

Obama on Drugs

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Should reformers dare to hope?

Jacob Sullum | November 12, 2008

Last week voters in Massachusetts approved a ballot initiative that eliminates criminal penalties for possessing up to an ounce of marijuana, replacing them with a \$100 civil fine. Michigan, meanwhile, became the 13th state to allow the medical use of cannabis.

As Bruce Mirken of the Marijuana Policy Project noted, the percentage of voters approving those initiatives (65 and 63, respectively) exceeded Barack Obama's share of the vote in each state. Furthermore, the results in Massachusetts and Michigan seem to reflect national opinion. For years polls have indicated that a large majority of Americans think that people should not go to jail for smoking pot and that patients who can benefit from marijuana should be able to obtain it legally.

Yet President-elect Barack Obama has retreated from his support for marijuana decriminalization, and his position on medical marijuana remains ambiguous. His reticence on these issues suggests he may disappoint those who hope the Obama administration will move drug policy in a less punitive, more tolerant direction.

One cause for that hope: Obama has been more candid about his own youthful drug use than any president in U.S. history. Although he portrays his pot smoking and cocaine snorting as behavior he regrets, it would be hard for him to justify harsh treatment of drug users when he himself escaped punishment for the same actions and clearly is better off than he would have been had he been arrested.

Given his experiences, it's not surprising that during his 2004 Senate campaign Obama told students at Northwestern University, "I think we need to...decriminalize our marijuana laws." But this year he backed away from that position. His campaign claimed he really meant "we are sending far too many first-time, nonviolent drug users to prison for very long periods of time," and "we should rethink those laws."

It's one thing to say decriminalization should be limited to simple possession of small quantities, or to say that it amounts to eliminating the possibility of arrest and jail, as opposed to repealing all penalties. It's another to say decriminalization means sending a low-level drug dealer to prison for one year instead of five.

That certainly would be an improvement, and Obama should get credit for his willingness to go that far. But it defies belief to claim this was the sort of "decriminalization" he had in mind when he addressed those college students four years ago (when he also described the war on drugs

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as "an utter failure").

Obama's position on medical marijuana is clearer but still fuzzy around the edges. He has promised to stop the Drug Enforcement Administration's raids on patients and the growers who supply them in states that allow medical use of marijuana. At the same time, he has said the Food and Drug Administration should decide whether marijuana qualifies as a medicine, which may mean he's open to reclassifying the drug so it can be prescribed by doctors throughout the country but may also imply a federal veto over state policy in this area.

The main danger with Obama is that his history of drug use, instead of making him more open to reform, will make him anxious to show he's tough on drugs. Something like that seems to have happened with Bill Clinton, who bragged about ever-escalating drug war budgets and threatened doctors who recommended marijuana to their patients with jail, trampling the First Amendment in his rush to prove his anti-drug bona fides.

"We are going to continue to find ways within the administration to fight legalization and the notion of legalization," a key Clinton drug policy adviser said in defense of this unconstitutional policy, which ultimately was overturned by a federal appeals court. "We're against the message that [California's medical marijuana initiative] sends to children."

Who was this zealous drug warrior, eager to forcibly suppress "the notion of legalization" in the name of protecting children? Rahm Emanuel, Obama's chief of staff.

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