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To cite this article: Alissa Greer, Justin Sorge, Marion Selfridge, Cecilia Benoit, Mikael Jansson & Scott Macdonald (2020): Police discretion to charge young people who use drugs prior to cannabis legalization in British Columbia, Canada: a brief report of quantitative findings, *Drugs: Education, Prevention and Policy*, DOI: [10.1080/09687637.2020.1745757](https://doi.org/10.1080/09687637.2020.1745757)

To link to this article: <https://doi.org/10.1080/09687637.2020.1745757>



Published online: 30 Mar 2020.



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REPORT



Police discretion to charge young people who use drugs prior to cannabis legalization in British Columbia, Canada: a brief report of quantitative findings

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ABSTRACT

Introduction: Normalization theory posits a process where drug use is socially accommodated in society. We examine the extent of and factors related to police decision to charge young people who use drugs prior to cannabis legalization in Canada in 2018 and situate these findings within normalization theory.

Methods: In the Youth Experiences with Police study, young people (aged 16–30 years) who use drugs from three cities in British Columbia, Canada, were recruited using a modified respondent driven sampling approach. Participants were administered a questionnaire focusing on their drug use, past encounters with police, and psychosocial and sociodemographic factors.

Results: Among 449 participants, 3.6% of 56 in possession of cannabis by police were charged, whereas 41.2% of 34 in possession of other illicit drugs were charged ($p < .001$). Bivariate analyses showed prior criminal convictions ($p = .001$) as well as lower average monthly income ($p < .05$) was significantly related to being charged by police. Drug use stigma was significantly higher for weekly illicit drug users compared to weekly cannabis and those who did not use drugs weekly ($p < .001$).

Discussion: Greater police discretion toward cannabis suggest it is more socially acceptable or normalized compared to other drugs. Police practices may reflect cultural conditions but could be structurally harmful to marginalized groups.

ARTICLE HISTORY

Received 19 November 2019

Revised 13 February 2020

Accepted 15 March 2020

KEYWORDS

Police discretion; drug use; young people; youth; decision to charge; drug possession; cannabis; cannabis legalization; normalization theory

Introduction

After a long period of criminalization, possession of cannabis was legalized in Canada on 17 October 2018. The advent of national cannabis legalization was heralded by social and structural accommodation for cannabis use, which is consistent with the theory of normalization of drug use (Hathaway et al., 2011; Parker, 2005; Parker et al., 1998). Normalization theory posits that, through a process of socialization, drug use becomes 'unremarkable' or normalized within society or a subculture of users (i.e. youth) (Hathaway et al., 2011; Parker, 2005; Parker et al., 1998). Studies which apply normalization theory typically focus on six indicators of drug normalization proposed by Parker (2005, pp. 206–207): (1) increasing access and availability of drugs; (2) increasing prevalence of drug use; (3) increasingly tolerant attitudes towards drug use among both users and non-users; (4) abstainers expectations regarding initiation into drug use; (5) the 'cultural accommodation' of drug cultures in the media; and (6) liberal policy shifts. While this theory is widely used in the study of drugs in society (Measham & Shiner, 2009, p. 502), some scholars more recently have called for consideration of social, structural and cultural influences (Beccaria & Prina, 2016; Brochu et al., 2011; Duff et al., 2012; Measham & Shiner, 2009). They note that studies often fail to consider macro-level influences (i.e. laws and their implementation,

community policing practices) that may influence the normalization of drug use through institutions, systems and structures that embed norms and values regarding drug use in society (Beccaria & Prina, 2016; Brochu et al., 2011; Measham & Shiner, 2009).

Law enforcement practices may be one expression of the normalization of drugs and its macro-level influences. Organizational policies, procedures and norms serve as the premise in police officers' practices and decision to enforce or not enforce drug laws (i.e. police discretion), along with their own personal views and values (Brochu et al., 2011; Carrington & Schulenberg, 2003; Worden & McLean, 2014). Studies have shown considerable variation in attitudes and approaches to policing cannabis not only in Canada (Offman & Hui, 2014; Powers, 2016), but also the United Kingdom (Lloyd et al., 2018). These variations may be accounted for by micro-level influences (i.e. police officers' personal theories of drug use) (Lloyd et al., 2018) or macro-level influences (i.e. drug laws and their differential implementation) (Measham & Shiner, 2009). It could be argued then that police discretion to charge for possession of cannabis or other drugs may reflect permissive attitudes or institutional norms regarding certain types of drugs.

The time prior to cannabis legalization in Canada serves as a natural study period wherein police discretion to charge

for possession of cannabis compared to other drugs may reflect the normalization of cannabis in society at that time. The purpose of the current study is to examine police discretion to charge young people who use drugs during this time period. The research questions are: (1) What is the extent of charging youth found in possession of cannabis or other illicit drugs? (2) What factors are related to charging youth found in possession of cannabis and other illicit drugs? (3) Do different drug usage groups (infrequent use, cannabis only weekly, other illicit drugs weekly) vary significantly in terms of perceived stigma related to drug use?

Methods

The Youth Experiences with Police study was a cross-sectional, mixed-methods design of retrospective reports on past incidents with the police among young people who use illicit drugs. This paper presents findings from the quantitative instrument of the study. Data collection took place in the time period after the first reading of the Cannabis Act by the Canadian House of Commons (13 April 2017) and before effective legalization (17 October 2018). Eligibility criteria restricted participation to young people, aged 16–30, who lived in the community for the past 6 months. Initially, only those who had used drugs at least weekly for the last six months were recruited, but as preliminary data analysis was performed, a comparison group of young people who used drugs less than weekly (or not at all) was included to facilitate greater recruitment. Details of the study sampling methodology is published elsewhere (Selfridge et al., 2019). Recruitment was driven by a respondent-driven sampling approach (Heckathorn, 1997), supplemented by convenience

sampling. In respondent-driven sampling, an initial group of ‘seeds’ was engaged to recruit a limited number of participants from their network of contacts (Heckathorn, 1997). Referrals were facilitated by \$5.00 CAD cash incentives for a maximum of five recruits. Participants received a \$25.00 CAD cash honorarium and engaged in an approximately one-hour interviewer-led survey. The Human Research Ethics Board of the University of Victoria approved all procedures.

Questions on the survey included those relating to participants’ substance use as well as police encounters. The main dependent variable was based on being found in possession of any illicit drug (including marijuana) by police in the past three years; if yes, participants indicated if were charged by police (yes/no). Explanatory variables included measures on recent drug use, police encounters, psychosocial factors and demographics (Table 1). Recent drug use (past six months) was assessed across nine drug types (cannabis, mushrooms, cocaine, heroin, methamphetamine, ecstasy/MDMA, ketamine, benzodiazepine illicit prescriptions, and other illicit prescriptions), A 5-item scale from ‘never’ to ‘daily or almost daily’ assessed drug use frequency across these drug types. This measure was collapsed into three analysis groups: (1) cannabis only (at least weekly); (2) other illicit drugs (at least weekly); (3) other illicit drugs (nonweekly) or none.

Participants also provided details about their past encounters with police. Of those who reported a police encounter and being found in possession of drugs in the past three years, participants specified the drugs found in their possession, which was later categorized into two groups of interest: cannabis only or other illicit drug. We were also interested if previous involvement with the criminal justice system influenced our outcome – being charged by the police. Being

Table 1. Dependent and independent variables for police decision to charge young people who use drugs.

Variable	Description	Measurement
Dependent variable		
Charged by police	Being charged in possession of illicit drugs (past 3 years)	Yes No
Independent variables		
Drug use group	Drug use type (across 9 drug types) and frequency (from ‘never’ to ‘daily or almost daily’)	Other illicit drug (weekly use) Cannabis only (weekly use) Nonweekly drug use (cannabis and other illicit drugs) or none
Drug found	The drug found in possession across 9 drug types	Cannabis only Other illicit drug
Prior convictions	Lifetime history of a criminal conviction	None Victimless Property crimes Crimes against people
Gender	Self-identified gender	Male Female
Age	Self-identified age, in years	Continuous
Monthly income	Monthly income, in CAD	Continuous
Ethnicity	Self-identified ethnicity	White Indigenous Other
Education	Highest educational level completed	Less than high school High school completed Some or completed post-secondary
Sexual orientation	Self-identified sexual orientation	Heterosexual Nonheterosexual
Car visibility	Being in a motor vehicle at least weekly in the past six months	Yes No
Community visibility	Frequency of being in the community	7-point Likert scale
Drug use stigma	Perceived drug use stigma	6-point Likert scale

charged was measured by self-reports of lifetime criminal convictions (including for drug possession). Lifetime conviction crimes were self-reported so we were unable to determine prior convictions due to cannabis only versus other illicit substances crimes. Specific lifetime conviction crimes were later categorized into ordinal groups, representing increasing criminal severity: (1) none; (2) victimless (i.e. drug possession, drug trafficking, loitering); (3) property (i.e. theft, fraud, break and enter) and; (4) against people (i.e. assault, armed robbery).

Psychosocial variables related to police encounters included visibility and contact with the police. These factors were measured through a question about being in a motor vehicle at least weekly in the past six months, as well as a six question 7-point scale representing visibility in the community. We included a fundamental feature of normalization or the social acceptance of drug use – perceived drug use stigma (Benoit et al., 2015; Hathaway et al., 2011). Perceived drug use stigma was measured using a 6-point Likert scale of 12 items, adapted from research by Link (1987), which formed a composite scale of stigma (Cronbach's alpha 0.828). Finally, sociodemographic variables included gender, age, monthly income, ethnicity, education, and sexual orientation.

To examine the relationship between independent variables and our dependent variable, being charged for possession of illicit drugs, we used t-tests for continuous data and, accounting for small cell counts, Fisher's exact test for categorical data. A one-way ANOVA was employed with Tukey's honest significant difference test (due to heteroskedasticity) to determine significantly differing groups in terms of levels of perceived drug stigma. All statistical tests were conducted at $\alpha = 0.05$ using R 3.6.1.

Results

A total of 449 young people made up the overall sample; of which, approximately two-thirds ($n = 293$; 62.3%) reported weekly or frequent illicit drug use and one-third ($n = 156$; 37.7%) reported non-weekly drug use or none at all. The overall, any-cause conviction rate for the overall sample was 19.5% (85/441). Of these, four (0.9%) were drug possession *only* convictions, whereas the remainder included charges possession alongside other crimes (i.e. violence, property crime), or did not include possession.

A description of the sample in terms of relevant dependent and independent variables is presented in Table 2. For the analysis, we first examined police discretion in charges among those found in possession of illicit drugs, including cannabis ($n = 92$; 20.6%). Seventeen (18.7%) people from the sample reported being charged for any crime when found in possession of illicit substances. Of those charged, two (11.7%) were found to be only in the possession of cannabis *only*. The remaining fifteen (88.3%) were found to be in possession of other substances or cannabis in addition to other substances. The bivariate relationships related to being charged with possession of an illicit drug (including cannabis) compared to those not charged are shown in Table 3. Among those found with cannabis only ($n = 56$), two (3.6%) participants were

Table 2. Sample characteristics among young people who use drugs ($N = 449$).

Characteristic	n/median (%/IQR)
Age (years)	21.0 (19.0–24.0)
Gender	
Male	221 (49.3%)
Female	227 (50.7%)
Sexual Orientation	
Heterosexual	352 (78.7%)
Other	95 (21.3%)
Ethnicity	
White	279 (62.4%)
Indigenous	107 (23.9%)
Other	61 (13.6%)
Weekly wage (CAD)	\$932 (\$332 - \$1,600)
Education	
Less than high school	144 (32.4%)
High school	125 (28.2%)
Some/completed post-secondary	175 (39.4%)
Drug found	
Yes	92 (20.6%)
No	355 (79.4%)
Drug group	
Other Illicit (weekly)	210 (46.9%)
Cannabis only (weekly)	156 (34.8%)
Other (less than weekly or none)	82 (18.3%)
Community visibility	22 (19–25)
Car visibility	
Yes	9 (14.3%)
No	8 (28.6%)
Convictions	
None	3 (5.6%)
Victimless	2 (4.2%)
Property crimes	4 (33.3%)
People crimes	8 (44.4%)
Perceived stigma	4.3 (3.7–4.7)

charged by police. This result compared to fourteen participants charged of the 34 (41.2%) found with other illicit drugs ($p < .001$). Prior criminal convictions was significantly associated with being charged with drug possession ($p < .001$). Those with no prior convictions were least likely to be charged ($n = 3$; 5.6%), whereas those with a conviction history of crimes against people were most likely to be charged ($n = 8$; 44.4%). Among participant demographics, age, sexual orientation, sex, education, car visibility, and community visibility were not significantly associated with being charged by police when in possession of an illicit drug. Participant ethnicity was not significant ($p = .072$). Lower income was significantly related to being charged – the estimated income among those charged was an average of \$720 CAD per month, compared to \$1,110 CAD per month among those not charged ($p < .01$).

Finally, we conducted a one-way ANOVA to determine variations in terms of levels of perceived drug stigma for different drug usage groups (non-weekly use (any), weekly cannabis use, weekly other illicit use) (Figure 1). *Post hoc* tests indicated that participants reporting nonweekly drug use group reported similar stigma to those reporting weekly cannabis-only use, and that each of these groups had significantly lower stigma to weekly illicit drug users ($p < .001$).

Discussion

In this study, we aimed to understand factors related to policing charge outcomes for the possession of cannabis

versus other drugs among young people who use drugs in BC in the time period directly prior to cannabis legalization significantly related to being charged with drug possession, including low income and prior criminal convictions. People

Table 3. Bivariate relationships with being charged by the police among young people found in possession of illicit drugs.

Categorical variables	Charged by the police n/N (%)		p Value
Drug found			
Cannabis only	2/56 (3.6%)		<.001
Other illicit	14/34 (41.2%)		
Drug group			
Other illicit drug (weekly)	1/8 (12.5%)		.851
Cannabis only (weekly)	8/47 (17.0%)		
Other illicit drug (less than weekly)	8/36 (22.2%)		
Sexual Orientation			
Heterosexual	14/71 (19.7%)		.755
Other	3/20 (15.0%)		
Ethnicity			
White	5/45 (11.1%)		.072
Indigenous	8/36 (22.2%)		
Other	4/10 (40.0%)		
Sex			
Male	13/57 (22.8%)		.269
Female	4/34 (11.8%)		
Education			
Less than high school	11/36 (30.6%)		.631
High school	3/19 (15.8%)		
Some/completed high school	3/18 (16.7%)		
Car visibility			
Yes	9/63 (14.3%)		.145
No	8/28 (28.6%)		
Convictions			
None	3/54 (5.6%)		.001
Victimless	2/7 (41.2%)		
Property crimes	4/12 (33.3%)		
Crimes against people	8/18 (44.4%)		
Continuous variable	Yes mean (n, IQR)	No mean (n, IQR)	p Value
Age	22.1 (16, 19.0–24.5)	21.4 (71, 17.0–25.0)	.594 ^a
Income per month	\$720 (16, 332–932)	\$1110 (71, 332 – 1600)	.036^b
Visibility	22.3 (17, 19.0–27.0)	24.0 (73, 20.0–27.0)	.266 ^a
Perceived stigma	4.5 (15, 4.2–5.0)	4.2 (68, 3.6–4.8)	.237 ^a

The bold values are those which are statistically significant.

^aT-test equal variances assumed as Levene's test for equality of variances n.s. ($p > .05$).

^bT-test equal variances NOT assumed as Levene's test for equality of variances significant ($p < .05$).

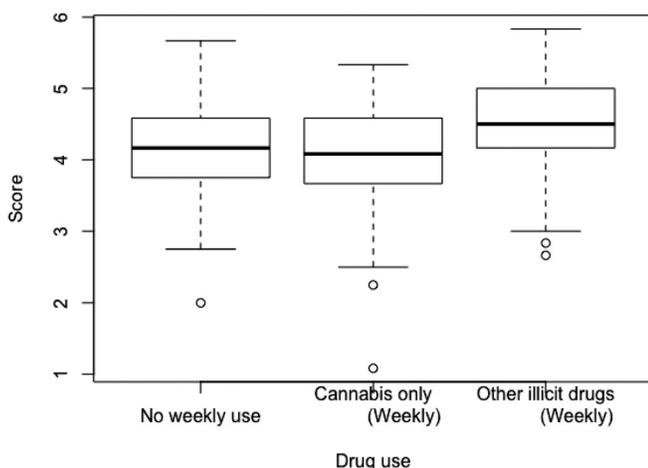


Figure 1. Perceived stigma score by drug use frequency among young people who use drugs.

in Canada. We found that those in possession of cannabis were significantly less likely to be charged by the police compared to those in possession of other illicit drugs (i.e. heroin, cocaine). We also found several socio-structural variables

who regularly used cannabis also reported significantly less perceived drug use stigma compared to those who frequently used other illicit drugs. Collectively, these findings add to our understanding of how cannabis possession was treated in BC prior to legalization, as well as factors that may influence police officers' decision to charge young people who use drugs.

In applying the theory of normalization to explain the differential treatment of cannabis use among police and its perceived acceptance among its users compared to other illicit drugs, we offer a unique perspective on the role of law enforcement as evidence of and influence drug use norms in society. Findings suggest that policing practices may correlate with both micro- and macro-level influences – namely, policing attitudes and drug law reform shifts, respectively, during this time. Although the likelihood of police to not charge for cannabis possession was not surprising given the legal and cultural climate for cannabis in 2018, decision not to charge may reflect the direction of attitudes towards cannabis more widely in Canadian society prior its legalization. Our finding that young people who use cannabis weekly perceive less drug use stigma compared to other weekly illicit

drug users further supports these findings as a further indicator of cannabis normalization. These findings align with others who have shown positive associations between perceived stigma and socially less acceptable drug use (i.e. cocaine and heroin) but not socially more acceptable drugs (i.e. cannabis and alcohol) (Benoit et al., 2015). Collectively, this study may expand notions of normalization to include policing practices as both an indicator of micro-level influences (i.e. policing attitudes toward cannabis) as well as macro-level influences (i.e. policing policies and practices institutionally). Framing our findings in this way falls within one side of a polarized debate of this theory (Pennay & Measham, 2016), supporting the notion for structural features of normalization, including the criminalization of social groups and police discretion (Brochu et al., 2011; Erickson & Hathaway, 2010).

To our knowledge, only one other study has used and advocated for greater consideration of normalization theory to explain criminal justice outcomes related to substance use (Brochu et al., 2011). Brochu et al. (2011) found that people who use drugs acknowledge the existence of two sets of law enforcement practices in Canada – those informed by policing policies and those informed by social norms or police discretion (Brochu et al., 2011). These authors and others argue that the ignorance towards cannabis policy observed in Canada by police officers and the public may reflect the discretionary nature of drug law enforcement in Canada (Erickson & Hathaway, 2010). Our findings suggest, however, that police discretion not to charge cannabis may be due to the transitory nature of prohibition at that time. Policing practices then may be indicative of policy shift more broadly. Applying this theory further to our findings, police discretion not to charge young people in possession of other illicit drugs in approximately 60% of cases may be an indication of future drug policy shifts – whether they be *de facto* and in practice, or *de jure* and in law – such as the decriminalization of other illicit drugs. Research in the near future may therefore benefit by studying and applying normalization theory to policing practices as a barometer for drug policy reform more broadly.

In addition to drug type (cannabis vs. other illicit drugs), our study findings demonstrated that income and conviction history were significantly related to being charged with drug possession. These findings suggest that young people who are criminalized or experience socioeconomic marginalization may be structurally vulnerable to negative police discretion outcomes. The finding that certain social groups are more likely to be charged is also concerning in the context of young peoples' lives, as early contact with the criminal justice system may perpetuate recurrent criminalization at a formative stage in their lives (O'Grady et al., 2013). Future studies may benefit by considering the differential treatment of law enforcement for different groups of people who use drugs.

There are limitations to our study. Given the convenience nature of our sample, representativeness on the variables analyzed is unknown. The exact date of each offence is also unknown. However, since the study was retrospective in that respondents were asked to report incidents of being found by police in possession of drugs within the past three years and all data collection was completed prior to formal

legalization in 2018, we can ascertain that all incidents occurred when cannabis possession was illegal in Canada. Although participants had lived in the city of data collection for the past six months, the charges reported could have been from any location in BC or otherwise. Given that this was an exploratory study, more in-depth research is needed which explores police discretion as a marker of normalization of cannabis and other drugs both in Canada and elsewhere.

In conclusion, this study has demonstrated that young people found in possession of illicit drugs other than cannabis, those with prior convictions, and/or of lower income are more likely to be charged by police. Drug normalization may be reflected in policing practices, as shown in their decisions to charge. As well, some young people who use drugs – particularly those who use drugs other than cannabis – continue to be structurally vulnerable to police discretion and criminalization in Canada.

Disclosure statement

The authors report no conflict of interest.

Funding

This research was supported by the Social Sciences and Humanities Research Council of Canada Insight Grant #435-2016-0497 Macdonald, S. (PI), Baron, S., Benoit, C., Hardy, C., Jansson, M., Lee, Z., Pauly, B., Reist, D., Roth, E., Stockwell, T. and Worley, S. Police discretion with high risk substance using youth. Social Sciences and Humanities Research Council, Sept 1, 2016 – April 1, 2020.

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