



Written by [Warren Mass](#) on November 30, 2017

Sessions and Acting DEA Admin. Begin Drug War Actions Not Allowed in Constitution

A news release issued by the Department of Justice on November 29 stated that Attorney General Jeff Sessions (shown) had announced “new resources and stepped up efforts to address the drug and opioid crisis.” However, our attorney general is apparently unaware of (or chooses to ignore) the fact that the 10th Amendment plainly states that the powers not delegated to the United States (i.e., the federal government) by the Constitution are reserved to the states and that the power to prohibit drugs or other substances is not to be found in the Constitution. That is why the prohibition of alcohol required an amendment to the Constitution, since back in 1919 those running our federal government still recognized that they had no power constitutionally to prohibit alcoholic beverages otherwise.



The DOJ release noted that Sessions was joined by Acting DEA Administrator Robert Patterson in announcing the following efforts during a press conference at the Department of Justice:

- Over \$12 million in grant funding to assist law enforcement in combating illegal manufacturing and distribution of methamphetamine, heroin, and prescription opioids;

- The establishment of a new DEA Field Division in Louisville, Kentucky, which will include Kentucky, Tennessee, and West Virginia, a move meant to better align DEA enforcement efforts within the Appalachian mountain region;

- And a directive to all U.S. Attorneys to designate an Opioid Coordinator to work closely with prosecutors, and with other federal, state, tribal, and local law enforcement to coordinate and optimize federal opioid prosecutions in every district.

“Today we are facing the worst drug crisis in American history, with one American dying of a drug overdose every nine minutes,” the release quoted Sessions as saying. “That’s why, under President Trump’s strong leadership, the Department of Justice has been taking action to make our drug law enforcement efforts more effective.”

“DEA continually looks for ways to improve operations and interagency cooperation and more efficiently leverage resources,” said Patterson. “By creating a new division in the [Appalachian mountain] region, this restructuring places DEA in lockstep with our partners in the area to do just that. This change will produce more effective investigations on heroin, fentanyl, and prescription opioid trafficking, all of which have a significant impact on the region.”



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During the DOJ press conference, reported the *Washington Post*, Sessions also said that he had been “dubious” of a 2016 law that took away many of the DEA’s powers to act against distributors and manufacturers of prescription opioids, saying that he would support new legislation to restore the agency’s authority in those areas.

“I was dubious about the law when it passed,” said Sessions, who was a senator at the time. “I believe I was maybe the last person that went along with it after the department and DEA agreed to accept it.... We do need legislation. We can listen to the concerns that certain people had and draft good legislation, but I would be supportive of new legislation to be able to have a full toolbox in dealing with the problem of improper sale policies.”

The *Post* reported that Sessions said that Kellyanne Conway, currently serving as counselor to the president in the Trump administration, has been tasked with overseeing White House initiatives to combat opioid abuse. She attended the DOJ conference on November 29.

“The president has made this a White House priority. He’s asked [Conway] to coordinate and lead the effort from the White House,” Sessions said, calling Conway “exceedingly talented.”

“Today we are facing the deadliest drug crisis in American history,” Sessions stated during the press conference. “We’ve never, ever seen the death rates that we’re having today — 64,000 died last year.”

While Sessions’ statement about the deaths resulting from the drug crisis certainly warrants looking for a solution to this tragic situation, it ignores the fact that the use of harmful substances is basically a behavioral problem rather than a law-enforcement problem — much less a federal law-enforcement problem. Like other social ills stemming from bad behavior, the drug problem is best solved at the state and local level, which is also the only constitutional remedy for this crisis.

Former congressman and presidential candidate Ron Paul, who is also a medical doctor, wrote an article about the federal government’s failed drug war last May. In that article, he addressed Sessions’ decision the previous week to order federal prosecutors in drug cases to seek the maximum penalty authorized by federal mandatory minimum sentencing laws.

Paul wrote that Sessions’ support for mandatory minimums was no surprise, as “he has a history of fanatical devotion to the drug war. Sessions’ pro-drug war stance is at odds with the reality of the drug war’s failure. Over forty years after President Nixon declared war on drugs, the government cannot even keep drugs out of prisons!”

The former constitutionalist/libertarian congressman observed that, as was the case with alcohol prohibition, the drug war has empowered criminal gangs and even terrorists to take advantage of the opportunity presented by prohibition to profit by meeting the continued demand for drugs.

Paul’s most important reason for objecting to the war on drugs is constitutional, however. He continued:

The war on drugs is a war on the Constitution as well. The Constitution does not give the federal government authority to regulate, much less ban, drugs. People who doubt this should ask themselves why it was necessary to amend the Constitution to allow the federal government to criminalize drinking alcohol but not necessary to amend the Constitution to criminalize drug use.

Paul suggested that “those with moral objections to drug use should realize that education and persuasion, carried out through voluntary institutions like churches and schools, is a more moral and effective way to discourage drug use than relying on government force.”



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The beauty of our federal system, composed of separate sovereign states, is that each state has the power to write laws that reflect the moral values of its citizens. As such, the residents of Utah and Alabama might very well favor a different approach to regulating drug use than the citizens of New York or California. The authors of the 10th Amendment understood this principle, which is why they reserved to the states all powers not delegated to the federal government.

Photo of Jeff Sessions: [Department of Defense](#)

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