



Real Reform New York FACT SHEET: *Restoring Judicial Discretion*

Return appropriate discretion to judges who could then individualize the sentencing decision for the non-violent, low-risk offender.

Mandatory minimum sentencing laws force judges to give out fixed sentences without parole, no matter the circumstances surrounding an individual's arrest. The main criterion for guilt under these laws is not the offender's role in the drug transaction or whether they pose a genuine threat to themselves or others, but simply the quantity of drugs in possession at the time of arrest.

Under the Rockefeller drug laws, **judges are forced to give out unusually long sentences that waste scarce New York tax dollars incarcerating mostly people with low-level nonviolent drug offenses.** For example, anyone selling two ounces or possessing four ounces of an illegal narcotic receives a prison term of NO LESS than 8 years to 20. **With over 14,000 drug offenders currently incarcerated, the state spends nearly \$458 million per year incarcerating these offenders**—nearly 80% of whom have never been convicted of a violent felony.

In order to save taxpayer money and produce fair and just sentences for people convicted of drug offenses, judges need two kinds of discretion returned to them. First, judges should have the discretion to give sentences that are appropriate to each individual case. Second, judges should be able to divert offenders with substance abuse problems, when appropriate, to treatment instead of jail or prison.

An October 2002 *New York Times* poll reported that judicial discretion involving drug cases was favored by 79% of New Yorkers. Additionally, 64% of individuals polled believed a legislator who votes for drug law reform is NOT “soft on drugs” according to a Zogby International poll.