

DRUG POLICY ALLIANCE

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The Rockefeller Drug Laws: What Should Happen Now?

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The Rockefeller Drug Laws (RDLs), enacted in 1973 under Governor Nelson Rockefeller, mandate extremely harsh mandatory minimum prison terms for the possession or sale of relatively small amounts of drugs. Supposedly intended to target major dealers (kingpins), most of the people incarcerated under these laws are convicted of low-level, nonviolent offenses, and many of them have no prior criminal records. The RDL's represent a criminal justice approach to drug policy that has been widely discredited and proven ineffective.

In December 2004, the NY State Legislature passed limited reforms of the Rockefeller Drug Laws, including some sentence reductions, increases in "merit time", and reforms to harsh parole practices. These reforms were a small step forward, but they were not *real reform*. They did not restore judicial discretion or provide funds for community-based drug treatment, for example. As then-Senate Leader Joseph Bruno admitted "This is only a small step, and we need to do more."

Today, approximately 12,000 people remain locked up for drug offenses in New York State prisons, representing over 21% of the prison population. The state spends over \$525 million per year to incarcerate people for drug offenses – 66% of whom have previously never been to prison, and 80% of whom have never been convicted of a violent felony.

What did the reforms of 2004, known as the Drug Law Reform Act (DLRA), do?

- Slightly lowered most drug sentences. Although some prison terms were modestly reduced, they remain unduly long and do not constitute real reform.
- Allowed minimal retroactive sentencing. Only those serving the harshest of the old sentences (the A-I cases) were permitted to apply for re-sentencing to a term allowed by the new law. In 2005, a slight expansion allowed for certain people with A-2 felonies to also apply for re-sentencing. However, *most* serving time for drug offenses do not receive this sentencing relief.
- Expanded eligibility for *prison-based* drug treatment (not community based treatment) – there was no *funding* component for prison-based treatment, however.
- Reformed parole practices – after three years without incident, parole must be terminated for those who served time for a Rockefeller Drug Law offense.
- As of September 30, 2008, a total of 243 Class A-I drug cases have been re-sentenced and released, saving the state \$29.4 million and 140 prison beds. In the same period, 210 Class A-II drug cases have been re-sentenced and released, saving the state \$6.7 million and 80 beds.
- Expanded merit time eligibility for Rockefeller Drug Law prisoners who complete rehabilitative programs. As of September 2008, this provision allowed 2,646 people to be released early, without compromising public safety, saving New York State taxpayers almost \$44 million.
- As of 2009, the total net savings from the DLRA is *nearly \$100 million*.

The DLRA Did Not:

- *Restore judicial discretion.* Prosecutors retain power to determine sentencing due to the mandatory sentencing provisions.
- *Increase funding* for community based drug treatment and alternative to incarceration. Such funding has not significantly increased in over 20 years.
- *Provide retroactive sentencing relief.* Most people serving the old law draconian sentence – 90% of those serving time are for B felonies and below – were not allowed to be re-sentenced.
- *Significantly reduce sentences.* While some sentences were reduced, most remain unduly harsh.
- *Shift the state towards a public health and safety approach to drugs.*

Over Four Years After the DLRA:

- Few people got out of prison under these reforms, Out of approximately 1,000 people convicted of A-1 and A-2 drug felonies that have applied for re-sentencing, about 30% of those eligible for re-sentencing have been released. Thousands of people still remain imprisoned under the failed Rockefeller Drug Laws.
- The re-sentencing process is much slower than expected. District Attorneys are often fighting re-sentencing and even asking for higher sentences.
- The DLRA did not significantly lower the prison population for drug offenses. The number of those incarcerated on a non-violent drug offense in 2008 was 5,191 (33% of new prison court commitments) as compared to 11% in 1980, according to the Department of Criminal Justice Services.
- The State Department of Correctional Services has not expanded drug treatment in prison, as required. The small modifications made to the Rockefeller Drug Laws did not include any additional funds for drug treatment or alternatives to incarceration.

Today: Towards a Public Health and Safety Approach to Drugs in NY

During the 2008 legislative session, the New York State Assembly held two unprecedented hearings to explore a public health and safety approach to drug policy in New York, one that includes getting rid of the Rockefeller Drug Laws. Drug Policy Alliance and our allies played a vital role driving this discussion forward.

In January of 2009, DPA worked with The New York Academy of Medicine (NYAM) to convene the historic conference, *New Directions for New York*. The conference assembled stakeholders from the community, from government, and the fields of public health, treatment, and criminal justice to explore a public health approach to drug policy. Capitalizing on the vital relationships created from the conference, DPA will continue to work with legislators and stakeholders to advance a *public health and safety approach to drugs* in New York, a coordinated effort by key stakeholders in the community and fields of treatment, public health, and criminal justice to reduce the death, disease, crime and suffering associated with drug misuse and addiction.

Want to get involved? Contact Evan Goldstein
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The *Drug Policy Alliance* is the nation's leading organization working to end the war on drugs. We envision new drug policies based on science, compassion, health and human rights and a just society in which the fears, prejudices and punitive prohibitions of today are no more.

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