Punitiveness Towards Users of Illicit Drugs: A Disparity between Actual and Perceived Attitudes

MATTHEW B. KUGLER

Postdoctoral Research Associate in the Department of Psychology, Lehigh University

JOHN M. DARLEY

Warren Professor of Psychology, Princeton University*

For the past forty years, the American government has been committed to educating the public about the dangers of illicit drug use. At the beginning of the War on Drugs, Americans were told "[I]f we cannot destroy the drug menace in America, then it will surely in time destroy us" (Nixon, 1971), and these warnings are still with us today. There is a strong presumption that the public expects and demands harsh penalties for drug users, and is largely impatient with programs aimed at rehabilitating them (Blendon & Young, 1998; MacCoun & Reuter, 2001; Wallace-Wells, 2007). There is, however, some recent data suggesting that the public may not be wholly committed to a punitive view (CNN/Time, 2002; Lee & Rasinski, 2006; Pew, 2001) and a proposal to legalize marijuana in California came close to passing in 2010. We suggest that these apparently softening attitudes are not yet commonly known—though many members of the general public may be substantially less punitive than was once normal, they are unaware that their tendency towards leniency is broadly shared by their peers. Consequentially, there may now be a discrepancy between the actual views of individual members of the public and the public's self-conception of the consensus position. This discrepancy may underlie the growing divergence between the moderating views of the public on drug issues and the continued harsh criminal justice orientation of official policy.

Historically, the image of drug users in the media has supported a punitive approach to drug policy. Drug users have been portrayed as driven to crime and violence through diminished capacity (e.g., Bennett, Diiulio & Walters, 2008; Goode, 1997) and economic necessity (Goldstein, 1985; MacCoun, Kilmer & Reuter, 2003), and drug-related crime is described as being exceptionally brutal (Bennett et al., 2008). The public tended to accept this depiction and to fear drug users. In 1988, for example, 73 percent of the public were concerned that they or their family might one day be victims of drug-related crimes (Washington Post Poll, cited in Blendon & Young, 1998).

This punitive approach is reflected in the actions of political elites. President George H.W. Bush's strategy for the War on Drugs relied heavily on increased punitiveness, minimizing rehabilitation (Bush, 1989). Through the 1990s, drug policy relied heavily on criminal justice programs and interdiction (Timberlake, Lock & Rasinski, 2003). Funding for treatment of drug users and prevention programs was a comparatively small part of the budget (National Drug Control Budget, 2010) and penalties for even simple possession of small amounts of controlled substances could be substantial. Proposing deviations from this strategy—"going soft" on drugs—was politically dangerous (cf. MacCoun & Reuter, 2001). President Clinton distanced himself from his own surgeon general, Joycelyn Elders, amid intense criticism over her suggestion that drug legalization was worthy of study (Labaton, 1993). Bills have even been introduced in Congress that would ban the federal government from supporting research on drug legalization (MacCoun & Reuter, 2001).

There is some evidence, however, of a gradual weakening of support for punitiveness towards drug users. Drug use is now seen as the most important national problem by only a very small fraction of the population, down from over a third in 1990 (Pew, 2001) and, even in 1990, "punishing and convicting for drug crimes" was ranked as only the third best way of fighting the drug problem (cited in Blendon & Young, 1998). Relative support for treatment and prevention rose from the mid-1990s to the early 2000s (Lock, Timberlake & Rasinski, 2002; Timberlake et al., 2003) and a 2001 poll showed that only 30 percent of the public now believes that the government should emphasize arresting drug users (Pew, 2001). On the issue of marijuana, long seen as the least dangerous and threatening of the classic illicit drugs (Blendon & Young, 1998), there is increasing support for outright legalization; national polls have shown support rise from a low of 12 percent in 1969 to a high of 44 percent in 2009 (Gallup, 2009).

If punitive attitudes towards drug offenders are weakening, one must ask why this is not reflected in popular media and government policy, which have been continuing on their harsher course (National Drug Intelligence Center: December, 2008; Taylor, 2008). A substantial number of theories from the psychological literature predict that actual changes in public attitudes over time could be slow to produce changes in the perceived national consensus. For example, such a divergence would materialize if one believed that one's own disagreement with the perceived consensus position was somehow idiosyncratic—based on

Federal Sentencing Reporter, Vol. 24, No. 3, pp. 217–221, ISSN 1053-9867 electronic ISSN 1533-8363.
©2012 Vera Institute of Justice. All rights reserved. Please direct requests for permission to photocopy or reproduce article content through the University of California Press's Rights and Permissions website, http://www.ucpressjournals.com/reprintInfo.asp. DOI: 10.1525/fsr.2012.24.3.217.

capabilities, motivations, or pieces of information that were not generally shared. Work in psychology on *self-other differences* has shown that people often think that their mental processes are fundamentally different than those of other people. For example, people tend to believe that they see the world as it actually is (Ross & Ward, 1995; 1996) whereas others are more influenced by bias (Pronin, Gilovich & Ross, 2004; Pronin & Kugler, 2007) and conformity/peer pressure (Pronin, Berger & Molouki, 2007). Other people are also viewed as being less responsive than the self to situational factors—perhaps including changing policy realities (Gilbert & Malone, 1995; Jones & Harris, 1967; Ross, 1977). Because of these divergent perceptions, people can draw fundamentally different inferences about the causes of their own behavior compared to the causes of others' (Pronin & Kugler, 2010). This willingness to see the self as being different than others allows for a fairly robust gap between what a person knows about her own views on policy and what she believes about others' views.

Supporting this possibility, there are many historical examples of social groups enacting and maintaining policies that are presumed to have a wide basis of social support but are actually highly unpopular (Miller & Prentice, 1994). Cases include the smoking, drinking, and card-playing Methodists of Elm Hollow, who were convinced their fellow congregants supported prohibitions on those activities even though a majority actively partook (Schnack, 1932); the theists of Vassar College, who presumed that the majority of the campus held militant atheistic beliefs when only a minority conformed to that norm (Korte, 1972); and the drinkers of the 1920s, who believed that Prohibition policies enjoyed widespread popular support until public polling demonstrated that private anti-Prohibition sentiment was actually very strong (Katz & Schanck, 1938; Robinson, 1932, both cited in Miller & Prentice, 1994).

Study Description

To test whether people believe that their attitudes toward drug users are substantially less punitive than those of others, we asked participants to evaluate a particular hypothetical offender. The offender in question was described as a recreational user of one of several types of drugs: cocaine, heroin, or marijuana. It was stated that the offender had not previously committed any violent crimes or crimes against property. Participants rated the punishment that they wished to give the offender, the punishment that they thought the average American would give the offender, and the punishments that the average Democrat, Republican, and Independent would give. These ratings were given on identical sentencing scales.

Though many polls have tracked support for abstract drug policies or for government spending levels on various anti-drug measures, comparatively few have looked at punitiveness towards specific offenders. One exception found that a random sample of adults was fairly reluctant to incarcerate a first-time offender for possession of a small amount of cocaine (Lee & Rasinski, 2006); under one-fourth of the sample opted for a prison sentence, with most preferring either probation or a treatment program. That study used a fairly restricted sentencing scale (the only sentencing options were 1 year or 5 years in jail), but it is suggestive evidence for a disconnect between current sentencing guidelines (which allow and occasionally require sentences of several years)[1] and public attitudes. In this study, we wanted to go beyond that work and test whether people would assign short sentences to drug users even when given a wide range of sentencing options and, crucially, whether people believed that others would assign longer sentences.

Procedure

Data were collected online via Amazon's Mechanical Turk service. This allowed for a diverse, if imperfectly representative, sample of American adults. Participants were 192 Americans, 63 percent female, 82 percent white, 54 percent college graduates. The median age was thirty (mean thirty-three).[2] Demographics were collected at the beginning of the study and included a question about the participants' political party affiliations (Democrat, Republican, Independent, or Other) and a self-rating of political orientation on a scale ranging from –3 Very Liberal to +3 Very Conservative.

Participants were asked what sentences they, the average American, the average Democrat, the average Independent, and the average Republican would assign to a given offender. This offender was described as being a recreational user of cocaine, heroin, or marijuana who had not previously committed any violent or property crimes. By asking participants to project sentences for the average American and average representative of these other groups, we were able to determine how far people believed they were from the country's mainstream. Coupled with the participants' own party identification, we were also able to control for any political skew in the sample by comparing Democrats' actual views to the perceived view of the average Democrat, Republicans' to the perceived average Republican, etc.

Sentences were assigned using 14-point scales slightly modified from ones used in previous research. The scale gave participants a range of punishment severities beginning with 1 (no punishment) and 2 (small fine) and escalating through various terms of incarceration: 1 = No Punishment, 2 = Small fine (similar to speeding ticket), 3 = One day in prison, 4 = Two weeks in prison, 5 = One month in prison, 6 = Two months in prison, 7 = Six months in prison, 8 = One year in prison, 9 = Three years in prison, 10 = Seven years in prison, 11 = Fifteen years in prison, 12 = Thirty years in prison, 13 = Life in prison (without possibility of release), 14 = Death. The breadth of the sanction options was intended to avoid suggesting a particular level of response to participants. Importantly for purposes of comparison, the participants' own sentencing preferences and their various predictions were made on identical scales.

Table 1.
Preferred and projected sentences by drug type and party affiliation

			Perceived Sentence Preferences of:			
Drug	Participant's Party	Average Sentence Actually Assigned	Average Democratic	Average Republican	Average Independent	Average American
Cocaine	Democratic	3.10 (1.88)	3.52 (2.16)	7.28 (1.83)	5.62 (2.21)	6.07 (2.27)
	Republican	4.86 (2.44)	2.00 (1.57)	6.71 (2.49)	2.86 (2.21)	5.36 (2.73)
	Independent	3.20 (2.06)	3.80 (2.50)	7.84 (2.61)	4.20 (2.25)	5.16 (2.27)
Heroin	Democratic	3.10 (1.97)	4.48 (2.44)	8.34 (2.48)	5.48 (2.68)	6.55 (2.77)
	Republican	4.89 (2.37)	4.44 (2.70)	6.44 (2.01)	4.78 (2.59)	5.33 (2.87)
	Independent	3.39 (2.27)	4.74 (2.83)	7.78 (3.12)	5.30 (2.36)	5.87 (2.55)
Marijuana	Democratic	1.88 (0.99)	2.41 (1.42)	4.41 (1.87)	2.88 (2.03)	2.65 (1.27)
	Republican	3.11 (2.45)	3.17 (2.71)	4.78 (2.37)	2.50 (1.69)	3.89 (2.72)
	Independent	2.89 (2.23)	3.71 (2.76)	5.89 (2.56)	3.29 (2.27)	3.57 (2.36)

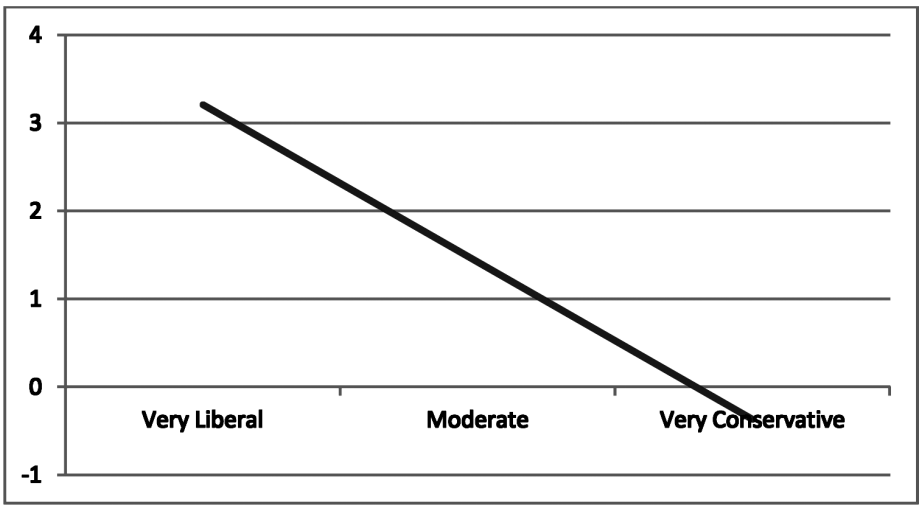
Note: Sentences are in terms of the scale described in the Procedures section.

Results

Primary data analysis was conducted using a mixed analysis of variance (ANOVA) with Self vs. Average American as a within subjects factor and drug type as a between subjects factor. Participants assigned shorter sentences than they projected would the average American, controlling for drug type $F(1,189) = 97.82$, $p < .001$, $\eta^2 = .33$. As can be seen in Table 1, the actual preferred sentences of participants are considerably shorter (M = 3.22, SD = 2.17) than their perception of the preferences of the average American (M = 5.04, SD = 2.70). These data present an apparent contradiction: the perceived "average American" has substantially different preferences than the average of Americans. Thus the public's views are being misperceived; on average, people are more lenient than others expect them to be.

Though our sample was diverse, it was not perfectly representative. We therefore performed two alternative analyses to control for any political skew present in the sample. First, we created a difference score by subtracting the sentence participants themselves assigned to a drug user from the sentence they believed the average American would assign. A regression was then conducted using the 7-point "very liberal" to "very conservative" scale as a predictor of this difference score. Were participants well-calibrated, comparatively liberal participants would believe that they were more lenient than average (the difference would be a positive number), comparatively conservatives that they were more punitive than average (the difference would be a negative number), and moderates that they were exactly average (the difference would be zero). As can be seen in Figure 1, this is not the case.

Figure 1
Difference between self and perceived "Average American"
Difference between the sentence a person projects would be assigned by the "average American" and the sentence he himself would assign.



With the predictor variable centered directly between the "very liberal" and "very conservative" endpoints, the regression line is significantly above the zero point B = 1.42, $p < .001$. Liberal and moderate participants both thought that they were substantially more lenient than the average American. Conservatives, rather than thinking that they were more punitive than average, instead thought that they were roughly representative. Thus, even if more conservatives were added to the present sample, the difference between the self and perceptions of the average American would persist.

A second analysis contrasted the participant's own sentence with the sentence (for the relevant drug type) she attributed to members of her political group (Republican, Democratic, Independent). Thus Republicans were compared to the perceived average Republican, etc. This ANOVA included factors for drug type and political party to control for their influence. Participants assigned, on average, substantially shorter sentences than they believed would the average member of their political group $F(1,182) = 52.10$, $p < .001$, $\eta^2 = .22$. Again, these data present an apparent contradiction: it cannot be the case, for example, that the "average Democrat" is more punitive than the average of Democrats. Further, as can be seen in Table 1, this analysis shows that the difference between the actual views of participants and the assumed views of the average American was so great that the presumed view of the public at large was, in fact, more punitive than the actual view of the average Republican.

Discussion

At the beginning of the current presidential administration, there was substantial speculation that drug policy reform was likely to arise as a major political issue. Since that time, sentencing laws for crack cocaine have been revised and federal drug enforcement money has been reallocated, with a greater proportion going to rehabilitation and treatment. With the marijuana initiative in California and the oncoming 2012 presidential election, it is likely that drug issues will reemerge in the public discourse in coming months and years. Policy towards illicit drug use has always been an important issue, and now it is a very timely one (Rorty & Michelman, 2011).

As this issue is reconsidered, it is important for both political leaders and the lay public to be aware that the will of the people is being systematically misperceived. Anecdotally, there appears to be a feeling among some members of the criminal justice system that, though they have doubts about current drug policy, many others are happy to continue it (e.g., Cole, 2011; Gray 2001). These data suggest that this feeling of uniqueness is common among ordinary Americans and that it is based on a misperception of the views of the average person; the uniqueness is false. Despite the expectations of the lay public, leniency appears to be more normative than harshness.

Going forward, it would be interesting to test directly whether politicians underestimate support for rehabilitation and treatment approaches in their districts. If so, that would be a strong piece of evidence that this misapprehension has policy implications. Previous work has found some evidence that political elites are systematically misperceiving their constituents' views on another highly publicized criminal justice issue: the death penalty (McGarrell & Sandys, 1996; Whitehead, Blankenship & Wright, 1999). This lends support to the possibility that elites will also be wrong in this case. It would also be interesting to see whether this general pattern, a mistaken overestimation of lay support for punitive approaches, holds for crimes other than ones related to drug use. Some possible target issues are three strikes laws and the death penalty (Tyler & Boeckmann, 1997; Tyler & Weber, 1982).

Notes

* Contact author: Matthew B. Kugler, Matthew.B.Kugler@gmail.com.

1 For possession of 1 gram of cocaine (where relevant): Massachusetts—maximum one year, Mass. Gen. Laws ch. 94C § 34; Maryland—maximum four years, Md. Crim. Law § 5-601; Texas—maximum ten years, minimum two years, Tex. Health & Safety Code § 481.115; Washington—maximum five years, Wash. Rev Code § 69.50.4013, 9A.20.021.

2 Age, educational attainment, and sex were all not significantly related to the sentences recommended by participants.

References

W.J. Bennett, J.J. Diiulio & J.P. Walters, Body Count: Moral Poverty . . . And How to Win America's War Against Crime and Drugs (1996).

R.J. Blendon & J.T. Young, *The Public and the War on Illicit Drugs*, 279 JAMA 827 (1998).

CNN/Time Poll, conducted by Harris Interactive, Oct. 23–24, 2002, *available at* http://www.pollingreport.com/drugs.htm.

Interview by Hamish McKenzie with Jack Cole (Apr. 6, 2011), *available at* http://www.leap.cc/the-war-on-drugs/.

Poll, conducted by The Gallup Organization, Dec. 14, 2009, http://www.gallup.com/poll/1657/Illegal-drugs.aspx.

D.T. Gilbert & P.S. Malone, *The Correspondence Bias*, 117 Psychol. Bull. 21 (1995).

P. Goldstein, *The Drug/Violence Nexus: A Tripartite Conceptual Framework*, 14 J. Drug Issues 493 (1985).

E. Goode, Between Politics and Reason: The Drug Legalization Debate (1997).

J. Gray, Why Our Drug Laws Have Failed: A Judicial Indictment of War on Drugs (2001).

E.E. Jones & V.A. Harris, *The Attribution of Attitudes*, 3 J. Experimental Soc. Psychol. 1 (1967).

C. Korte, *Pluralistic Ignorance about Student Radicalism*, 35 Sociometry 576 (1972).

S. Labaton, *Surgeon General Suggests Study of Legalizing Drugs*, N.Y. Times, Dec. 8, 1993, at A23.

R.D. Lee & K.A. Rasinski, *Five Grams of Coke: Racism, Moralism and White Public Opinion on Sanctions for First Time Possession*, 17 Int'l J. Drug Pol'y 183 (2006).

E.D. Lock, J.M. Timberlake & K.A. Rasinski, *Battle Fatigue: Is Public Support Waning for "War"-Centered Drug Control Strategies?*, 48 Crime & Delinq. 380 (2002).

R. MacCoun, B. Kilmer & P. Reuter, *Research on Drug-Crime Linkages: The Next Generation*, *in* Toward a Drugs and Crime Research Agenda for the 21st Century, National Institute of Justice Special Report (2003), *available at* https://www.ncjrs.gov/txtfiles1/nij/194616.txt.

R.J. MacCoun & P. Reuter, Drug War Heresies: Learning from Other Vices, Times, and Places (2001).

E.F. McGarrell & M. Sandys, *The Misperception of Public Opinion Toward Capital Punishment: Examining the Spuriousness Explanation of Death Penalty Support*, 39 Am. Behav. Scientist 500 (1996).

D.T. Miller & D.A. Prentice, *Collective Errors and Errors about the Collective*, 20 Personality & Soc. Psychol. Bull. 541 (1994).

Nat'l Drug Intelligence Ctr., U.S. Dep't of Justice, National Drug Threat Assessment 2009 (2008), *available at* http://www.usdoj.gov/ndic/pubs31/31379/31379p.pdf.

Special Message to the Congress on drug abuse prevention and control, 203 Pub. Papers 739 (June 17, 1971), *available at* http://www.presidency.ucsb.edu/ws/index.php?pid=3048.

Pew Research Ctr. for the People & the Press, Interdiction and Incarceration Still Top Remedies (2001), *available at* http://people-press.org/reports/pdf/16.pdf.

E. Pronin, J. Berger & S. Molouki, *Alone in a Crowd of Sheep: Asymmetric Perceptions of Conformity and Their Roots in an Introspection Illusion*, 92 J. Personality & Soc. Psychol. 585 (2007).

E. Pronin, T.D. Gilovich & L. Ross, *Objectivity in the Eye of the Beholder: Divergent Perceptions of Bias in Self versus Others*, 111 Psychol. Review 781 (2004).

E. Pronin & M.B. Kugler, *Valuing Thoughts, Ignoring Behavior: The Introspection Illusion as a Source of the Bias Blind Spot*, 43 J. Experimental Soc. Psychol. 565 (2007).

E. Pronin & M.B. Kugler, *People Believe They Have More Free Will than Others*, 107 Proce. Nat'l Acad. Sci. 22469–74 (2010), *available at* http://www.pnas.org/content/107/52/22469.full.pdf+html?sid=06cc5daa-ba1c-47f8-8219-f043c8abb4ac.

J. Rorty & S. Michelman, *Three Steps Toward Fairer Drug Guidelines*, 23 Fed. Sent'g Rep. 273 (2011).

L. Ross, *The Intuitive Psychologist and His Shortcomings: Distortions in the Attribution Process*, *in* 10 Advances in Experimental Social Psychology 173 (L. Berkowitz ed. 1977).

L. Ross & A. Ward, *Psychological Barriers to Dispute Resolution*, *in* 27 Advances in Experimental Social Psychology 255–304 (M. Zanna ed. 1995).

L. Ross & A. Ward, *Naïve Realism in Everyday Life: Implications for Social Conflict and Misunderstanding*, *in* Values and Knowledge 103 (E.S. Reed, E. Turiel & T. Brown eds., Jean Piaget Symposia Series 1996).

R.L. Schanck, *A Study of Community and Its Group Institutions Conceived of as Behavior of Individuals*, 43(2) Psychol. Monographs 1 (1932).

S. Taylor, *Outside the Outsiders: Media Representations of Drug Use*, 55 Probation J. 369 (2008).

J.M. Timberlake, E.D. Lock & K.A. Rasinski, *How Should We Wage the War on Drugs? Determinants of Public Preferences for Drug Control Alternatives*, 31 Pol. Stud. J. 71 (2003).

T.R. Tyler & R. Boeckmann, *Three Strikes and You Are Out, but Why? The Psychology of Public Support for Punishing Rule Breakers*, 31 Law & Soc'y Rev. 237 (1997).

T.R. Tyler & R. Weber, *Support for the Death Penalty: Instrumental Response to Crime or Symbolic Attitude?*, 17 Law & Soc'y Rev. 1, 21–46 (1982).

B. Wallace-Wells, *How America Lost the War on Drugs*, Rolling Stone, Dec. 13, 2007, at 107.

J.T. Whitehead, M.B. Blankenship & J.P. Wright, *Elite versus Citizen Attitudes on Capital Punishment: Incongruity Between the Public and Policymakers*, 27 J. Crim. Just. 249 (1999).