

# Real Reform

Reform the Rockefeller Drug Laws *New York*

## Questions and Answers about the Rockefeller Drug Laws

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### **What are the Rockefeller Drug Laws?**

Enacted in 1973 under Governor Nelson Rockefeller, the Rockefeller Drug Laws mandate extremely harsh 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. Approximately 14,139 people are locked up for drug offenses in New York State prisons, representing nearly 38% of the prison population and costing New Yorkers hundreds of millions of dollars every year.

*Distorting the Judicial System:* The Rockefeller Drug Laws strip judges of their discretion, forcing them into a "legal straightjacket" which requires giving people convicted of drug offenses a mandatory minimum sentence based solely on the quantity of a drug involved in the offense. These sentences are mandatory regardless of the individual's background, character, role in the offense, and the circumstances of the offense. Whether the person is a first-time offender, for instance, is irrelevant.

Since judges cannot take an individual defendant's circumstances into account during sentencing, the only way to receive a lower sentence is by cooperating with the prosecution. However, those who are in the best position to provide detailed information about the drug trade are those who are the most heavily involved. As a result, major players are able to bargain for reduced sentences, while those in low-level positions often end up serving longer sentences because they have little or no information to provide the prosecution.

*Preventing effective drug treatment:* The Rockefeller Drug Laws also restrict the ability of judges to divert people using drugs into treatment, which has proven to be far more effective and cheaper than prison at reducing drug use and abuse. Mandatory minimums also give prosecutors unbalanced power over how drug offenders are sentenced. Unlike decisions made by judges, prosecutors' decisions under mandatory minimum sentencing structures are not subject to judicial oversight.

On the books for over 33 years, the racist Rockefeller Drug Laws have failed to curb drug use or abuse in New York, but have successfully destroyed thousands of lives while draining the state of limited tax dollars.

### **Why are the Rockefeller Drug Laws called "racist?"**

The Rockefeller Drug Laws have had a terrible impact on all of New York, but no communities have been more devastated by these laws than Black and Latina/o communities. In every major scientific study, drug selling and use are shown to be approximately equal between races. Yet while African Americans and Latinos comprise only 23.2% of New York's population, they comprise fully 92% of those currently incarcerated for drug felonies. There are more blacks and Latinos entering the prison system for drug offenses each year than there are graduating from the entire state university system. This horrendous racial disparity has been condemned by such international groups as Human Rights Watch and Physicians for Human Rights, along with the vast majority of New York residents.

### **Haven't the Rockefeller Drug Laws already been repealed?**

**No.** In December 2004, under pressure from the Real Reform New York Coalition, the New York State Legislature passed a bill which made limited sentencing reforms to the Rockefeller Drug Laws. The bill, signed by Governor Pataki, was widely hailed as a small but significant step forward in the battle for real reform. **But it was not enough.** The sentencing reform does not constitute real reform. Even Republican State Senator Joseph Bruno said "This is a small step, but we need to do more." The Rockefeller Drug Laws continue to stand, and Real Reform New York continues the movement for real reform of these racist, failed laws. Real Reform New York is actively working to further reduce sentencing, restore judicial discretion, deliver retroactive sentencing relief, and expand treatment. Only when significant changes are made to the Rockefeller Drug Laws in these four areas will New York have real reform.

### **What about the Second Felony Offender Law? Is that part of the Rockefeller Drug Laws?**

Enacted in the same year as the Rockefeller Drug Laws, the Second Felony Offender law aggravates the severity of the Rockefeller Drug Laws. The Second Felony Offender laws mandate significantly increased sentences for a second (or subsequent) felony offense, regardless of whether both felonies were nonviolent drug offenses, whether the offender was a productive member of his or her community, or how many years passed between convictions.

Not surprisingly, together the Rockefeller Drug Laws and Second Felony Offender laws have resulted in an enormous expansion of the prison population. In 1980, 11% of those incarcerated were drug felons; in 2003 drug felons comprised 38% of the prison population. The increase is more staggering for women: 45% of the women currently in prison are incarcerated for drug crimes. More than 70% of these men and women have never been convicted of a violent felony.

### **Who is working to change these laws?**

Many people opposed these laws when they were first passed. In the last ten years, a vibrant, powerful grassroots movement has fought for substantive reform. In 2004, the Real Reform New York Coalition was formed to continue the struggle for genuine reform. Real Reform New York is comprised of formerly incarcerated people, families of people incarcerated under the Rockefeller Drug Laws, community-based and religious groups, health professional, lawyers, advocates, treatment providers, human rights workers, policy experts, and more. You can find a full list of members and endorsers by visiting the Real Reform New York website, [www.realreformny.org](http://www.realreformny.org).

### **I know someone in prison under the Rockefeller Drug Laws. Do they get relief under recent reforms?**

If someone you know is imprisoned under the Rockefeller Drug Laws, contact the Legal Aid Society to learn more about how the latest sentencing reforms impact everyone serving Rockefeller time. You can reach the Legal Aid Society at 212.577.3300.

### **Where can I get more information about the Rockefeller Drug Laws?**

Visit the Real Reform New York website at [www.realreformny.org](http://www.realreformny.org), or call 212.613.8060.

### **I want to fight for real reform! How can I help?**

Join the Real Reform New York Coalition! Send an email to [gsayegh@drugpolicy.org](mailto:gsayegh@drugpolicy.org), or call Gabriel Sayegh at 212.613.8048.

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