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Police and Crime Commissioners: Emerging 'drug policy actors'?

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Abstract

Purpose

In 2013, the Police and Crime Commissioner for Durham, Ron Hogg, initiated a debate around the future of British drug policy. In June 2015, the Derbyshire PCC, Alan Charles, opened a similar debate with representatives from policing, third party support agencies, national advocates and academics to discuss the possibilities for change. This short article presents the views and actions of senior figures in the police service and discusses motivations for pursuing change. The aim of the paper is to introduce Police and Crime Commissioners as 'drug policy actors' (Seddon 2011) and to highlight key areas for further academic enquiry.

Design/methodology/approach

This article is based on press releases and media accounts of the recent activity of the PCCs in relation to national drug policy. This article provides an academic viewpoint on recent events, supported by theoretical literature critiquing drug policy and contemporary policing.

Findings

This viewpoint articulates that motivations for pursuing a change in drug policy are based on both economic and ideological agendas of some PCCs. Irrespective of the motivation, pressure from PCCs and renowned Chief Constables may be more effective in initiating change than high profile national campaigns and political debates.

Originality/value

This article is the first of its kind to discuss the relationship between PCCs/local constabularies and drug policy reform. It provides a foundation for future research which could investigate views on alternatives to prohibition, specifically within the wider police force.

Keywords: Police and Crime Commissioners, Policing, Drug Policy, Drug Policy Reform, Drug Use, Decriminalisation,

Word Count: 3,908

Drug policy reform has been an inherently political process for hundreds of years. From the nineteenth century opium wars and the birth of the 'British System', to the use of public disorder legislation to emphasise a 'tough on crime' approach, the politics of drug reform has often negated an assessment of harm and pursued political and ideological agendas. Most recently, and preceding the 2015 general election, few political manifestos provided a critique of drug policy which floated alternatives to the prohibition of illegal drug use (as sanctioned by the Misuse of Drugs Act 1971). The Green Party supported elements of regulation and called for a review of classifications, whereas the Liberal Democrats supported the decriminalisation¹ of all drugs. These parties signified the most progressive approaches to reform, but with limited political momentum such suggestions carried little risk. In contrast, the Labour Party and the Conservatives Party continued the mantra of prohibition (Murkin 2015). Immediately prior to the election, parliamentary debates on alternatives to the prohibition caused significant political friction and marked the end of some political careers. However, a distinct set of challenges has slowly emerged in parallel to such contention. This short article will outline the testing views of a number of senior figures who work to govern policy and practice in the police service. This is proposed as an area for future development and consideration for scholars of policing, crime prevention and community safety issues.

There is significant academic critique of current British drug policy which highlight that the ethos of prohibition, apparent nationally since the inception of the Misuse of Drugs Act 1971, is flawed; it causes harm and increased risk to users, and proliferates stigma and discrimination through criminalising practices for drug possession. At an operational level, those working with drug users see little impact of repeated prosecutions, a cyclical relationship between drugs and crime and a huge amount of time and resource spent on policing drug users, drug dealers/cultivators and the communities affected. An historical account of drug policy highlights the last 20 years as the 'criminal justice turn' of British drug policy (Seddon 2011:416). In line with a general increase in anxiety about crime and disorder "politicians have sought to tighten the screw on problem drug users by ratcheting up coercive treatment measures for those going through the criminal justicesystem." (ibid: 417). Most recently, the introduction of measures to control the use and sale of new psychoactive substances (incorrectly labelled as 'legal highs') via the Psychoactive Substances Bill 2015 have been challenged as unenforceable on the grounds of definition and without serious consideration of the implications (Release & Transform 2015). The blanket banning of all substances with psychoactive effects essentially tightens the grip of prohibition in the face of significant evidence that suggests that such an approach is flawed (see the Irish Psychoactive Substances Act 2010, Easton 2015). The only positive outcome is that criminal sanctions will not

¹"Decriminalisation is defined as the removal of sanctions under the criminal law, with optional use of administrative sanctions (e.g. provision of civil fines or court ordered therapeutic responses); and depenalisation is the decision in practice not to criminally penalise offenders, such as non prosecution or non-arrest". (Hughes & Stevens 2010: 999).

be imposed for possession, although many people will be at greater risk of penalty under the clauses detailing the control of supply.

Shiner (2015) has effectively critiqued the relationship between changing political climates and drug policy reform since the late 1990's, concluding that recent attempts (e.g. the reclassification of cannabis) have further politicised reform but have missed opportunities for significant change. Whilst some attempts to effectively challenge the consensus, for example by the Chair of the ACMD Professor David Nutt, have been symbolically quashed, more recent national campaigns from outside the political parties have escalated and have received sporadic media attention (Global Drug Policy Commission; Richard Branson 2012, UK Drug Policy Commission 2012, Russell Brand appears at the Home Affairs Select Committee, Anne Marie Cockburn campaigns for the responsible regulation of drugs after the death of her 15 year old daughter in 2013, and Transform Drug Policy Foundation continues to campaign tirelessly for change). Many of these campaigners were present at the parliamentary debate in the House of Commons on October 20th 2014. Given that the conclusion called "on the Government to conduct an authoritative and independent cost-benefit analysis and impact assessment of the Misuse of Drugs Act 1971 and to publish the results of those studies within the next 12 months" (Parliament UK 2015), advocates of change are eagerly waiting. Meanwhile, such pressure seems to have done little to change the political consensus of the re-elected Conservative Party. Since suppressing the challenging document 'Drugs: International Comparisons' before the Commons debate, they have not commented on the issue of a review of the Misuse of Drugs Act or offered any adjustment on criminalising drug use whilst continuing to advocate an abstinence approach (Montgomery 2014).

Interestingly, and the focus of this short article, is the critique which is developing from policing officials, most notably from Police and Crime Commissioners, which blur the boundaries of politics and crime control. The theoretical framework for this attention stems from Seddon's (2011) description of the role of 'drug policy actors' who can highlight to policy analysts where the "levers for change may lie" (2011:419). As attention shifts from the failings of wider political pressure and social movements outlined above, Seddon suggests that critics should turn to micro dimensions such that

"the micro-environments of policy-making are not merely reducible to the playing out of larger structural or cultural forces. Rather, they constitute a significant sphere of action which needs to be described and accounted for. It follows that an explanatory account of policy change will need to attempt to generate detailed descriptions of the roles of individuals in the making of policy"

(2011: 417)

"This should offer more than simply a narrative account of 'who did what, when and where' in the policy-making process (although that descriptive or narrative element is important and interesting in

its own right). It should also seek to generate a contextualised account of the motivations and intentions of individual actors involved in influencing or making policy (see Loader & Sparks, 2004, pp. 11–13)"

(*ibid*: 418)

Following this framework for analysis, this article seeks to analyse the actions and dialogue of the PCC and Chief Constables alongside the political context in which they sit. This is not to suggest that calls for reforms from policing circles did not occur prior to these appointments. Rather, this paper seeks to acknowledge and highlight the emergence of *new* drug policy actors in recent years.

In November 2012, NormlUK asked all PCC candidates for their views on drug policy reform following the 2011 Home Affairs Select Committee Inquiry into Drugs. The responses varied, and whilst closely aligned with the political bias of the supporting party (if not standing independently), many were in favour of policy reform, such as removing criminalisation for possession and promoting greater evidence based practice. Since the elections momentum has gathered, championed by the active publicity and local initiatives of PCC Ron Hogg for Durham Constabulary, a former chief police officer. In September 2013, supported by Hogg, Durham's Chief Constable Mike Barton, publically called for policy reform and supported moves toward decriminalisation. He challenged prohibition, stating that some drugs (notably heroin) should be available on prescription to reduce the harm caused by unsafe injecting practices, and that alternative supplies would impact on organised crime networks who make their money selling drugs. He states "I am calling for a controlled environment, not a free-for-all" (McDonald 2013). These comments were quickly dismissed by the then Policing Minister Mike Penning (Marsh 2015). Fellow PCC's, such as Cleveland's Barry Coppinger supported Hogg and Barton at the time, with Northumbria PCC Vera Baird suggesting that decriminalisation was not the way forward (The Northern Echo 2013). It should be noted that back in 2007 (without the political support of an aligned PCC), the then Chief Constable of North Wales, Richard Brunstrom, also called for alternatives to prohibition, including decriminalisation, which both the Labour and the Conservative Party firmly rejected at that time (Brown & Langton 2007).

In October 2013, Ron Hogg offered a briefing to the press where he supported the use of drug consumption rooms and cited the results of a national pilot project which "reduced the use of street drugs and associated crime" (Hogg 2013) . In 2014 his views strengthen, using the language of decriminalisation to call for reform.

"Imagine a world with no heroin on our streets. No money for heroin being put in the hands of organised crime. No spread of HIV or hepatitis B/C through shared and dirty needles. No needles littering our streets. No fatal overdoses. No more pressure from organised criminals to remain addicted. No more theft or prostitution to feed drug habits. This is what decriminalisation could achieve."

(Butcher 2014)

In November 2014 Hogg ran a dedicated event to discuss drug policy reform with notable representatives from academia (Professor Fiona Measham) and national advocates (Transform and Release drug reform charities). The outcome of the debate was to lobby political parties to commit to reform in their election manifestos and favour health based approaches to drug problems (ODPCC 2014). In a press statement Hogg states

"Let's be clear, we are not calling for full legalisation of controlled drugs. We want a drug policy which will work. We should be focussing on the best way to help people recover from their addiction so that we can improve their chances in life and help them make a positive contribution to society. But we must also disable organised crime groups who make their profit by selling to addicted people, making money out of others' misery."

(ibid)

Subsequently, in July 2015, Hogg announced that Durham Constabulary would offer cannabis users the chance to avoid prosecution by attending the CheckPoint Programme to address the needs of their use. This step in de facto decriminalisation/depenalisation has similarities with the Portuguese use of the 'Commissions for the Dissuasion of Drug Addiction Panel' (Hughes & Stevens 2010) of suggested (voluntary) treatment rather than criminal sanction. This harm minimisation approach goes further than previous pilots (Lambeth 2001, under Commander Brian Paddick) which replaced arrests and prosecution/caution with street warnings for cannabis possession. There has been a mixed response to these measures, with advocates of drug policy reform (such as David Nutt) openly supporting them (Cusick 2015). In contrast there are those who have labelled the individuals as 'going rogue', suggesting that the PCC role should not be 'law making', rather enforcing those already in place (*ibid*). Since the national announcement, Derbyshire, Dorset and Surrey PCCs have publically supported Hogg's comments stating budget cuts and higher policing priorities as rationales (Ward 2015). However, surprisingly Hogg added, "that he did not see it as a "step towards decriminalisation" of the drug - that was a national debate which he would "abdicate"" (BBC 2015). This is in contrast to previous statements, and perhaps an acknowledgment of the practical boundaries of the PCC role (enforcement rather than reform) that he and others are now seeking to hurdle.

The supportive relationship between the PCC and Chief Constable is mirrored in the activities of the Derbyshire Chief Constable Mick Creedon and the PCC Alan Charles (Docherty 2015). In June 2015 Charles imitated the aforementioned event in Durham, in a symposium titled 'It's Time to Talk about Drug Policy'. The format was the same, with a range of senior police figures, local third sector agents, academics and advocates. In a personal letter to the Home Secretary, Charles (2015 pg.2) states

"The outcome of the summit was an agreement amongst delegates that times have changed significantly since the Misuse of Drugs Act 1971 and the entire strategy for tackling the misuse of drugs is due for a comprehensive review."

In comparison to Hogg, Charles was less willing to personally propose alternatives to change (rather to push for an independent review of current policy), but these were vocalised at the event by the Chief Constable, who is known to be a critic of prohibition and a supporter of change (Loeb 2015). However, Alan Charles has subsequently met with national advocates for drug policy reform (Niamh Eastwood, Executive Director at Release) to discuss the policing of drug offences (Derbyshire PCC 2015).

Policing journalists suggest that further events are planned by PCCs around the country. Other PCCs have also commented on the events; in Kent Ann Barnes suggested "It's not just the job of the government, it's up to police forces to enforce the law and it's the job of the PCC to make sure they do that" and the PCC for Essex, and Chair of the APCC said "I am not in favour of changes to the law with regard to the decriminalisation of some drugs, as they are all harmful in my view. However neither am I in favour of criminalising for example youngsters who partake in occasional cannabis use and I support officers using their sense and discretion in matters such as this" (Alatti 2015).

What also appears to be occurring is an increase in critical comments developing at operational levels from Chief Constables, with explicit and public support and political backing of the strategic PCCs. Chief Constables are now appointed by the PCC, and although not political, are in role to deliver their strategy. The PCC is governed by the terms of the Police Reform and Social Responsibility Act 2011 and has a focus on community need and engagement, whilst holding the Chief Constable to account (Brain 2014). Turner (2014) does suggest that this relationship is underlined by an awareness of indicators of performance, and that the PCCs have weaker levels of accountability via Police and Crime Panels. It is also important to remember the political realm in which the PCCs sit and that their actions and objectives (the selectivity of policing priorities) are also accountable at re-election. Turner's (2011) conclusion of the myth of 'operational independence' of Chief Constables, supported by Brain's (2014: 42) suggestion that PCCs and Chief Constables should be 'compatible in personality and outlook', are both reinforced in these case studies. Whilst challenges to the policing of drugs have previously been voiced by Chief Constables/Commanders (see previous comments on Richard Brunston and Brian Paddick), this article asks whether these critiques will be now be more effective as PCCs emerge as 'drug policy actors'. Collectively, this is could be a stronger affiliation to lobby for change.

This article also raises questions around these shifts in policing agenda. Does such a critique evidence a shift in philosophy around drug use; a refocus of harm minimisation and the rights of users, in line with Manning's analysis (2010) of democratic policing (a focus on fairness, justice and addressing inequality)? Or are these moves governed by a need to effectively handle shrinking budgets? There are similarities here with the circumstances surrounding the reclassification of cannabis in 2002, before the introduction of PCCs, and before the decline in performance

targets which ultimately undermined the policing of this progressive strategy (Shiner 2015).

"Whilst the Independent Inquiry [*into the Misuse of Drugs*] called for cannabis reclassification primarily on the basis that it would 'provide a more accurate hierarchy of harm and commensurate sanctions' (Police Foundation, 2000: 4), the Government placed much greater emphasis on the claim that it would free-up police resources"

(*ibid* pg. 698)

In this example, opposition to change came from senior police officials and officers who felt that a perceived 'soft on drugs' approach would threaten their role as figures of moral authority (*ibid*: 700). What is being seen now, at a local level, is the public outing of Chief Constables and PCCs which are supportive of police discretion, namely defacto decriminalisation/depenalisation, where police scrutiny of drug possession is limited. Discretion in this area will have occurred for some time, and while the NPCC reinforces that "As police officers, our job is to enforce the law and under current legislation drugs are illegal" (NPCC 2015), street level guidance is unlikely to be in the public domain. This now visible discussion carries numerous benefits for both police and wider criminal justice resources (costs for prosecution and penalty) and community relations (e.g. decrease in stop and search). Steve Rolles from Transform Drug Policy Foundation states

"There are other police authorities that are doing similar things but they are not shouting about it. As police forces face increasing cuts they will have to make these decisions ... From what I have seen the Ron Hogg approach does seem to be a growing sentiment."

(Cusick 2015)

Whilst economic factors in the current conditions of austerity provide a significant argument for reform, this article suggests that support for harm minimisation and the human rights of users is also prevalent as an underlying ideology in many of the statements of these senior police figures. Rolles disagrees stating "I do not see this as an ideological position but a resource issue, directing their limited resources towards where they are needed" (*ibid*). Clearly further investigation is needed, not least to predict the longevity of such directions.

Irrespective of the driver, these changes in priority and sentiment are arousing national attention and this may be positive for advocates of drug policy reform. Where national campaigns have had little impact, this could be the energy that is needed to reform drug policy in Britain. The current political majority refuses to address the issues with the policy of prohibition, possibly through fear of losing public support, but may be persuaded by the political lobbying of some PCCs. There is a history of political lobbying from the police (Reiner 2010), and the introduction of PCCs symbolise further politicisation. Drug policy reform can be used as another example of where the politicisation of the police is being exercised.

Little is known about whether these senior police figures have the backing of their wider police force or the general public and this is also an area for future investigation. Research by Petrocelli et al (2013) suggests that police values are generally hard line and against decriminalisation and this may be a key area to address. As political figures, reframed as drug policy actors, the PCCs also have some work to do. For example, the use of language in press releases needs addressing (Ron Hogg's use of the stigmatising word 'addict' in some commentaries, see BBC 2013), as does the level of understanding around key terminology, including the concept of decriminalisation itself. However, there is clear evidence of the PCC role as a drug policy actor, changes in the sociology of policing, and bottom up' policy reform with both operational and strategic angles. This deserves further enquiry, not least to provide the context for such motivations in line with Seddon's recommendations. At a theoretical level further work should also look to provide a sociological analysis of the role of PCCs as actors in drug policy reform, as outlined by Stevens and colleagues (2011). Such an account could not only contribute to academic critique but could outline how the future of British drug policy could be altered.

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