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Guarded Hope for Dope Reform

Randy Dotinga 11.15.06 | 2:00 AM
 Democrats control Congress, a socialist is in the Senate and the president's approval ratings are in the tank. So it's no surprise that advocates of drug reform are looking forward to a new day -- sort of.

Consider this: A bill that would allow sick people to use marijuana might actually pass the House. Of course, it's probably dead on arrival in the Senate, and President Bush would almost certainly stamp it with an override-proof veto. But "at the very least, we'll see some hearings on the issue," predicted Bill Piper, director of national affairs for the pro-reform Drug Policy Alliance. Hearings? Big whoop. Things are looking up in the wake of Election Day, but anyone who expects a major shift in American drug laws is definitely smoking something illegal.

"For all the worries about 'San Francisco values' coming into the Congress, (drug reform) isn't one that's going to come to the forefront," said Patrick Murphy, a drug-policy expert at the University of San Francisco who worked for the first Bush Administration. Still, proponents of medical marijuana, needle exchange and sentencing reform have learned to be patient. And there's a chance that the election may end up being a good thing for a bunch of people, from pot smokers to crack dealers. Here's a look at what regime change could mean for several types of drug reform.

Medical marijuana

Eleven states now allow the use of medical marijuana. (South Dakota narrowly defeated a medical-marijuana initiative last week, the first time such a statewide ballot measure has failed.)

But under federal law, medical marijuana is illegal, creating an eternal conflict between Washington D.C. and the states.

Last year, a bill that would allow the use of medical marijuana failed by a vote of 264 to 161 in the House. With at least 28 new Democrats on board, "there's a good chance that we can get it out of the House," Piper said. "The Senate we're less confident about," although drug reformers now have a new ally in Vermont's senator-elect and self-described socialist Bernie Sanders.

The best scenario, according to Piper, is that the bill would pass in a spending bill, and Bush wouldn't want to veto the whole thing. Meanwhile, there's trouble on the state front: counties in California are suing to invalidate the state's medical-marijuana ballot measure, which passed in 1996.

Pot for everyone

Voters in Nevada and Colorado rejected measures that would have made it legal to possess small amounts of marijuana. "They tried to go too far too quickly," Piper said. "That's probably a lesson for the drug-policy movement."

One bright spot for reformers is that 56 percent of Nevada voters opposed the initiative, compared to 61 percent who voted no on a similar ballot measure in 2004.

For now, the states have a crazy quilt of laws about possession of marijuana: an ounce -- typically enough for at least 30 joints -- could get you six months in jail and a \$2,000 fine in Texas or a \$100 fine and no jail time in California.

Meanwhile, voters in a number of cities and towns -- now including three in California; Missoula, Montana; and the Arkansas liberal haven of Eureka Springs -- have told local police to make pot busts a low priority.

"Public opinion polls suggest there's more acceptance (of marijuana) than there was 20 years, even 10 years ago," Murphy said. "The public sees this issue differently, but our connection between elected officials and public opinion is imperfect."

The war on drugs

Piper predicted that the new makeup of Congress means "we're not going to have to worry about draconian penalties and bills that infringe on civil liberties."

Murphy, the University of San Francisco drug policy guru, suggested Congress could be trying to tie the Bush administration's hands by not allowing an increase in funding for the Drug Enforcement Agency.

According to Murphy, it's possible that the DEA won't get a "blank check," and Congress will be "less enthusiastic about new gadgets and providing more money for enforcement initiatives."

Sentencing reform

It's possible that Congress will tackle the "100-to-1" disparity that haunts federal law about cocaine possession.

Currently, according to a recent Los Angeles Times commentary, a person caught with a briefcase full of 5,000 grams of powder cocaine will get a mandatory 10-year sentence -- just like a person caught with 50 grams of rock cocaine, about the weight of a candy bar.

The disparity was to be discussed at a hearing of the U.S. Sentencing Commission on Tuesday.

But the fact is that the federal criminal justice system accounts for less than 20 percent of all people imprisoned for violating drug laws, said Jonathan P. Caulkins, a professor at Carnegie Mellon University who studies drug policy.

And he's skeptical that politicians will make much of a difference in how many people visit the Ironbar Hotel.

"Most of what drives incarceration is trends in use and trafficking, not so much who is in power in Washington, so I don't necessarily see a big change because of the election," said Caulkins.

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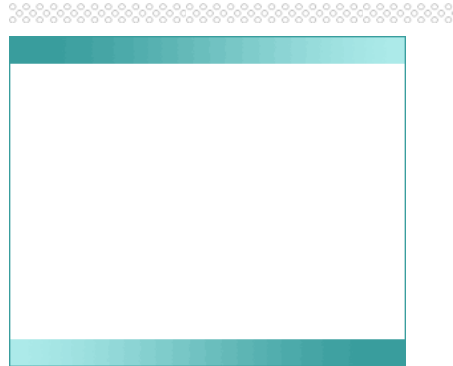
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