



Written by [Michael Tennant](#) on December 11, 2012

Americans Side With Constitution on Marijuana Laws, Gallup Finds

Americans may be enamored with Social Security, Medicare, and sundry other unconstitutional federal policies, but according to a new [USA Today/Gallup poll](#), a sizable majority of them stands with the Constitution when it comes to marijuana laws.

The survey, conducted November 26-29, reveals that 64 percent of Americans believe that the federal government should not “take steps to enforce federal anti-marijuana laws” in states that have legalized recreational marijuana consumption, while just 34 percent think the feds ought to crack down on pot use in those states. Particularly noteworthy is the fact that 43 percent of those opposed to legalization nevertheless agreed that states should be allowed to set their own marijuana policies.



Constitutionally speaking, there is no question that marijuana policy ought to be set by state and local governments, not Washington. Nothing in the Constitution grants the federal government the power to prohibit the use of marijuana or any other drug. Therefore, as the 10th Amendment makes explicit, that power is “reserved to the states respectively, or to the people.” After all, if the Constitution, as originally ratified, permitted the federal government to prohibit the use of particular substances, there would have been no need to enact the 18th Amendment before Congress could prohibit alcohol.

The conflict between federal and state marijuana laws has come to the fore in the wake of successful ballot initiatives in Washington and Colorado to legalize and regulate recreational marijuana use. Despite the clear message sent by voters in those two states — more Coloradans [voted](#) for weed legalization than for President Barack Obama’s reelection, though Obama still won the state — the Obama administration is considering ways to thwart the people’s will. According to the [New York Times](#), the administration may prosecute “low-level marijuana users” in hopes of getting a court to rule “that federal law trumps the state one,” sue the states that passed the initiatives, or even “cut off federal grants to the states” pending repeal of the laws.

The clash is not, however, a new issue. After promising in 2008 that as president he wouldn’t “[use] Justice Department resources to try to circumvent state laws on” medical marijuana — [18 states plus the District of Columbia](#) now permit the use of marijuana for medicinal purposes — Obama “quietly unleashed a multiagency crackdown on medical cannabis that goes far beyond anything undertaken by George W. Bush,” [Rolling Stone](#) reported earlier this year. “The feds are busting growers who operate in full compliance with state laws, vowing to seize the property of anyone who dares to even rent to legal pot dispensaries, and threatening to imprison state employees responsible for regulating medical



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marijuana.” In fact, Obama has racked up twice as many medical-marijuana busts as Bush in less than half the time.

The poll results suggest that Obama’s aggressive stand against loosening state marijuana laws could put him in hot water with his base. While Americans are evenly divided on whether pot should be legal, with 48 percent in favor of legalization and 50 percent opposed, 60 percent of 18-to-29-year-olds and 61 percent of Democrats say it should be legal. (Half of Independents and a third of Republicans favor legalization.)

Obama’s hard-line stance did cost him at least one vote. Robert Chase of Denver told the [Colorado Observer](#) that he voted for Obama in 2008 but would not do so again in 2012 because although he generally agrees with the president, “the U.S. is not the land of the free if it’s imprisoning as many people over this as it is.” But having been safely reelected to a second and final term — and probably not grooming Vice President Joseph Biden as his successor — Obama has little to fear from disaffected youth and liberals.

The survey also suggests that marijuana legalization is the wave of the future. Those most favoring it are young, while those least favoring it are senior citizens. In addition, the number of Americans supporting legalization continues to grow. In 1969, when Gallup first asked about the issue, just 12 percent of Americans said pot should be legal; by 2005 that number had nearly tripled, and in just the last seven years it has grown by another third. This trend, of course, is reflected in the liberalization of state marijuana laws, though it has yet to penetrate the Beltway.

Still, regardless of one’s position on marijuana legalization, it is encouraging to see that Americans recognize some limits to the federal government’s authority; and it is especially heartening to learn that a sizable portion of them believes that such constraints apply even if they might lead to state-level policies with which those same people disagree. The problem now is to force politicians who are high on power to live within those limits.



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