Impact of Measure 110 on arrest rates in Oregon

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Background

• The overdose crisis continues to be a leading driver of preventable morbidity and mortality
• States have passed numerous laws designed to reduce drug-related harm, including naloxone access laws, overdose Good Samaritan laws, and laws to remove barriers to drug use supplies
• Until recently, however, all states criminalized the non-prescribed possession and use of most controlled substances other than cannabis
• Effective February 2021, Measure 110, which decriminalized possession of small amounts of drugs and reduced penalties for possession of larger amounts, went into effect in Oregon
Background: Arrest and incarceration

- Drug-related arrests remain high
  - Nearly 1.5 million in the US in 2019
  - Almost 13,000 people were arrested for drug violations in Oregon in 2019
- Nearly 9 in 10 drug arrests are for possession
- Arrest, prosecution, and incarceration are harmful to people who use drugs and their communities
- Police stops, arrest, and incarceration are associated with lower levels of health and well-being
- Simply being arrested for a drug crime is a risk factor for overdose death
- People leaving incarceration are at extremely high risk of overdose
- POC are arrested, prosecuted, and incarcerated for drug crimes at much higher rates than white people, despite similar illicit drug use prevalence
Brief overview of Measure 110

• Measure 110 modified Oregon law in several ways:
  – Changed the possession of small amounts of drugs from a crime to a non-criminal “Class E” violation for which no jail, supervision, or other criminal penalties can be imposed
    • Civil fine is waived if a health assessment is obtained within 45 days
  – Reduced the penalties for possession of larger amounts of drugs from a felony to a misdemeanor in most cases

• Directed hundreds of millions of dollars in state cannabis tax revenue to substance use disorder treatment, prevention, and harm reduction services
### Brief overview of Measure 110

<table>
<thead>
<tr>
<th>Drug</th>
<th>Class E Violation</th>
<th>Misdemeanor</th>
<th>Felony</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heroin</td>
<td>&lt;1g</td>
<td>≥1 g but &lt;5g</td>
<td>≥5g</td>
</tr>
<tr>
<td>Cocaine</td>
<td>&lt;2g</td>
<td>≥2 g but &lt;10g</td>
<td>≥10g</td>
</tr>
<tr>
<td>MDMA (ecstasy)</td>
<td>&lt;1 g or 5 pills</td>
<td>≥1 g or 5 pills but &lt;5 g or 25 pills</td>
<td>≥5 g or 25 pills</td>
</tr>
<tr>
<td>Methamphetamine</td>
<td>&lt;2g</td>
<td>≥2 g but &lt;10g</td>
<td>≥10g</td>
</tr>
<tr>
<td>LSD</td>
<td>&lt;40 units</td>
<td>≥40 units but &lt;200 units</td>
<td>≥200 units</td>
</tr>
<tr>
<td>Psilocybin</td>
<td>&lt;12g</td>
<td>≥12 g but &lt;60g</td>
<td>≥60g</td>
</tr>
<tr>
<td>Oxycodone</td>
<td>&lt;40 pills</td>
<td>≥40 pills</td>
<td>n/a</td>
</tr>
</tbody>
</table>

What we did

• We examined arrest rates before and after Measure 110 in Oregon and four similar states (Colorado, Idaho, Montana and Nevada)

• We examined the following metrics:
  • Overall arrests
  • Drug-related arrests
  • Non drug-related arrests
  • Arrests for violent crimes
  • Arrests for potentially “displaced” crimes (curfew, loitering, vagrancy, trespassing, and disorderly conduct)

• For each arrest type, we further categorized by sex (male/female) and race (white/Black/American Indian, Alaska Native)
What we found

• Possession arrests were falling throughout the study period. However, there were significantly greater reductions in Oregon post-M110 than in control states.

• Drug possession arrests in Oregon fell by approximately 68% after M110.

• Note: M110 citations are generally counted as “arrests” in this dataset.

What we found

• No significant change in overall arrests, non-drug arrests, or violent arrests in Oregon post-M110 compared to control states

• Potential increase in displaced arrests in Oregon post-M110

• Oregon o Control States
What we found

• Racial disparities in arrests decreased but remained extremely high

• Possession arrests for Black individuals decreased by 77%, compared to 66% for white individuals

• However, Black individuals are still arrested at more than 2x the rate of whites

• American Indian/Alaska natives are arrested at nearly 4x the rate of whites
Limitations

• Because of data limitations, we only examined one year post-implementation.
• Because of data limitations, we examined only arrests where possession was the most serious offense.
• Drug possession arrests include M110 citations, likely leading to an under-estimation of its impact on custodial arrest.
Discussion

• We found a significant decrease in drug possession arrests in Oregon after Measure 110, compared to similar states

• Our data generally include M110 citations as “arrests”. Other research that examined only arrests where the person was fingerprinted found a greater decline in possession arrests post-M110

• Previous research shows that any interaction with a law enforcement officer is a risk factor for many kinds of harm
Discussion

• We found no significant change in overall arrests, arrests for violent crimes, or non-drug arrests
  – There is therefore no evidence that M110 caused an increase in violent crime
  – It also does not seem to have improved LE’s ability/willingness to focus on more serious crimes

• We found some evidence of an increase in arrests for some low-level crimes (displacement arrests)
  – It is possible that LE shifted to arresting individuals for “quality of life” crimes

• Disparities in possession arrests by race decreased but remained high post-M110
  – Further measures are needed to reduce racial disparities in arrests
Conclusion

“Punitive policies are not effective at addressing substance use disorder and, if anything, only exacerbate its societal risk factors, including worsening of racial health disparities.”
–Nora Volkow, NIDA Director

• Measure 110 resulted in reductions in arrests for drug possession
• Law enforcement remains a key component of OR’s response to SUD
• Stark racial disparities in drug possession arrests continue and should be addressed
• Further research should examine longer-term impacts of M110
Thank you!

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