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Obama's commendable change in federal drug enforcement policy

New medical marijuana policy reflects sea change, both domestic and international, in drug policy.

Glenn Greenwald

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[This](#) is one of those rare instances of unadulterated good news from Washington:

The Obama administration will not seek to arrest medical marijuana users and suppliers as long as they conform to state laws, under new policy guidelines to be sent to federal prosecutors Monday.

Two Justice Department officials described the new policy to The Associated Press, saying prosecutors will be told it is not a good use of their time to arrest people who use or provide medical marijuana in strict compliance with state laws.

The new policy is a significant departure from the Bush administration, which insisted it would continue to enforce federal anti-pot laws regardless of state codes.

Criminalizing cancer and AIDS patients for using a substance that is (a) prescribed by their doctors and (b) legal under the laws of their state has always been abominable. The Obama administration deserves major credit not only for ceasing this practice, but for memorializing it formally in writing. Just as is true for [Jim Webb's brave crusade](#) to radically revise the nation's criminal justice and drug laws, there is little political gain -- and some political risk -- in adopting a policy that can be depicted as "soft on drugs" or even "pro-marijuana." It's a change that has concrete benefits for many people who are sick and for those who provide them with treatments that benefit them. So credit where it's due to the Obama DOJ, for fulfilling a [long-standing commitment on this issue](#).

Beyond the tangible benefits to patients and providers, there is the issue of states' right. Fourteen states have legalized medical marijuana, many by referendum. The Bush administration's refusal to honor or even recognize those states' decisions -- by arresting people for doing things which are perfectly legal under state law -- was [one of many examples](#) giving the lie to the conservative movement's alleged belief in federalism and limited federal power ([see here](#), for instance, how John Ashcroft and GOP Senators tried deceitfully and undemocratically to exploit the aftermath of 9/11 to prevent Oregon from implementing its assisted suicide law). Constitutionally and otherwise, what possible justification is there for federalizing decisions about whether individuals can use marijuana for medical purposes? Ironically (given the "socialism" and "fascism" rhetoric spewed at it by the Fox News faction), the Obama administration's decision is a major advancement for the rights of states to have their laws respected by the federal government.

This action also reflects the clear sea change taking place, both domestically and especially internationally, regarding drug policy. When [Mexico decriminalized drugs for "personal use" in August](#), the silence -- including from Washington -- was deafening:

Quietly and with little ado, Mexico last week enacted a law to decriminalize possession of small amounts of all major narcotics, including marijuana, cocaine, heroin, ecstasy and crystal meth. Anyone caught in Mexico with two or three joints or about four lines of cocaine can no longer be arrested, fined or imprisoned. However, police will give them the address of the nearest rehab clinic and advise them to get clean. . . .

In 2006, Mexico's Congress approved a bill with almost exactly the same provisions. However, the Administration of George W. Bush immediately complained about the measure and then President Vicente Fox refused to sign it into law. In contrast, officials of the Obama Administration have been decidedly guarded in commenting on the new legislation. When asked about it in his visit to Mexico last month, drug czar Gil Kerlikowske said he would "wait and see." **Many view such a change as evidence that Washington is finally reconsidering its confrontational war on drugs**, four decades after Richard Nixon declared it. "There is a growing opinion that the use of force has simply failed to destroy the drug trade and other measures are needed," says Mexican political analyst José Antonio Crespo. **"It appears that the White House may be starting to adjust its approach."**

The failure of the drug war and criminalization schemes is so glaring that, despite its previously taboo nature (taboos enforced by the U.S. in various ways), it is being rapidly acknowledged around the world. Even though the [paper I wrote for the Cato Institute on Portugal's success with decriminalization](#) was published [almost six months ago](#), I now receive more invitations than ever to present the paper, especially at meetings of government officials and policy makers in Latin America, because almost every country in the region is now actively re-considering its criminalization approach to drug policy. Even a modest willingness on the part of the U.S. government to pursue or even tolerate alternative approaches could play a major role in accelerating that process, as countries in virtually every region of the world have long been coerced by Washington to maintain strict criminalization approaches and to embrace the destructive Drug War model.

The War on Drugs is the pernicious precursor to the War on Terror in so many ways, beginning with the relentless erosion of civil liberties; endless expansions of federal powers of detention, surveillance and militarized involvement in other countries; and a general pretext for remaining in an endless "war" posture. Anything that moves even a little bit towards abandoning the orthodoxies which sustain it should be applauded. And whatever else is true, being free of gun-wielding DEA agents is a real benefit for people with serious illnesses and those who provide them with medical treatments prescribed by their physicians.

-- Glenn Greenwald

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