroin market highlighted tensions between commitments to law enforcement and harm minimisation. Identifying a number of drug-related harms that were (re)produced by drugs policing measures, their findings integrated perspectives from policing and public health research, ultimately arguing for a shift in policing priorities towards public health and community safety, while rejecting suggestions that the law constrains the ability of police to subordinate enforcement to other objectives. Lying at the heart of this argument is the emphasis on the capacity for the police to use their discretion in a way that reduces harm. Similarly, based on ethnographic observation in New York City, Curtis and Wendel (2007) argue that police interventions can effectively reconfigure markets by 'training' them to act in ways less likely to produce violence and social disorder.

### ***Contemporary conceptualisations of harm reduction policing***

The move towards harm reduction policing is not only a logical progression in the harm reduction approach to drug policy. Fundamentally, it should also be situated in

debates about the nature and boundaries of the contemporary police 'mission' (Loader 2020). Notwithstanding the intersections, in-betweens and shades of grey, the crux of the matter is the longstanding but oversimplified question of whether the police are best defined as a law enforcement agency tasked with fighting crime or a social service doing whatever is necessary to improve public safety and wellbeing. History reveals that the policing pendulum constantly swings between 'force' and 'service' roles (Bowling et al. 2019). Inevitably, this has implications for drugs policing.

As previously outlined, the policing of drugs is usually conceptualised primarily as a matter of law enforcement: drugs are prohibited and it is a role of the police to enforce the law and bring offenders to justice. This narrow definition overlooks and undervalues the wider purpose of (drugs) policing, 'to protect public and individual safety, security, order, and rights' (Krupanski 2018, p.5). While enforcement is certainly a core element of the police mandate, adopting a harm reduction perspective, it should be viewed as a means to an end rather than an end in itself. Put simply, the law is a resource that can be enforced as a means of promoting order and ensuring the safety of the community by reducing harms to its members. Treating enforcement as the end goal encourages the police to measure success through the process and largely symbolic outcomes of arrests and seizures (Coomber et al., this volume). Recognising this conceptual issue, Caulkins and Reuter (2017, p.113) suggest that remembering that 'the principal purpose of prohibition is to protect people ... may insulate against a mentality of having to burn the village in order to save it'.

Correspondingly, harm reduction policing might be viewed as part of broader trends in modern policing that have resulted in a more expansive and proactive conception of police work. These include the rise of intelligence-led approaches and problem-oriented strategies, as well as the emphasis on community engagement and multi-agency partnerships. One of the reasons Goldstein (1979) formulated problem-oriented policing was to counter the 'means over ends' syndrome that can afflict policing. He challenged the prevailing view of police work as a series of discrete incident responses and instead advocated refocusing on the problems that connected them. Evidence indicates that suitably conceived and implemented policing interventions that integrate problem-oriented, geographical targeting with efforts to create and sustain partnerships between key stakeholders can help to create positive outcomes in relation to drug markets and related harms (Mazerolle et al. 2007, 2020). Increasing emphasis on the intersections between law enforcement and public health has also seen the promotion of partnerships to address complex and interrelated social issues with health, safety, wellbeing and security impacts and implications (van Dijk et al. 2019).

The concept of harm reduction policing has begun to develop into a model with identifiable values, objectives and norms. It is, however, one policing model amongst many and must operate alongside, combine, compete or conflict with, alternatives. With regard to policing social marginality, for example, Herbert et al. (2018) examine contrasting approaches to insecurely housed people with drug use and/or mental health issues: aggressive policing (i.e. 'zero tolerance'); coercive benevolence, whereby officers use the threat of arrest to compel individuals to make 'better'

choices; and officer-assisted harm reduction. For them, harm reduction policing differs from the other approaches in several important ways. Chief among them is that, rather than pursuing arrests to enhance deterrence, officers use their discretion to channel people out of the criminal justice system and toward services based on the principles of harm reduction. Unless there is an immediate threat to public safety, arrest and punishment are deemed inappropriate responses to low-level criminal behaviours that are understood as having their roots in structural failings.

Just as with more established harm reduction interventions, harm reduction policing recognises that the core mission of the police is to protect human life. As a model, it promotes the benefits of reducing the reliance on enforcement and refining the roles and objectives of policing within the context of drug prohibition. In contrast to other policing strategies, it is novel in recognising that ‘the level of harm is more important than the size of the market’ (Stevens 2013, p.12). The underlying logic is that strategically nuanced policies aimed at lessening the negative consequences of risky behaviours – especially those addressing the needs of people who use drugs and engaging communities in a manner that builds trust (Krupanski 2018) – may reduce harm more than blunt policies aimed at eradicating such behaviours. Focusing on primary activities for which police are the lead agency, Caulkins and Reuter (2009) distinguish four broad pathways to harm reduction policing: reducing drug use; reducing the harm that users experience per unit of drugs used; reducing the harms that users impose on others; and reducing the harms caused by production, trafficking and distribution of drugs. Kammersgaard (2019) additionally argues that harm reduction policing should seek to reduce the harms that others impose on drug users, since they are much more prone to be victims of violence, threats and harassment than the general population. Another important pathway is reducing the harm caused by drug policies and policing interventions. Combined, this moves towards a framework for balancing trade-offs and taking into account both the positive outcomes and potential adverse effects of efforts to control drug problems through the criminal justice system. It also appreciates that there are progressive policies and reforms that can be implemented without legislative change ‘to help better align the mission, culture, and practices of law enforcement, public health agencies, and harm reduction organizations’ (Cloud and Davis 2015, p.9). This may therefore spur innovation in the creation and diffusion of new strategies and tactics.

## **Harm reduction policing in theory and practice**

### ***Meaning and types of ‘harm’***

One of the more complicated analytic tasks when thinking about harm reduction and the role it can play in drugs policing concerns establishing the meaning and types of ‘harm’ it covers. Some lessons can be taken from other relevant disciplines. Social harm scholars have focused on structural determinants of preventable harms (Pemberton 2015). Zemiologists have made strong arguments for taking into account all the harms people might experience from cradle to the grave, rather than only those defined as criminal (Hillyard et al. 2004). Some evidence-based policing researchers

also stress how different crimes are responsible for significantly different levels of harm (Sherman 2007). Nevertheless, 'harm' remains a slippery concept. Complex and multidimensional, it encompasses health, social and economic components. As previously mentioned, specifically for drug harm reduction, sometimes 'harm' is used only to refer to health harms for users, what Nadelmann (1993) identifies as 'primary harms'. Yet, while a core part of drug harms relates to drug use directly, others include those associated with markets and drug-related crime. As Caulkins and Reuter (2009, p9) argue, 'harm reduction has potentially much broader application when applied to the entire suite of harms generated by the production, distribution, consumption, and control of drugs, not just drug use'. If harm reduction can therefore be concerned with such 'secondary harms' (Blaustein et al. 2017), as well as those arising from drug policies, this opens the door to a range of issues relevant to policing.

A number of conceptual frameworks of harm reduction have been developed. Newcombe's (1992) widely cited work distinguishes drug harm at different levels: individual, community and societal. Three different types of harm are also identified: health, social and economic. Arguably the most useful for harm reduction policing is MacCoun and Reuter's (2001) multidimensional 'taxonomy of drug-related harms'. This includes: four categories of harm (health, social and economic functioning, safety and public order, criminal justice); six groups that bear the cost (users, dealers, intimates (family, partners, friends), employers, neighbourhood, and society); and three sources of harm (use, illegal status, and enforcement). The sheer number of harms listed highlights the scale and complexity of drug problems. Examples of harms that are most directly related to policing include elevated price of substance, acquisitive crime, violence, fear and sense of disorder. Paying attention to the possible bearers of harm/risk stresses their heterogeneity and encourages us to think about their distribution across different groups under different policies. The inclusion of the primary source of harm in MacCoun and Reuter's taxonomy is also useful for harm reduction policing purposes as it recognises that 'among the costs of prohibition are the side effects of what is necessarily imperfect and incomplete enforcement of the law' (p.109). Harms attributed to enforcement include systemic crime, infringement on liberty, stigma of criminal record, devaluation of arrest as moral sanction and inhibition of voluntary pursuit of treatment. As with harm reduction strategies more generally, through this framework drugs policing should aim to demonstrate that, on the balance of probabilities, it is likely to result in a 'net' reduction in drug-related harm. Of course, this is not easily measured. Drugs policing strategies can have multiple effects, potentially decreasing some harms while increasing others. Ultimately, however, harm reduction policing measures can reasonably be considered successful if net harm is minimised.

### ***Policing the 'risk environment'***

A clear understanding of harm and a framework for harm reduction in the context of drugs policing allows for harms to be identified, understood and analysed further by adopting other complementary theoretical lenses. The 'risk environment' (Rhodes 2002) is a useful framework for understanding and reducing drug-related harm. Rhodes (2002, p.88) defines a risk environment as 'the space – whether social or

physical – in which a variety of factors interact to increase the chances of drug-related harm’. Within this broad definition, there is the need to delineate the environmental factors associated with harm production and reduction. Rhodes (2002) suggests that a basic framework of the risk environment comprises ‘ideal types’ of environment (physical, social, economic, policy) and levels of environmental influence (micro, macro). Studies have unpacked the nature of risk environments in relation to varied contexts and drug-related harms, including heroin use initiation (Mayock et al. 2015), drug injecting (Rhodes et al. 2003) and overdose (McLean 2016).

A risk environment approach places primacy on context and understanding the environmental determinants of harm as a means to create or enhance ‘enabling environments’ for harm reduction. Individual behaviour change is considered possible only if the environment enables it. Emphasis is also placed on understanding how risk environments shape the introduction, implementation and impact of policies and interventions. For Rhodes (2002, p.91), a critical feature of a risk environment approach is that it ‘seeks to shift both the responsibility for harm and the focus for change from individuals alone to the social situations and structures in which they find themselves’. It therefore aims to help overcome the constraints of individualism that are typical of many harm reduction interventions, stressing the often overlooked role of social and political institutions in harm production.

A substantial amount of literature documents how drug laws and enforcement practices contribute to the risk environment of drug use. The bulk of the empirical evidence indicates that policies based solely on enforcement – without taking into account public health and human rights considerations – produce harmful health and social impacts for users (Baker et al. 2020; Kerr et al. 2005; Strathdee et al. 2015). To demonstrate the value of considering harm reduction policing through the lens of the risk environment, here we will briefly consider two contexts with distinct social and physical spaces: street injecting drug use, and the night-time economy and festivals. For both, we consider how policing can generate harm through their role in the risk environment and then how policing can be (re)oriented around harm reduction principles to create enabling environments that reduce harm.

International research has consistently shown that drug law enforcement in the context of street injecting has both direct and indirect effects on behaviours that increase risk of HIV and blood-borne infections. In studies considering the risk environments relating to HIV and drug injecting, local policing activities are identified as a structural determinant of harm, as well as a direct social risk (e.g. Rhodes et al. 2003; Small et al. 2006). In their systematic review, Baker et al. (2020) provide a synthesis of policing practices that can act as structural risk factors for HIV infection and risky injection behaviours. Robust evidence shows that HIV infection is significantly associated with syringe confiscation, reluctance to buy/carry syringes for fear of police and rushed injection due to police presence. These practices increase the risk of needle sharing and overdose mortality. Street policing shapes the risk environment when people who inject drugs avoid harm reduction services and accessing voluntary treatment because of (fear of) negative encounters with the police. Studies also reveal that mistrust and fear of arrest deter people who use drugs

from calling emergency services in the event of an overdose (Green et al. 2009; Selfridge et al. 2020).

Burris et al. (2004) were among the first to stress the need to incorporate policing into public health research and action. Focusing on people who inject drugs, they argue that examining the role of the police in creating risk provides new opportunities for harm reduction through structural interventions that alter the risk environment. Regarding drug injecting and overdose, there are various measures the police can adopt to create and enhance enabling environments for harm reduction. A basic policing measure is 'to identify operational practices that may impede access to lifesaving services and adjust these practices to prioritize the lives and health of vulnerable populations' (Krupanski 2018, p.10). An obvious way to achieve this is through cooperation or collaboration with harm reduction services that provide sterile injecting equipment and supervised injection facilities. Police can enter into agreements not to conduct drug searches or arrests for drug consumption or personal possession at or near service locations (see e.g. Watson et al. 2018). They can also train in overdose resuscitation, carry naloxone and implement policies that exempt people who call emergency services from being charged for possession.

Policing drugs can also be associated with harm in the risk environments of the night-time economy and at festivals. In her ethnographic research on New York City 'club kids', Perrone (2009) found that criminalising drug users dismantles their social support networks and reduces their economic opportunities, which are necessary for maintaining controlled drug use and employing methods to reduce harms. Cristiano (2020) found that the unpredictability of responses to drug use and supply by police, private security and other venue staff was important for shaping risk and risk management practices. For example, when confronted with heightened police presence at an event or festival, some attendees engaged in drug binges and did not adhere to harm reduction advice to regulate doses. Participants in Cristiano's study were also hesitant to ask for help when needed because of uncertainty about how police and security would react. Finally, while research suggests that the use of drug detection dogs as a policing strategy at festivals fails to act as a significant deterrent, their use has been found to contribute to risky drug using practices such as consuming drugs before entering and buying drugs from unknown sources when inside (Hughes et al. 2017; Grigg et al. 2018).

Again, after considering their detrimental role in these risk environments there are policing practices that can help promote enabling environments for harm reduction in night-time economy and festival contexts. Ensuring that the police do not undermine harm reduction policies and programmes appears crucial. Measham and Turnbull (2021) conclude that event-based drug checking services can access and engage productively with young adults through tailored polydrug brief interventions. Rapid identification of substances of concern, dissemination of test results and associated risk communication during and after events through friendship networks, support services and early warning systems suggest that the benefits of drug checking can extend beyond the point of intervention. Facilitating such services could be considered a classic example of harm reduction policing. Additionally, the police can

also play an active role in promoting harm reduction. They can work in partnership to adopt the '3Ps: Prevent, Pursue, Protect' drug policy as a pragmatic alternative to zero tolerance. The policy directs priorities towards preventing drugs from entering a venue or site, pursuing those suspected of supplying drugs therein, and protecting people from drug-related harm. A final example of an enabling harm reduction police role in these environments is to enforce breaches of licensing regulations that can endanger drug users (Fisher and Measham 2018).

### ***Policing as drug market regulation***

If, as has been previously argued, it is accepted that suppression of drug markets is an impossible mandate, the task of policing inevitably becomes regulation (Bacon 2016; Canty et al. 2000; Caulkins and Reuter 2009; Curtis and Wendel 2007; Maher and Dixon 1999). In this section, harm reduction policing is considered through the lens of regulation to further enhance our conceptual toolkit and build upon the ideas of researchers who have applied regulatory theory to drug policy. Much can be learned from regulatory scholarship to help us rethink drugs policing and develop more effective, compassionate and creative responses to drug problems (Ritter 2010; Seddon 2010, 2020).

Rather than taking a narrow view of regulation, as the actions of the state to govern through laws, systematic monitoring and enforcement of sanctions for their breach, from our standpoint it is a capacious concept that means 'influencing the flow of events' (Parker and Braithwaite 2003, p.119). We adopt Black's (2002, p.26) definition of regulation as the 'sustained and focused attempt to alter the behaviour of others according to defined standards or purposes with the intention of producing a broadly defined outcome or outcomes'. Applied to harm reduction policing, this translates to attempting to alter the behaviour of people who use, supply and/or police drugs according to the principles of harm reduction with the intention of reducing the adverse health, social and economic consequences associated with drug use, drug markets and efforts to control them through the criminal justice system. Approaching drugs policing as a regulation problem heightens our awareness and understanding of the forms and functions of regulation in diverse fields. Moreover, Seddon (2010, pp.100-21) argues that it highlights the need to look 'beyond the state', decentring it both in our analyses and in our prescriptions for action, and 'beyond the law', as steering the flow of events requires a much wider range of tools than just legal instruments. This opens up new ways of thinking about the possibilities for harm reduction policing that challenge the dominant role of the police and seek to utilise the regulatory resources and capabilities of multiple actors with a stake in reducing drug harms.

What we are proposing here is an approach to harm reduction policing that incorporates the principles of 'responsive regulation'. The most influential presentation of the theory is by Ayres and Braithwaite (1992), who pulled together insights from earlier studies on corporate crime, mine safety and business regulation. In a nutshell, the essence of responsive regulation is that regulators need to be

responsive to the behaviour of those they are seeking to regulate and highly attuned to the context in which they are operating.

The idea of pyramids of supports and of sanctions is at the heart of responsive regulation. A key premise is that dynamic regulatory efforts should begin at the base of the pyramid, with the most restorative, dialogue-based remedies available. When a regulatory incident occurs, affected parties should have 'an opportunity to discuss how they have been hurt by it, their needs, and what might be done to repair the harm and prevent recurrence' (Braithwaite 2011, p.485). In discussing motivation, Braithwaite (2011, p.497) argues that the regulatee, rather than the regulator, should 'voice the arguments for change' and develop the 'change plan'. To effect this change, the regulator should 'listen with empathy, minimize resistance, and nurture hope and optimism'. Most of the regulatory action can fall within a 'pyramid of supports' for compliance and continuous improvement. This strengths-based pyramid seeks to try one strategy after another that might further build strengths on a foundation achieved at lower levels of the pyramid. Regulators should not rush to enforcement solutions to problems. Only if the supportive 'carrot' measures fail, should regulators move up the 'pyramid of sanctions' to increasingly more demanding, coercive or punitive interventions, culminating in the biggest 'stick' at the apex. The knowledge that escalated enforcement is the consequence of non-compliance should be sufficient to drive down most of the regulatory action towards the lower levels of the pyramid. Indeed, the paradox of responsive regulation is that by having the capability to escalate to tough enforcement, most regulation can be about 'collaborative capacity building' (Braithwaite 2011, p.475). It is also worth noting that compliance is more likely as responsive regulation strategies are generally viewed as more legitimate and procedurally fair.

There are numerous areas of drugs policing where responsive regulation is either currently observable or potentially applicable. One of the most obvious is alternatives to arrest and prosecution for minor cannabis offences. In England and Wales, for example, the approach to cannabis possession for personal use is generally guided by a policy of escalation: people found in possession are issued a cannabis warning for their first offence, a fine for their second, and face the possibility of arrest if caught for a third time (Monaghan and Bewley-Taylor 2013b; Lloyd, this volume). Visible in this example is a limited application of responsive regulation in that it has a pyramid of sanctions but no opportunity for dialogue or support. A fuller package of regulatory mechanisms is discernable in diversion schemes that aim to minimise the harmful effects of criminal justice intervention and provide opportunities to address drug use/offending through education, treatment and support. In Australia, police diversion programmes are a well-utilised policy intervention for cannabis offences. Hughes and Ritter (2008) identify two main mechanisms of cannabis diversion: cannabis cautioning and cannabis expiation. The former involves an 'on the street' formal caution, provision of educational information and optional referral to an education session or brief intervention. The latter provides offenders with opportunities to avoid a criminal record through the payment of an expiation fee.



Another example that bears the hallmarks of responsive regulation is Checkpoint, a 'deferred prosecution' scheme operating in Durham Constabulary (Weir et al. 2021). Durham's diversion scheme engages low-level offenders – including anyone caught in possession of drugs and users who commit acquisitive crimes or sell drugs to fund their addiction – entering the criminal justice system and offers them an alternative to prosecution. The scheme targets the reasons why people commit crime by assessing their individual needs to provide tailored interventions that support their recovery and desistance. These interventions harness the expertise of partner agencies in tackling the social determinants of crime. Independent 'navigators' are employed as case managers. They complete the needs assessment, agree a 'contract to engage' following dialogue with the subject – the 'change plan' (Braithwaite 2011) – and provide them with practical and emotional support. Completion of Checkpoint results in an exit from the criminal justice system and no criminal conviction. If subjects reoffend or do not engage while on the programme, they are subject to a pyramid of sanctions that culminates in prosecution. From a harm reduction perspective, however, a criticism of deferred prosecution schemes is that they are overly reliant on mechanisms of coercion. Grounded in theories of deterrence, this model of diversion is built around the idea that the threat and certainty of punishment can act as an incentive for compliance. Coerced treatment is widely considered to be both unethical and less effective (Stevens 2012), so care needs to be taken to encourage and provide routes into engagement with services, while not alienating people from them by use of threats. This was one of the reasons why Thames Valley Police developed their own diversion pilot for people caught in possession of drugs, which allows for pre-arrest diversion, makes the process of referral voluntary and does not require an admission of guilt (Spyt et al. 2019; Spyt and Kew, this volume).

A comparable model of diversion from the US is Law Enforcement Assisted Diversion (LEAD), which originated in Seattle but has since been rolled out in many other jurisdictions. LEAD is a pre-arrest, whole system approach to diverting people who would otherwise be arrested on misdemeanour charges into a community-based intervention that is guided by harm reduction principles (Beckett 2016; Perrone et al. 2021). Meaningful involvement of persons with lived experience is core to the local approach. Like Durham's Checkpoint, case managers work closely with participants to create an individual intervention plan that is tailored to people's particular needs and goals, which might include support with treatment, housing, education, job training, transportation, childcare or other services. LEAD protocol does not authorise any sanctions for non-compliance though, as bringing charges might undermine therapeutic progress. Beckett et al. (this volume) describe the recent evolution of the LEAD model, whereby police no longer serve as gate-keepers, service provision has been enhanced, and there is greater access to medication-assisted treatment and health care more generally.

With regard to drug supply, Caulkins and Reuter (2009, p.16) suggest that a harm reduction approach to regulating market-related harms 'seeks to push or mould the market into less harmful distribution practices'. Put differently, policing should focus on the characteristics of drug markets that are causing the most problems to communities. An intervention that might be employed to achieve this form of market

regulation is the ‘focused deterrence’ or ‘pulling levers’ strategy (Braga et al. 2018; Kennedy and Wong 2012). Pioneered in Boston as a problem-oriented policing project to halt serious gang violence during the 1990s, the basic principles of the focused deterrence approach have also been applied to overt drug market problems and repeat offending by drug using probationers. In the ‘High Point model’ (Kennedy and Wong 2012), for example, which has been rolled out as the ‘drug market intervention’ strategy, the process starts with dialogue between law enforcement and members of the community in order to address the ‘norms and narrative’ of each group. Police officers gather sufficient evidence to prosecute targeted drug dealers, ‘bank’ the cases and then show the individuals in question that they will face swift and certain punishment unless they change their criminal behaviour. The next stage of the intervention is the ‘call-in’. Targeted individuals are invited to attend a meeting whereat the police, service providers, community and family members explain the purpose of the intervention and deliver a clear message about what behaviours are liable to receive a more punitive response. Defining the problems together – which often includes racial conflict between the public and the police – and considering harms to all parties provides a platform for developing coordinated action to deal with the issues through ‘collaborative capacity building’ (Braithwaite 2011).

In much the same way as deferred prosecution schemes, however, focused deterrence strategies can be criticised for relying primarily on enforcement and the threat of punishment. Vitale (2017) argues that the supports offered tend to be limited and do little to create real opportunities for people. Instead, they reinforce ‘an ethos of “personal responsibility” that often ends up blaming the victims for their unemployment and educational failure in communities that are poor, under-serviced, segregated, and dangerous’ (p.168). Such observations can take us back to the risk environment framework, which is predicated on a critique of responses that over rely on individual behaviour change. By recognising the limitations of interventions that fail to account for structural factors external to targeted individuals, this stresses the need for regulatory policing measures to be more responsive to environmental determinants of harm in order to create and enhance enabling environments for harm reduction.

### **Conclusion – Barriers, facilitators and the expansion of harm reduction policing**

This chapter has detailed the model of harm reduction policing by tracing its origins and drawing on pertinent theoretical perspectives to understand and inform its contemporary standing. Various international examples of harm reduction policing operating in practice have also been cited. To date, however, the application of harm reduction has only been realised to a limited extent in response to drug use, drug markets and efforts to control them through the criminal justice system. Despite the theoretical potential, emerging evidence of its benefits and arguable moral imperative, there are barriers to wider implementation that need to be overcome. To conclude, we consider some of these barriers and the facilitators likely to be encountered in the development and implementation of harm reduction policing.

Police culture is regularly identified as a barrier to reform, with attempts at introducing new policies or modifying existing practices often thwarted by some of the engrained values, norms and outlooks that permeate the world of policing (Bacon 2016; Spooner et al. 2004). Harm reduction policing requires a shift in how the police understand and make sense of drug problems, their role and impact. While there are manifest continuities with drug war mentalities and traditional patterns of enforcement, recent empirical studies indicate that cultural change is happening as police officers reflect on their experiences and engage with evidence of what works in drugs policing (Bacon 2021; Kammersgaard 2019; Krupanski 2018; Marks et al. 2017). A policy implication of these findings is that cultural change could be furthered through experiential learning and critical reflective practice approaches to police education. This could include critical reflection on the complexities of drugs policing, moral dilemmas, and perspectives on successful outcomes, as well as deliberative engagement with people with lived experience of drug problems and the criminal justice system. Such an approach to education could help tackle stigma and challenge institutional myths and misconceptions, breaking down some of the potential cultural resistance to forms of drugs policing less familiar to officers. Police understanding and uptake of practices that are more congruent with harm reduction can also be facilitated through relevant harm reduction training (Khorasheh et al. 2019).

The structural conditions of police organisations also require change to foster and facilitate harm reduction policing. As outlined throughout this chapter, policing is shaped by legal frameworks and drug policies. Kammersgaard (2019), for example, argues that the partial decriminalisation of drug possession that followed the introduction of drug consumption rooms in Copenhagen enabled a shift in the logic of policing whereby people who use drugs could be more readily perceived as citizens with rights, rather than simply offenders. Structural change should also include a shift in police organisational policy and operational guidance towards strategies and tactics that are aligned with harm reduction principles. As Skogan (2008, p.26) makes clear in relation to police reform, abstract concepts 'must be turned into lists of practical, day-to-day activities and then enshrined in enforceable orders to which officers in the field can fairly be held accountable'. Keeping this in mind would appear essential if attempts at introducing harm reduction policing are to be meaningful and enduring. Finally, another practical challenge is developing new performance measures that value harm reduction, remove the emphasis on criminal justice outputs and incentivise officers to adapt their practices. As Bear (2016) has shown, the lure of traditional measures of drugs policing success such as arrests and seizures can (re)produce drug harms and damage community relations. Instead, more fruitful measurable outcomes might include lives saved through overdose prevention, the number of police referrals to community health and social services, and public satisfaction with policing interventions.

Much the same could be said about the wider political environment in which the police operate. Political actors often expect the police to act in particular ways in response to drugs. For this reason, 'any police reform efforts will likely fail unless key political actors are supportive for long enough to allow change to take hold' (Herbert et al. 2018, p.1493). Harm reduction has been subject to considerable political debate.

It has also been criticised as condoning dangerous or morally wrong behaviour by prohibitionists, as well as those who advocate abstinence. Such a view has raised concerns that accepting that drug use will occur will encourage use by undermining the social signal of prohibition. There is anxiety that harm reduction ‘may “enable” drug use and keep people stuck within a pattern of addiction’ (Hunt 2003, p.7). There have also been concerns that harm reduction policy and practice may operate as a ‘Trojan horse’ for legalisation (pp.8-9). Any signs of the police not acting in accordance with the politically charged position of prohibition therefore potentially renders them vulnerable to critique. Yet, as has been demonstrated since its original formulation, not only can harm reduction prove lifesaving for individuals and invaluable for communities and society, it is possible for it to function successfully within the framework of prohibition. At national and local levels, bravery is required from political actors who are prepared to resist the temptation for scoring easy political points by superficially posturing as being ‘tough on drugs’ and instead support efforts to genuinely reduce drug harms (Jones and Twomey, this volume).

Finally, it is important to recognise that any police efforts to reduce drug-related harms are fundamentally limited. These arise from a complex web of social factors that are far beyond the ability of the police to address on their own. For all of its potential, harm reduction policing does not hold all of the answers and nor should it be suggested otherwise. Even if the various barriers in the way of its successful implementation are overcome, drug-related harms will still exist. Drawing on recent arguments made in the realist criminological literature (e.g. Matthews 2014), pursuing harm reduction policing could be considered not just as a pragmatic option for what can be done to deal with contemporary drug problems, but also what must be done both now and in the future to reduce drug harms and help to deliver positive change. But it is crucial that harm reduction policing and those engaged in it do not set themselves up for failure by overpromising. The continued presence of drug-related harms where forms of harm reduction policing are pursued should not be interpreted as evidence of its failure. Similarly, examples of the pursuit of harm reduction policing should not be considered ‘enough’ of a response to drug problems. Instead, harm reduction policing should be viewed as just one piece of a much larger societal puzzle. Only structural changes can alleviate many of the serious drug-related harms that nations around the world currently face. In the meantime, the best the police can do is to organise themselves in ways that minimise harms they might generate, avoid impeding measures aimed at addressing drug-related harms and actively facilitate interventions that reduce them.

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