

## **After the Rockefeller Drug Laws: A New Direction in New York and the Nation**

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*By Gabriel Sayegh*

New York's draconian Rockefeller Drug Laws were finally overhauled in April 2009, the culmination of an extensive, multi-year campaign for real reform. The reforms include: eliminating mandatory prison terms in most (but not all) drug cases; reducing sentences; expanding drug treatment, social services and alternatives to incarceration; and resentencing (and potentially releasing) nearly 1,200 people currently incarcerated for low-level drug offenses. What do these changes mean for drug and criminal justice policy in New York and the nation? This is the key question facing advocates around the country today.

Enacted in 1973 – just a few years after President Richard Nixon declared a “war on drugs” – the Rockefeller Drug Laws marked a shift towards a criminal justice approach to drug policy. The laws required long mandatory minimum prison sentences—even those convicted of first time, nonviolent drug offenses faced the prospect of life in prison. The laws drove an unprecedented explosion of the prison population. In 1973, New York's 32 prisons held a total of 13,000 people; nearly 1,500 people were incarcerated for drug offenses. By 2000, the states prison population had ballooned to nearly 70,000 people, over 20,000 of whom were incarcerated under the Rockefeller Laws. New York built 38 new prisons in rural upstate areas to warehouse all the new prisoners as funding for mass incarceration skyrocketed. Meanwhile, funding for community and other health-based services to address drug use and dependency was strictly cut back or eliminated altogether.

Unfortunately, New York's Rockefeller Drug Laws became the national model for being “tough on drugs.” Many states enacted their own version of the Rockefeller Drug Laws, citing New York's criminal justice approach. Congress, too, hopped on the bandwagon when it passed harsh mandatory minimums for drug offenses in the 1980s. The impact of these unjust and ineffective policies was most noticeable in low-income communities of color, who were suddenly losing entire generations of young men and women to a growing prison system.

Over the years study after study concluded that the Rockefeller Drug Laws failed to reduce drug use or sales in New York, wasted billions of taxpayer dollars, and destroyed communities through mass incarceration. Racial disparities became a defining element of New York's drug policies: over 90 percent of people incarcerated under the laws are Black and Latino, even though Whites use and sell drugs at equal rates. Despite claims by some special interests that a rollback of the Rockefeller Drug Laws would “return us to the bad old days of crack use in the ‘80s,” the truth is that their enactment did not stop the

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explosion of crack use in the 1980s and 1990s. The laws never fulfilled their stated purpose, and never worked. Illegal drugs remain as available as ever. Advocates – including VOCAL, The New York Academy of Medicine, The Fortune Society, the Drug Policy Alliance, and many others – are now calling for a public health approach to drug policy.

By winning real reform of the Rockefeller Drug Laws in 2009, New Yorkers have rejected the criminal justice approach to drug policy – a shift that has reverberated across the nation. States that followed New York’s lead in enacting a criminal justice approach to drugs are now questioning their own policies and looking to New York for answers.

Developments on the federal level also signal that change is at hand for our criminal justice and drug policies. Senator Jim Webb (D-VA) recently introduced legislation to create a Commission to study the U.S. criminal justice system and propose solutions to the problems that are uncovered; “All solutions should be on the table,” said Senator Webb. Congress is also poised to eliminate the sentencing disparities between crack and powder cocaine – long the cause of outrageous racial disparities in the federal system. In addition, Congress recently lifted the ban on providing federal funding for syringe exchange, which is a harm reduction practice essential to reducing the spread of HIV/AIDS and hepatitis C. At a July 2009 meeting convened by Governor David Paterson regarding a plan for the implementation of Rockefeller Drug Law reforms, President Obama’s new Drug Czar, Gil Kerlikowske, noted that the Obama Administration was paying close attention to New York as it moved in a new direction.

Under the Rockefeller Drug Laws, New York was the first laboratory for the politically-driven experiment that became the “war on drugs.” With real reform of these punitive and counterproductive laws, we can at last take New York in a new direction, creating a national model for drug policy based on public health and safety. To start, we must make Rockefeller Drug Law reforms work by ensuring their proper implementation – addressing health-related issues first in order to reduce the size and scope of the criminal justice system.

The potential institutional changes resulting from Rockefeller Drug Law reform can only be realized through sustained advocacy. I hope you’ll join us in this effort, advocating for justice and working to create healthier and safer communities.

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