

Modernising Drug Law Enforcement Publication Series

Summary

March 2014

The Modernising drug law enforcement project is led by the International Drug Policy Consortium (IDPC) in collaboration with the International Security Research Department at Chatham House and the International Institute for Strategic Studies (IISS).

Drug law enforcement has traditionally focused on reducing the size of the illicit drug market by seeking to eradicate drug production, distribution and retail supply, or at least on the stifling of these activities to an extent that potential consumers are unable to get access to particular drugs.

These strategies have failed to meaningfully reduce the illicit supply of, or demand for, drugs in consumer markets. Given this reality, and a wider policy context where some governments are moving away from a “war on drugs” approach, drug law enforcement strategies need to be adjusted to fit the new challenge – to manage drug markets in a way that minimises harms on communities. Many discussions are now focusing on how law enforcement powers can be used to beneficially shape, rather than entirely eradicate, drug markets.

The Modernising Drug Law Enforcement project aims to offer theoretical material and examples of new approaches to drug law enforcement, in order to inform the debate amongst law enforcement leaders on future strategies.

This summary is based on six briefing papers that were published in 2013 as part of the project.¹ These briefing papers offer an analysis of the policies and practices in drug law enforcement that have so far been implemented to tackle drug production, demand, trafficking and criminality – highlighting the benefits and drawbacks that such strategies have had around the world. These briefings offer evidence of the ineffectiveness of the traditional “war on drugs” approach to reduce the supply or demand for drugs in consumer markets, and provide policy guidance and examples of best practice on new drug law strategies. The briefing series focuses on the following key themes:

- 1 The role of the police to support harm reduction policies and practices towards people who use drugs
- 2 Examples of focused deterrence and selective targeting strategies to combat drug trafficking and organised crime
- 3 The application of harm reduction principles to the policing of retail drug markets
- 4 The practical policing implications of regulated cannabis markets
- 5 Best practices in the area of financial investigation strategies and drug law enforcement
- 6 The role of foreign aid in drug law enforcement strategies.

Taken together, these 6 reports provide some analysis and guidance for law enforcement managers as they review their strategies and allocation of resources in a changing drug policy environment. The **Modernising Drug Law Enforcement** project will continue to work with partners and governments to explore these concepts in further detail.

¹ These publications are available online at: <http://idpc.net/policy-advocacy/special-projects/modernising-drug-law-enforcement>

Police support for harm reduction policies and practices towards people who inject drugs

By **Geoffrey Monaghan and Dave Bewley-Taylor**

February 2013

Link to the full publication:

<http://idpc.net/publications/2013/02/police-support-for-harm-reduction-policies-and-practices-towards-people-who-inject-drugs>

The main role of police officers is to protect both *life* and *property*. As the police come in regular contact with people who use drugs, their role in protecting their health is very important. Law enforcement agencies therefore, in addition to investigating crimes, need to work in partnership with health and social care agencies to support harm reductions and drug dependence treatment programmes. Global evidence has shown that harm reduction interventions are cost-effective, impact positively on public health and reduce drug-related criminal activity – an important outcome for policing efforts. In practice, in some countries the police have started to engage in activities that are supportive of a range of harm reduction interventions.

Needle and syringe programmes (NSPs) have achieved significant results in reducing HIV and hepatitis C infections among people who inject drugs. However, several factors continue to hinder the efficacy of these programmes in some countries (for example in Russia or Malaysia) – among which law enforcement practices consisting of police officers arresting people caught with syringes as proof of drug use, and disrupting the day-to-day work of NSPs and their outreach workers. A series of policing practices have therefore been developed in some countries to respond to these issues. For example, British police services refuse to consider the possession of a syringe as proof of drug use (and therefore a criminal offence), and even allow their officers to supply sterile injecting equipment to people who inject drugs upon their release from police stations.

The two main drugs used in **Opioid substitution treatment** (OST) are methadone and buprenorphine. OST has been proven to be an efficient and cost-effective treatment for opioid dependence. It has also been highly successful in reducing the spread of HIV, hepatitis B and C and opioid overdose deaths. Evidence

shows that OST also significantly reduces the levels of acquisitive crime and the illicit opiate consumption. However, in some countries police officers have reportedly impeded the work of OST programmes by raiding clinics, interrogating, fingerprinting and photographing patients and detaining medical staff (e.g. in Ukraine). Alternatively, in other countries, OST is an accepted practice by law enforcement authorities, with treatment being provided in police stations in Australia and some areas in India.

Other key harm reduction services, such as **HIV testing and counselling, antiretroviral therapy** and interventions to **prevent and treat sexually transmitted infections** are also sometimes made available to arrestees and even inmates, with support from the police. Conversely, policing practices that aimed at arresting people in possession of **condoms** as proof of sex work – as currently happens in Russia – has had significant negative consequences on people who use drugs engaged in sex work. In some regions of the world, this practice has been discontinued.

Additional interventions have shown positive health outcomes for people who use drugs. These include **drug consumption rooms** and the **prevention of drug overdose deaths**. Drug consumption rooms have long been subjected to heated legal and moral debates, both at national and international level. However, available global evidence of this intervention shows its efficacy in reducing drug-related deaths and harms (both for the user and the community), public injecting and discarded needles, and local crimes.

Drug referral schemes have been established in several countries through partnerships between the police and local drug services, using the point of arrest within police stations as an opportunity for drug workers to offer drug offenders help and refer them to appropriate harm reduction and treatment services. This has been an effective means of reducing drug-related offending and improving health outcomes.

It is clear today that despite many instances of unacceptable policing practices, various police services around the world have taken concrete steps over the past twenty-five years to support a range of harm reduction programmes for people who inject drugs. The following recommendations aim to improve police support for harm reduction interventions:

- Needle and Syringe Programmes (NSPs) should operate freely, without unwarranted interference by patrolling officers

- Law Enforcement leaders should use their influence to advocate for the introduction of Opioid Substitution Therapy (OST) – and support this intervention when already in place
- OST patients arrested for drug-related offences should be given the opportunity to continue their treatment whilst held in custody
- Law Enforcement leaders should develop and implement specific policies which offer arrestees living with HIV access to free antiretroviral therapy whilst they are detained
- Police officers should stop using the possession of condoms as an evidence of sex work, or the possession of needles as evidence of drug use
- Police should collaborate closely with harm reduction service providers to support their work
- Law Enforcement agencies should offer training programmes on harm reduction interventions, in particular on overdose prevention and treatment.

Focused deterrence, selective targeting, drug trafficking and organised crime: Concepts and practicalities

By **Vanda Felbab-Brown**

February 2013

Link to the full publication:

<http://idpc.net/publications/2013/02/focused-deterrence-selective-targeting-drug-trafficking-and-organised-crime-concepts-and-practicalities>

Organised crime and illicit economic activities generate multiple threats to states and societies, including high levels of criminality and violence. Governments have sought to respond to these issues with a “mano dura”, zero-tolerance approach, consisting in responding aggressively to all crimes, including minor criminal activities (e.g. in the USA and Latin America). Such practices have led to highly unequal outcomes on the suppression of organised crime, as well as severe negative consequences, including an overcrowding of prisons and the criminal justice system, human rights violations and police abusiveness. The goal of completely suppressing organised crime is therefore often unachievable, especially in the context of weak state institutions. Some countries have therefore turned to alternative law enforcement strategies.

Focused-deterrence and selective targeting strategies that, instead of focusing on reducing drug flows, seek to **minimise the most pernicious and the most harmful behaviours of criminal groups**, have become increasingly embraced by law enforcement authorities. Such strategies also enable overwhelmed law enforcement institutions to use their resources more effectively, as law enforcement officers will no longer engage in non-strategic – and sometimes outright haphazard – strikes that have little impact on reducing criminality.

These strategies focus on **punishing and incapacitating a chosen criminal** group or a type of offender in a specific area or country-wide, with the goal of deterring other criminal groups from engaging in the designated harmful behaviour. This tactic has been very popular in the United States and Western Europe. It suggests that law enforcement interventions against a selected group can **alter the**

harmful behaviour of either the group itself or other criminal groups. How “the most pernicious” group or activity is defined can vary. In the United States, law enforcement actions have focused on the most violent gangs or repeat offenders – the goal being to reduce violence. In other countries, this can include those criminal groups most likely to associate with terrorist organisations, or who have the greatest capacity to corrupt the state’s institutions.

In large geographical areas afflicted by intense criminal violence, focused deterrence can consist in selecting the **most violent areas** where law enforcement forces can establish firm control, and then gradually increase the areas of reduced criminality (see, for e.g., the Pacification police Units established in Rio de Janeiro).

One of the latest innovations in the field is to **internationalise focused deterrence strategies**. This means that countries with greater law enforcement capacity help to disrupt the most violent transnational criminal networks in order to reduce criminal violence in other countries where law enforcement capacity is weak and lacks of deterrence capacity.

However, despite the positive impacts that such strategies have had in some areas of the United States (e.g. in Boston) and Western Europe, it is sometimes difficult to design similar operations in other parts of the world. In Mexico, for instance, the strategy applied by former President Calderon that targeted two highly violent groups (la Familia Michoacana and the Zetas) failed to achieve systematic deterrence effects or an overall reduction in violence. The success of focused deterrence strategies also largely depends on the credibility and actual capacity of law enforcement forces to undertake such activities. In addition, badly handled law enforcement approaches can sometimes generate resentment if the greater presence of law enforcement officials itself triggers and perpetuates violence and human rights abuses.

In light of these issues and aware of the variety of socio-political environments within which police services operate, a number of recommendations can be made:

- Law enforcement agencies should adopt focused-deterrence strategies and selective interdiction approaches instead of a blanket zero-tolerance approach

- Law enforcement should focus on reducing violence and the capacity of criminal groups to corrupt state institutions, rather than considering suppressing drug trafficking as the most important objective of drug law enforcement
- Policies that further alienate marginalised populations from the state and strengthen their dependence on illicit economics should be avoided
- Law enforcement activities should be combined with socio-economic development policies to reduce crime and populations' dependence on illicit economies
- Based on local considerations, law enforcement agencies should clearly identify what "the pernicious behaviour" of criminal groups to be deterred is, and the objectives on which to base focused deterrence and selective interdiction efforts.

Once those objectives are built, law enforcement managers should consider carefully the political context, the level of pre-existing intelligence, the capacity for enforcement and resource concentration, the size and scale of criminality, the complexity and power distribution of the criminal organisation and the structure of criminal groups

- Where the scale and geographical area of violent criminality is extensive, law enforcement agencies should adopt "spreading inkspot" approaches
- If violence subsides as a result of new balances of power having been formed in the criminal market, managers must resist the temptation to declare victory and end law enforcement efforts. The relative calm should be seized to deepen police reform, build up intelligence capacity, advance community policing, and beef up socio-economic policies focused on crime prevention to address the root causes of crime and violence.

Applying harm reduction principles to the policing of retail drug markets

By Alex Stevens

March 2013

Link to the full publication:

<http://idpc.net/publications/2013/03/applying-harm-reduction-principles-to-the-policing-of-retail-drug-markets>

The policing of drug markets is considered as a law enforcement matter – people who use or deal drugs are breaking the law and the role of the police is to reduce such law breaking. However, policing has a wider purpose – to **ensure the safety of the community** by reducing harms to its citizens. Harm reduction is a principle that has been widely accepted as an important pillar of the health policy response to drug use. When applied to retail drug markets, a harm reduction strategy would, instead of seeking the impossible aim of eradicating the market altogether, aim at **reducing a series of harms**, including criminal activities, public disorder, violence, property or acquisitive crime, corruption, etc.

The policing of drug markets also plays an important part in **promoting the legitimacy of the police** towards the community. Indeed, for law enforcement interventions to impact positively on market-related harms, the police need to work in **cooperation with the communities** they serve in order to collect information, and to achieve compliance with the law without needed to punish members of the community. Police legitimacy relies on three pillars: procedural fairness (i.e. impartiality, being treated with respect and dignity), lawfulness (i.e. the police themselves should abide by the law) and effectiveness (i.e. people should feel safer thanks to police interventions). It is relevant to analyse the harmful drug law enforcement, then the opportunities for harm reduction in policing retail drug markets, finally the issues in the implementation and evaluation of such practices.

There are three main forms of harms that may render policing tactics counter-productive. Police activities may **increase violence associated to drug markets**. Evidence suggests that illicit drug markets are not inherently violent. This means that the police may be able to enhance community safety by encouraging markets to take less violent forms. At times, a law enforcement action can in fact increase levels of violence, rather than decrease them.

Drug policing, within a prohibition-oriented policy framework, can also have serious **health effects**. Police actions can lead to increased retail prices and force users to inject rather than smoke in order to maximise their intake from a limited supply. The pursuit of drug users can also encourage people to inject drugs in a hurry, in unsafe environments, thereby increasing the risks of transmitting blood-borne viruses. Another important health risk is that of overdose deaths, which can happen more frequently when fear of arrest makes it less likely for witnesses of overdoses to seek medical assistance. The Netherlands has adopted a effective harm reduction approach by reducing the level of repressiveness associated with policing drug markets, and has successfully reduced rates of injecting drug use and associated harms.

Finally, policing tactics can also affect levels of **police legitimacy**. The discriminatory use of police discretion in the application of drug laws leads to widespread abuses from police authorities, in particular with regards to race discrimination. Another threat to the legitimacy of the police is the presence of corruption, which can take the form of police officers being paid to provide intelligence to drug dealers, planting drugs on people to justify arrest, etc. The reduction of opportunities for police corruption can therefore contribute to crime and harm minimisation.

The most direct way in which the police can reduce harm is to alter practice relating to criminal records. In the vast majority of minor drug offences committed (e.g. simple possession of small amounts of cannabis), a criminal record is likely to cause more harm to the person than their actual drug use. The hope is that the risk of arrest deters the individual from drug use, but international evidence shows clearly that there is no correlation between levels of punishment and levels of drug use. Many countries, including the United Kingdom, the Netherlands, Australia, Portugal, Spain, Germany and others have developed diverse ways in which the police have avoided criminalising people found in illicit possession of small amounts of drugs for personal use, through warning schemes, diversion mechanisms, coffee shop systems, etc.

With regards to drug supply, evidence has shown that police activities could influence what form the market takes, and how violent it will be (e.g. in Boston, or more recently in New York and High Point in the United States). Such approaches also influenced the development of the Police Pacification Units (UPPs) in Rio de Janeiro, although this strategy is now being criticized.

There is therefore an opportunity to stop engaging law enforcement in expensive and potentially counter-productive activities (such as unfocused patrolling, large-scale stop and search, numerous arrests of people who use drugs, short-term crack-downs on dealers), and focus on activities that are effective in reducing harms (such as investing in operations that force the drug market to develop visible and harmful forms, working with key partners to shape the social context of local drug markets, and creating mechanism to help divert people dependent on drugs into evidence-based treatment programmes. We therefore recommend the following:

- Police should recognise that reducing the levels of harm (e.g. corruption and violence) is more important than shrinking the size of the market
- Police services and policy makers should use tactics which are experienced by the community as being fair, lawful and effective
- Police forces should avoid using law-enforcement approaches such as short-term crackdowns and stop and search, as they are unlikely to reduce the

scale of the drug market and may have negative consequences on health, security and police legitimacy

- Visible, open air drug markets tend to be more harmful than hidden, closed ones. Policing tactics should therefore focus on forcing the drug market to adopt less harmful forms. These tactics can include decriminalisation/depensation, targeting visible drug markets,, focused deterrence, and conversely the relative tolerance of forms of retail market that have little or no community impact
- In a context of economic austerity, police should concentrate resources on tactics which deliver both community safety and value to the taxpayer
- More research is needed to ascertain which tactics are likely to be most effective, according to local and national contexts.

Practical implications of policing alternatives to arrest and prosecution for minor cannabis offences

By **Geoffrey Monaghan and Dave Bewley-Taylor**

September 2013

Link to the full publication:

<http://idpc.net/publications/2013/09/practical-implications-of-policing-alternatives-to-arrest-and-prosecution-for-minor-cannabis-offences>

Globally, cannabis has dominated law enforcement seizure, arrest and case-disposal statistics for decades. In the past decades, a number of local and national governments have introduced measures to relax the laws and/or policies regarding the use, possession and cultivation of cannabis. These have included depenalisation measures in the UK, decriminalisation schemes in Portugal and various Australian states and territories, the emergence of coffee shops in the Netherlands and cannabis social clubs in Spain, and more recently the legal regulation of cannabis for recreational purposes in the US states of Washington and Colorado and in Uruguay. Each and every one of these approaches have practical implications for policing cannabis markets.

Police services can derive a **range of benefits** from alternative approaches to policing minor cannabis offences. For example, diversion from the criminal justice system tends to reduce re-offending, in particular among young and ‘first time’ offenders. Furthermore, it is a fact that police and prosecution services do not have the resources to prosecute all offenders coming to their notice, and are therefore in a need to prioritise law enforcement activities to meet the many challenges faced by communities. Added to these issues is the need to address ongoing racial tensions between police officers and minority communities, as most cannabis possession arrests are focused on poor, minority groups. If one considers the wider benefits from these alternatives, such policing practices can also lead to improved health outcomes, reduced social marginalisation and reductions in prison overcrowding.

Yet, there are also costs associated with these alternative approaches, including improved police training, preparing policy and guidance, and designing data capture systems and evaluation mechanisms. In some countries, alternative policies to arrest or prosecution have also had a “net widening” effect – i.e. simplified procedures have provided police officers

with a quick and effective means of dealing with minor cannabis offences that they might have previously ignored, leading to increases in the number of people being exposed to the criminal justice system. In other countries, where policy makers have supported alternatives to arrest for minor cannabis offences, some police officers have continued their activities against these offences in order to abide by arrest quotas and/or receive overtime pay.

In **Australia**, penalties against a person caught in possession of small amounts of cannabis vary from region to region. Although net widening has been reported across the country, some Australian jurisdictions have taken steps to address it – in Western Australia, where a person caught in possession of cannabis will be requested to pay a fine (and would be incarcerated for failure of doing so), the threat of withholding a person's driver's licence renewal for non-payment of the fine has led to increases in payments of their fine, and therefore decreases in incarceration rates.

In **England and Wales**, penalties for cannabis possession are some of the toughest in Western countries. However, in the early 1990s, some police services introduced “formal warnings” as a means of dealing with minor offences, including cannabis possession for personal use. This involves the imposition of warnings on offenders instead of arrest if the person admits their guilt – in that case, the offender will not be given a criminal record. In practical terms, this has meant that police officers needed more training, and continued to have to complete a number of forms for evidential and procedural reasons. The implications for police work were therefore minimal. However, this process has had long-term benefits in terms of reducing criminal justice and prison overcrowding and improving social inclusion.

In **Portugal**, the illicit possession of up to ten doses of drugs for personal use (up to 25 grams for herbal cannabis) was decriminalised in 2001. ^{Although} drug consumption continues to be prohibited, it is treated as an administrative offence. When a person is caught for amounts lower than the threshold, the police refer them to an administrative authority – the Commissions for the Dissuasion of Drug Addiction, comprised of lawyers, social workers and medical professionals. One difficulty for the police is to determine whether the quantity of drugs seized is above or below the established threshold, which may lead to mistakes being made in practice. Despite this and other procedural difficulties, this system has proven to

significantly reduce the health and social costs related to drug use, increase access to drug dependence treatment, and reduce drug re-offending.

In **Switzerland**, where cannabis possession and use remain illegal, all 26 cantons have implemented less restrictive enforcement policies and “on-the-spot” fines as the usual punishments for adult offenders – although there are marked variations from canton to canton. In October 2013, a new federal law came into force to impose fines on cannabis users instead of opening criminal proceedings. In practice, most issues have been attached to the fact that the offender had to be in possession of an ID card to prove their identity to benefit from the fine. If they cannot display a valid ID card, they would be detained, leading to many tourists and expatriates being detained.

Having passed ballot initiatives to allow for the creation of legally regulated cannabis markets in November 2012, the US states of **Washington and Colorado** are now developing the frameworks through which to implement policy shifts, based on local contexts and realities. This evolution will no doubt culminate with **Uruguay**'s adoption of the first legislation that will legally regulate cannabis markets at national level – in an effort to reduce drug market related violence, as well as health and social harms. It is likely that these laws have the potential to cause many more legal and administrative conundrums for police services.

The implementation of alternative schemes has therefore involved a new set of practical dilemmas and complexities for police officers. We therefore offer the following recommendations:

- Those countries minded to introduced alternative schemes for minor cannabis offences should ensure that adequate guidance and trainings are available to police officers in the practicalities of their implementation
- Jurisdictions introducing schemes intended to reduce arrests and prosecution for minor cannabis offences should address the risk of net-widening
- Governments and police services should ensure that the exercise of police discretion is used in a reasonable way, is well defined and understood
- Governments, police services and policy reform advocates should not overstate the benefits of these schemes in terms of cost-savings, at least in the short term
- Chief police officers should ensure that their officers are well informed and trained on changes in policy, and that compliance is routinely monitored.
- In order to reduce the likelihood of arrest, governments working in collaboration with police services and civil society organisations should publish guidance as to what documents (ID cards, driving licences, etc.) cannabis offenders can give the police to prove their identity and/or place of residence in order to benefit from a “street warning’ or “on-the-pot” fine.

Drug Law Enforcement and Financial Investigation Strategies

By Michael Levi

September 2013

Link to the full publication:

<http://idpc.net/publications/2013/09/drug-law-enforcement-and-financial-investigation-strategies>

Since the 1980s, there has been a major push in rhetoric and institution-building, emphasizing the centrality of attacking the financial lifeblood of drug trafficking networks and organised economic crimes, and much progress has been made in legislation and the creation of financial intelligence units.

Anti-money laundering controls rest upon five foundations: **individual prevention** (i.e. stopping criminals from either “predicating” criminal activity or laundering funds because they will be unable to open accounts or the risk of identification is too high), **individual incapacitation** (i.e. freezing and confiscating the assets of offenders), **individual deterrence** (i.e. criminals fear a high risk of exposure and therefore limit their criminal activities), **group deterrence** (i.e. anti-money laundering punitive sanctions suppress organised crime because a sufficient number of individuals who might otherwise act as enablers are deterred), and **community support for the rule of law** (i.e. activities strip offenders of their gains, which lessens attractiveness for certain crimes and reduces public anxiety about the impunity of criminals, increasing their sense of justice).

Although little is currently known about the effects of such anti-money laundering measures, the **Financial Action Task Force** (FAFT) offers guidance for countries to: 1- identify proceeds of crime, tracing assets and initiating asset confiscation measures, 2- initiate money laundering investigations when appropriate, and 3- uncover financial and economic structures to disrupt transnational networks and gather knowledge on crime patterns.

When designing a law enforcement strategy, a key question is identifying and analysing the problem to be tackled, in an effort to avoid a “one-size-fits-all” approach. Two factors will impact on the approach to be adopted: 1) the financial arrangements needed to keep the people and activities going, and 2) the strategies that can impact on these activities and on the people

committing them. Links with **corruption** are also salient – in some countries, transnational bribery, law enforcement corruption and major organised crime are connected and concentrated politically. NGOs such as the Basel International Centre for Asset Recovery or the Francophone SHERPA, have been active against corrupt kleptocrats. However, these groups rarely act against drug traffickers alone. Thus, in addition to expensive surveillance, efforts against drugs finances depend largely upon information held in the private sector and available to law enforcement through activity reports submitted to Financial Investigation Units, or as a result of court orders.

Consistent with the 2005 UN Convention Against Corruption, the World Bank has focused heavily on criminalising illicit enrichment and underlying legislative and monitoring processes, the aim being to attack the support infrastructure of drug trafficking and deter bribery. However, much remains to be done to stimulate internal commitment and mutual legal assistance for financial investigation, asset freezing and asset recovery.

Organised crime and drugs enforcement have traditionally been engaged in the **search major kingpins**. These strategies may help reassure the public with dramatic arrests and even deter some talented criminals aiming for leadership positions. However, they do not reduce the level of criminal activities unless that kingpin has unique or hard-to-replace technical and/or brokerage network skills.

Some strategists also questioned the assumption that confiscation would always deter and incapacitate offenders, arguing that some offenders might be motivated to recover their pre-confiscation financial position. In order to deter such behaviour, post-conviction Financial Reporting Orders (e.g. under the UK Serious Organised Crime and Police Act 2005) that force former criminals to report accurately on their finances, can have positive impacts on serious offenders.

However, when reviewing financial investigation, it would be a mistake to focus on assets confiscated as *the* key output indicator. Given the capacity of recorded financial transactions to identify geo-location, interactions with others and motivations, financial investigation also has an important role to play in **mainstream serious crime policing**.

“**Follow the money**” strategies have also been criticized for distorting enforcement priorities,

especially when they become an end in themselves. In the 2000s, the UK adopted an asset recovery policy. For cash seizure, half of the funds are retained by the Home Office, and the other half given to the law enforcement body responsible for the seizure. However, financial investigations tend to be significantly more costly than the amounts returned to the police – this might accurately be described as “policing for less financial loss”, rather than a proper “policing for profit”. There are additional dangers in focusing on recovering proceeds of crime as a method of financial law enforcement. Firstly, obtaining money from a lot of small cases (e.g. money couriers) could lead to a lack of understanding of the methods or social and financial systems involved. The focus on income generation can also lead to a reluctance to prosecute, or even use as witnesses, good sources of cash seizures. It may also lead to a failure to recognise that improved investigations and prosecutions are a prerequisite for presenting a realistic estimate of criminal assets in court. Finally, the creation of the “asset recovery” culture has had some negative effects on appreciating the wider benefits of financial investigation.

Assisted by the infrastructure of anti-money laundering, financial investigation generates both leads for and tests of investigation hypotheses in a variety of fields, including police and governmental corruption, some of which is connected to drug trafficking. Based on these conclusions, we propose the following recommendations:

- Consideration should be given to the more routine mainstreaming of financial investigation and confiscation, and to its impact at different levels of criminal organisation. But this requires many changes in supervisory attitudes and training. Independent monitoring should be established to avoid goal displacement
- The fact that many criminals “offend to spend” needs to be factored into the realism of the large guesstimates of national and global money laundering and *savings from crime* as measures of what financial measures against drug trafficking are capable of achieving
- Efforts should be done to gain a better understanding of the evolution of patterns of money laundering, how financial investigations are deployed, and the appropriate making and enforcement use of suspicious activity reports
- Financial investigation and proceeds confiscation can impact upon 1- public reassurance and safety, 2- on the behaviour of financial intermediaries, and 3- on the behaviour and criminal capacity of drug offenders. These goals need to be separated out
- Money laundering risk assessments should be used to reappraise financial investigation strategies and concrete practices in the context of drug trafficking, economic crimes and the increasing trend towards poly-crime activities.

Drug markets, security and foreign aid

By Virginia Comolli and Claudia Hofmann

September 2013

Link to the full publication:

<http://idpc.net/publications/2013/09/drug-markets-security-and-foreign-aid>

Through the delivery of aid, some countries have sought to export their preferred drug control policies and domestic priorities, and have leveraged the recipients' need for aid to influence their drug policies. Such approaches have essentially remained focused on drug eradication, interdiction and the strengthening of local law enforcement and military capabilities, at the detriment of development initiatives, or policies focusing on demand or harm reduction. In some cases, this "war on drugs" approach has provided a cover for military intervention beyond what was truly required on the ground. In turn, these approaches have led to an array of negative consequences including human rights violations, increased criminality and violence, and a disregard for public health.

A contentious aspect of the donor-recipient relationship is one of **conflicting priorities**, between developed countries mainly concerned with stopping the flow of drugs through their borders, and developing countries primarily preoccupied by the impact of national production and trafficking and local drug consumption. At times, the behaviour of some donors has neared diplomatic blackmail as they threatened recipients with the suspension of loans and trade agreements in case of failure to comply with the donor's drug policies. In other cases, counter-narcotics aid has become a tool to divert attention from ineffective domestic strategies (such as reducing rates of HIV among people who inject drugs), and refocus international attention towards the challenges faced by producer and transit countries.

The complex link between foreign policy, aid and counter-narcotics can be exemplified by the relationship between the USA and Colombia, which culminated with the adoption of **Plan Colombia**, which emphasized the counter-narcotics role of the Colombian military. Another example is that of the United States and NATO's involvement in **Afghanistan**. The Afghan experience can shed light on tensions between policy priorities of donor countries and on the difficulties in carrying out counter-narcotics alongside counter-insurgency. None of the initiatives led by the

USA (and later on the UK) led to a reduction in opium production, nor did they prevent drug use among the population and the Afghan National Police.

Russia's "rainbow" approach has had similar effects in Afghanistan, with a plan primarily centred on eradication, intelligence exchange, the sanctioning of landlords on whose land opium poppies were grown, and training for Afghan anti-narcotics police. Critics of the approach argued that placing drug production within a security framework was made at the expense of any concern for other drug-related issues, such as public health and development. A similar strategy was adopted by Russia in Central America through Plan Rainbow 3.

West Africa is another clear illustration of a context where priorities of foreign donors clash with the needs of developing countries. It also represents the tendency to implement reactive short-term solutions (e.g. police training) as opposed to longer-term preventative measures such as institution building, education, social programmes, public health measures, etc. that are more likely to produce long-lasting results since they address underlying structural issues. In addition, donors' eagerness to strengthen local police agencies often fails to acknowledge the lack of absorption capacity at the receiving end.

The actual impact of foreign aid on the ground has also been questionable. Plan Colombia does not appear to have had any sustainable impact on the international cocaine market and has led to **significant negative consequences** on the level of poverty and health of subsistence farmers in Colombia, as well as on the environment, and widespread human rights abuses. In Afghanistan, despite the large sums of money spent on counter-narcotics, the security situation remains precarious.

These experiences demonstrate that the destruction of crops through eradication, the dismantling of processing labs, the disruption of supply routes and the arrest of smugglers through interdiction can only have minimal short-term success, and result in major harms. Crops can be re-planted elsewhere and processing labs rebuilt, supply routes moved, and smugglers replaced. To achieve a longer-term effect on levels of violence and crime in recipient countries, international organisations have increasingly advocated for a **harm reduction approach** in an effort to reduce violence, crime and corruption. Such approaches can consist of: 1- the training, equipment and support to law enforcement units to expel drug trafficking organisations from a specific territory

as a form of focused deterrence, accompanied by socio-economic programmes and the development of community policing (e.g. the Pacification Police Units in Rio de Janeiro); 2- producing, trafficking and consumer countries enter a strict and coordinated relationship to combat levels of violence, by selecting specific targets as the most violent organisations or regions (e.g. in the United States).

Foreign aid is also associated with key political dilemmas. First among them is the fact that a shift away from supply reduction measures may interfere with domestic priorities, and the government's responsibility to taxpayers. While long-term measures (such as supply-side harm reduction and market management) tend to be cheaper, more sustainable and efficient at reducing harms, short-term supply reduction measures have a more immediate and easily quantifiable impact, albeit often being unsustainable. Based on these conclusions, the following recommendations can be made:

- Donors should separate foreign aid projects from their domestic goals around demand reduction
- Supply reduction policies need to be in tune with local conditions. Aid policy must be adjusted to the individual needs of the recipient country in order to be effective
- Policy makers need to go beyond their focus on drug law enforcement and consider support for balanced approaches to drug policies in affected countries.
- Donors need to distinguish between short-term and long-term goals. In order to sustainably affect drug production and trafficking in recipient countries, both immediate security enhancing measures and long-term drug dependence treatment and alternative livelihoods programmes need to be funded
- To increase the effectiveness of aid programmes, donors should improve the absorption of funds by carefully selecting appropriate recipients and strengthening aid distribution structures. Monitoring and post-training follow-up programmes are also essential to assure effectiveness and sustainability.
- Donors should increase their efforts in detecting trends, trajectories and developments in drug markets and patterns of consumption, in order to avoid negative consequences
- Donors should be mindful of developments in the illicit market – market adaptation and shifts to new drugs may otherwise negate progress made on more traditional drugs.

The International Drug Policy Consortium (IDPC) is a global network of NGOs and professional networks that promotes objective and open debate on the effectiveness, direction and content of drug policies at national and international level, and supports evidence-based policies that are effective in reducing drug-related harms. IDPC members have a wide range of experience and expertise in the analysis of drug problems and policies, and contribute to national and international policy debates.

This summary is based on six briefing papers that were published in 2013. These briefing papers offer an analysis of the policies and practices in drug law enforcement that have so far been implemented to tackle drug production, demand, trafficking and criminality – highlighting the benefits and drawbacks that such strategies have had around the world. The briefings offer evidence of the ineffectiveness of the traditional “war on drugs” approach to reduce the supply or demand for drugs in consumer markets, and provide policy guidance and examples of best practice on new drug law strategies.

Supported by a grant from J Paul Getty Jnr
Charitable Trust

J PAUL GETTY JNR
CHARITABLE TRUST

International Drug Policy Consortium
Fifth floor, 124–128 City Road, London
EC1V 2NJ, United Kingdom

telephone: +44 (0)20 7324 2975
email: contact@idpc.net
website: www.idpc.net

Copyright (C) 2013 International Drug Policy Consortium All rights reserved