



## Do Republicans Still Believe in States' Rights? Sessions' Marijuana Policy is Ultimate Test

Melina Delkic

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When Attorney General Jeff Sessions rescinded the Cole Memo on Thursday, giving federal prosecutors leeway to go after marijuana in states where the drug is legal, he opened up a fiery debate on whether the Republican Party still stands by one of its core planks: States' rights.

That policy, known as the Cole Memo, was one of a handful of barriers holding a line between federal and state government in the convoluted area of marijuana regulation. With the policy change, Sessions moved that line closer to federal control, something he's been pushing for for a long time.

But despite 29 states (plus the District of Columbia) voting overwhelmingly to legalize medical marijuana, and eight states (plus the District of Columbia) voting to legalize recreational marijuana, Sessions doesn't see it as a states' rights issue: "I do not believe there's any argument, because a state legalized marijuana, that the federal law against marijuana is no longer in existence," he told radio host Hugh Hewitt back in October.

Instead, he and Deputy Attorney General Rod Rosenstein pivot the discussion to the "rule of law," a phrase they've used in abundance this week. The previous Obama-era marijuana policy "undermines the rule of law," Sessions said on Thursday.

Rosenstein used that same phrase a whopping 19 times in a single speech on Friday.

Indeed, marijuana is illegal at the federal level, no matter how many states legalize it. Republicans, however, are more torn about the issue. Do they support the Republican administration, despite its flip-flop, or do they support their party's alleged ideology, and, perhaps most of all, their constituents' desires?

The gray area is home to a burgeoning split in the party. "This is a states' rights issue, and the federal government has better things to focus on," Senator Rand Paul (R-Ky.) said in a statement.

Likewise, Senator Cory Gardner (R-Colo.) took to the Senate floor on Thursday, calling the policy change "extremely alarming." Sessions, according to Gardner, had in fact promised him that his DOJ wouldn't make marijuana prosecution a priority.

"I am prepared to take all steps necessary, including holding DOJ nominees, until the Attorney General lives up to the commitment he made to me prior to his confirmation," Gardner said. "In 2016, President Trump said marijuana legalization should be left up to the states, and I agree."

And for Republicans, leaving it up to the states and to individual rights has been central to the party's stance on so many of its core issues: among them, the abortion debate, Obamacare, guns and gay marriage.

House Speaker Paul Ryan (R-Wisc.), always one to speak in lofty ideologies, summed it up neatly on a Wisconsin radio show during the 2016 presidential campaign season: "There is, underneath all of this, a big fight between two political philosophies."

The liberal philosophy, according to Ryan, is "one that tries to take us off of our founding philosophy, off of the founding principles and into a state, a government where we lose our freedoms, our self-determination, our liberties. Where we no longer have equality before the law, but we have this sort of arrogant, paternalistic, condescending government-knows-best philosophy."

(Ryan has not returned *Newsweek's* request for comment on the Cole Memo.)

Marijuana "is going to be a test" of that political philosophy, Nicholas Sarwark, chair of the Libertarian Party, told *Newsweek*. "I doubt that the Republican Party has a strong enough core ideology on anything right now, let alone states' rights."

Libertarians, though sometimes aligning with Republican Party viewpoints, are more consistent in their push for federalism, Sarwark said.

Jonathan Blanks, a fellow at Libertarian think tank Cato Institute, calls Sessions' position on marijuana "situational constitutionalism." Citing the 10th Amendment, he said, "Federalism is ingrained in the constitution...What happens within state borders should be the state's business."

But, he added, when it comes to drug policy, otherwise pro-states' rights politicians tend to renege.

It's a key criticism from Democrats — surely, neither party is wholly consistent in its messaging. But cries for states' rights, individual rights and small government have been such a central component to the GOP's stances on hot-button issues, that the flip-flop is jarring. Even the Trump administration, with its unrelenting cutting down of federal regulations, holds a confusing stance on this issue.

Trump promised during the campaign that he wouldn't touch marijuana, but since his inauguration, he's been notably quiet on the issue, leaving it to his attorney general to handle. The work of attorneys general is typically supposed to reflect the current White House's agenda — but it's unclear if that's the case here.

"It's funny (but not actually funny) that states' rights matter to the Trump Administration and Republicans only when it's expedient," Representative Ted Lieu (D-Calif.) told *Newsweek*.

“Sessions' vendetta against democratically legalized marijuana is a humongous waste of federal resources, and has proven to be unpopular at the state and national level.”

For now, marijuana legalization advocates, and perhaps states' rights advocates, will have to keep an eye on the precarious status of the Rohrabacher-Farr Amendment(which blocks the DOJ from using any money to prosecute medical marijuana in states where it's legal) as a next step in the debate. Since it's a budget rider, Congress votes on it every year as part of the federal budget; since Congress has stalled that vote twice now, it's still unclear whether Rohrabacher-Farr will be included in the package.

The Department of Justice and the White House have not responded to requests for comment.