

THE BROOKINGS INSTITUTION

5 on 45:

On Sean Spicer's response to drug policy

Friday, February 24, 2017

PARTICIPANTS:

Host:

ADRIANNA PITA

Contributor:

JOHN HUDAK

Deputy Director, Center for Effective Public Management

Senior Fellow, Governance Studies

The Brookings Institution

PITA: You're listening to 5 on 45 from the Brookings Podcast Network: analysis and commentary from Brookings experts on today's news regarding the Trump administration.

HUDAK: I'm John Hudak. I'm a senior fellow in Governance Studies and deputy director of the Center for Effective Public Management.

At yesterday's White House press briefing, Press Secretary Sean Spicer took a question via Skype about marijuana policy and the Trump administration's decision or lack of decision thus far about how they would carry out drug policy.

Secretary Spicer's response was an important one in many ways. He engaged certain parts of existing federal law to talk about the guidelines by which the Trump administration would proceed. Specifically, Spicer talked a lot about the Rohrabacher-Farr Amendment, which is an amendment to an appropriations bill that gives very strict instructions to the Department of Justice. It says to the Department of Justice that they cannot use any funds to enforce the Controlled Substances Act, the law that makes marijuana illegal, in states that have approved medical marijuana laws. This has really tied the hands of the Justice Department, and in many ways allowed medical marijuana industries in the states to flourish. That, the White House is clearly respecting, as Sean Spicer said the president and the White House believes there is a distinction between medical marijuana and recreational marijuana in the states.

Even though Mr. Spicer went on to discuss differences in the systems that don't actually exist, it was important that he talked a bit both about the Rohrabacher-Farr Amendment and also DOJ enforcement choices. While Mr. Spicer was forthcoming in many ways, he also said that other inquiries needed to be directed to the Department of

Justice because it is the Department of Justice that makes those choices, makes those decisions, over enforcement. And while formally Spicer is right, DOJ does make those decisions, when it comes to upending issues of federalism, upending not only state laws but in some cases state constitutional amendments, you can bet that what Attorney General Jeff Sessions does on marijuana will have to pass through the White House before it's carried out.

But Mr. Spicer went on to talk about other areas of drug policy, highlighting an important part of one of the biggest crises facing the United States, and that is drug abuse. Drug policy in the U.S. is a complex area of policy that weaves together multiple agencies' interests in all of the states. And right now, a lot of the political rhetoric, a lot of the conversation coming out of the public health community, focuses on the opioid crisis, something that's killing Americans in every state every day. Heroin, prescription narcotics, fentanyl, and other drugs are leading to very serious public health situations in communities all across the United States.

Mr. Spicer unfortunately equated recreational marijuana legalization in the states with the opioid crisis. There's not a single public health individual in the United States who will tell you that those two things are the same. Other than prescription narcotics, most opioids, most other opioids are illegal. Heroin is illegal. Fentanyl is illegal in the way that it's used in most cases, and that is a serious problem. It means that drugs are not regulated. People don't know exactly what they're putting into their bodies. Those substances aren't tested and they're being sold in back channel ways, oftentimes by drug cartels.

That is not what's happening in the states with marijuana legalization. States are stepping forward trying to displace the black market, trying to displace cartels, and trying to make sure that individuals, adults who willingly choose to purchase marijuana, know what they're getting, know the potency of that drug, and have some consumer education on how to use it.

Mr. Spicer's comments equating opioids and recreational marijuana were unfortunate, but it speaks to the White House's real need to focus on the opioid crisis in the United States. There is evidence that suggests that there are certain public health benefits to the use of marijuana to wean people away from opioids as a substitution, and more research needs to be done on that. But the federal government needs to take a different approach and stop criminalizing the use of opioids and start using better, more effective methods to deal with this crisis. The drug war over the past 40 years has been an utter failure, and it is incumbent upon the Trump administration to go into the communities all across the U.S.—not just the ones that he won, but also the ones that he lost—and use the full weight of the White House and the rest of the federal government to solve the crisis of opioid abuse, a crisis that is different than what Mr. Spicer was talking about with marijuana policy yesterday.