



Written by [Joe Wolverton, II, J.D.](#) on April 19, 2013

## Obama Drug Czar Says States Can't Nullify Federal Drug Laws

During [a speech at the National Press Club on Wednesday, April 17](#), the White House drug czar, Gil Kerlikowske, announced that the Obama administration would adopt a zero tolerance policy when it comes to enforcing federal drug laws.

At the luncheon, Kerlikowske said that the U.S. Department of Justice will retain jurisdiction over the enforcement of existing federal statutes criminalizing the use of controlled substances, including marijuana. Any state laws to the contrary, he said, are of no legal effect.



"No state, no executive can nullify a statute that has been passed by Congress," the director of the Office of National Drug Control Policy told the National Press Club audience.

"Let's be clear," he continued, "law enforcement officers take an oath of office to uphold federal law and they are going to continue to pursue drug traffickers and drug dealers."

Simply put, nullification is the recognition of the right of states to consider null, void, and of no legal effect any act of the federal government that exceeds the "[few and defined](#)" powers granted to it by the states in the Constitution.

The president's hard line stance sets up a continuing conflict with a number of states where voters and lawmakers have approved the legalization of marijuana for personal use.

As [The New American reported last November](#):

Colorado and Washington became the first two states to [nullify unconstitutional federal drug statutes](#) by legalizing marijuana for recreational use, with voters backing Amendment 64 and Initiative 502 — but rejecting a similar proposal in Oregon. The two victories for legalization advocates, however, have set the stage for a potential showdown with the Obama administration of historic importance.

Kerlikowske's statements on Wednesday demonstrate that the showdown is approaching.

Particularly as other states are considering similar decriminalization of the possession of small amounts of marijuana.

In New York, for example, Governor Andrew Cuomo is supporting a measure that, according to the Associated Press, would "de-criminalize the small amounts of marijuana often found during [police stops]. Cuomo wants public display of small amounts of marijuana to be a violation, not a more serious misdemeanor that Democrats say can ruin young lives."

Apparently, not all Democrats share those feelings about the criminalization of weed, however. As his drug czar's comments at the National Press Club demonstrate, President Obama — the nominal head of



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the Democratic Party — remains as fiercely determined to punish pot use and prosecute the “war on drugs” as his predecessors in the Oval Office.

The [following statement published on the website of the Office of National Drug Control Policy](#) shows the seriousness of the Obama administration’s dedication to keeping the heat on marijuana use and perpetuating the myth of federal jurisdiction over its use:

Marijuana and other illicit drugs are addictive and unsafe especially for use by young people. As officials with the National Institute on Drug Abuse state, drug addiction is a progressive disease and the earlier one starts, the more likely are the chances of developing a substance use disorder.

Marijuana contains chemicals that can [change how the brain works](#). And [the science](#), though still evolving in terms of long-term consequences of marijuana use, is clear: marijuana use is associated with addiction, respiratory and mental illness, poor motor performance, and cognitive impairment, among other negative effects. This is especially troubling since research suggests one-in-11 people who ever used marijuana will become dependent on it; this risk rises to one-in-six when use begins in adolescence.

In 2009, marijuana was involved in [376,000 emergency department visits](#) nationwide.

Under current federal law, specifically [Section 844 of the Controlled Substance Act \(CSA\)](#), conviction for simple possession carries a potential punishment of up to one year in prison, a \$1,000 fine, or both. Subsequent convictions impose higher penalties.

The feds claim to be winning the battle. According to [a story by Agence France-Press and reprinted by Raw Story](#), “Last week, the head of the US Drug Enforcement Agency, Michele Leonhart, told Congress it had seized \$2.8 billion dollars in illicit drugs assets and profits, including some \$750 million in cash.”

That’s a lot of money, but at what cost? The [Tenth Amendment Center explains](#) how liberty is the first casualty in this “war:”

Drug prohibition is the “sword of the state.” The state must be willing to use force against its citizens and it must occasionally demonstrate this willingness by harming, arresting, imprisoning, and even killing its citizens. Prohibition is the perfect instrument because it is typically used against distrusted minorities and poor people. Such groups have little political clout and are naturally lured into participating in illegal markets by the large amounts of money involved.

Peter Andreas argues in [Smuggler Nation: How Illicit Trade Made America](#) (2013) that the regulation and policing of illegal markets has been a primary driving force in the creation and growth of the central state apparatus since colonial times: “So even though warfare and welfare are typically viewed as the main drivers of big government, *Smuggler Nation* highlights another motor: increased government size, presence, and coercive powers via the policing of smuggling” (p. 7). The war on drugs is literally a street war. Smugglers, drug dealers, and street gangs — who make their money selling drugs — are armed to the teeth with high-powered weapons. The police counter with machine guns, bullet-proof vests and helmets, and even tanks. The collateral damage to innocent people has been enormous.

The war on drugs has led to the militarization of the police, a vast increase in police power, and a prison system with over 2 million prisoners, a significant number of which are imprisoned due to prohibition and smuggling. The war has also led to a significant decrease of our constitutional rights and a substantial increase in what the police, investigators, and the court system can do to



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limit or infringe on our rights.

Furthermore, although the use of marijuana is considered by many (including the Obama administration) to be inadvisable and by many others to be immoral, the irrefutable fact is that the Constitution does not empower the federal government to make laws governing its use or cultivation. Regardless of one's own feelings on the plant, constitutionalists understand that speaking only of sovereignty, the right to regulate in this area belongs to states, and not to the White House, the Department of Justice, or to any other agency or department of the federal government.

Two states have now chosen to exercise their prerogative to pass measures controlling the use and/or possession of marijuana. In Colorado and Washington, the people and their representatives have nullified an unconstitutional federal act and constitutionalists should support such exercises of state sovereignty and resistance to federal overreaching.

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