

# The Correctional Association of New York

FOUNDED 1844

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## *Drop the Rock:*

### Repeal The Rockefeller Drug Laws

Enacted in 1973, when Nelson Rockefeller was Governor of NYS, the Rockefeller Drug Laws require harsh prison terms for the possession or sale of relatively small amounts of drugs. **The penalties apply without regard to the circumstances of the offense or the individual's character or background. Whether the person is a first-time or repeat offender, for instance, is irrelevant.**

Despite the fanfare, changes to the laws passed in December 2004 and August 2005 do not amount to real reform. The severe aspects of these laws are still on the books: Mandatory sentencing provisions remain intact, meaning that judges still do not have discretion in deciding whether to send someone to prison or to an appropriate alternative-to-incarceration program. Prison terms, though reduced, remain unduly long – for example, under the new system, instead of 15 years to life, the most serious provision of the drug laws carries a determinate (or flat) sentence of between eight and 20 years for first time, non-violent offenders. And the main criterion for guilt remains the amount of drugs in a person's possession at arrest and not a person's actual role in the drug transaction, meaning that the major profiteers who rarely carry drugs will continue to escape the laws' sanctions.

### Relevant Points

**1. At great expense to the taxpayer, these laws fill our prisons with low-level, non-violent offenders.**

- Notwithstanding the recent drug law modifications, more people were sent to state prison for non-violent drug offenses in 2006 – **6,039** –and in 2005 – **5,835** – than in 2004 – **5,657**.
- There are over **13,900** drug offenders locked up in NYS prisons. It cost the state about **\$1.5 billion** to construct the prisons to house drug offenders. And the operating expense for confining them comes to over **\$510 million** per year.
- In 2006, **36%** of the people sent to state prison were drug offenders. In 1980, the figure was only **11%**

(over)

- About **39%** of the drug offenders in NYS prisons, more than **5,400** people, were locked up for drug possession, as opposed to drug selling. It costs over **\$190 million** per year to keep them in prison.

- Of all drug offenders sent to NYS prisons in 1999, nearly **80%** were never convicted of a violent felony.
- Nearly **54%** of the drug offenders in NYS prisons were convicted of the three lowest level felonies – Class C, D, or E – which involve only minute drug amounts. For example, only  $\frac{1}{2}$  **gram** of cocaine is required for conviction of Class D felony possession, and **1,316 people** are locked up for that offense.

## 2. These laws are marked by racial bias.

- Studies have shown that the majority of people who use and sell drugs in NYS and the nation are white.
- African Americans and Latinos comprise about **91%** of the drug offenders in NYS prisons. African Americans, **57.7%**; Latinos, **33%**; whereas whites make up only **8%**.

## 3. Alternatives are available that save money and cut crime.

- A 1997 study by RAND’s Drug Policy Research Center concluded that treatment is the most effective tool in the fight against drug abuse. The RAND study found that treatment reduces **15 times** more serious crime than mandatory minimum sentences.
- Studies, including several sponsored by the National Institute on Drug Abuse, have shown that drug treatment programs, on the whole, are successful in reducing the levels of drug abuse and crime rates among participants and in increasing their ability to hold a job.
- The cost of keeping an inmate in NYS prison for one year is **\$36,835**.<sup>1</sup> In comparison, the cost of most drug free outpatient care runs between **\$2,700-\$4,500** per person per year; and the cost of residential drug treatment is **\$17,000-\$21,000** per participant per year.

## 4. By wide margins, the public shows support for drug law reform.

- According to a recent Zogby International poll:
  - **64%** of the public do not consider a legislator who votes for drug law reform “soft on drugs;” more than double those who do (**31%**).
  - **51%** are more likely to vote for a legislator who supports a bill to reduce drug sentences; **25%** are less likely.
  - **74%** chose treatment over jail/prison for those convicted of drug possession, whereas only **19%** chose jail/prison.
- According to an October 2002 *New York Times* poll:
  - **79%** of New Yorkers favor restoring sentencing discretion to judges in drug cases.

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<sup>1</sup> James J. Stephan, *State Prison Expenditures, 2001*, Bureau of Justice Statistics, U.S. Department of Justice (June 2004), at 3.