

## **We can't afford the state's drug laws**

By **ROBERT GANGI**

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With the stock market in free fall and expected tax receipts from Wall Street in steep decline, New York faces an even more serious financial crisis than other states. Gov. David Paterson and legislative leaders have clashed over which steps to take to close a deficit that's now estimated at more than \$47 billion — a startling figure — for the next four years.

We know that spending cuts will come. History tells us that poor people, the group most dependent on government services, will bear the brunt. But thoughtful and strategic budget reductions can result in more fair and efficient government and even serve to protect the most vulnerable among us. And, sometimes, the need to scale back public spending can provide cover for officials to adopt measures they would ordinarily consider too risky.

The state's leaders should seriously consider repealing the harsh Rockefeller Drug Laws at the special legislative session that Governor Paterson has called for next month. The governor has a long history of opposing the state's drug statutes, introducing sweeping reform proposals while he was a state senator and getting arrested in a protest in 2002 that called on then-Gov. George Pataki to support drug law repeal.

These laws, passed in 1973 when Nelson Rockefeller was governor, have caused rather than solved problems and have been a major financial drain on New York. It costs New York more than \$500 million annually to confine more than 13,000 drug offenders, most of whom have no history of violent or predatory behavior. The price tag for building the prisons to confine them came to about \$1.5 billion. Even well-resourced alternatives to incarceration cost significantly less per participant than the \$36,835 the state spends to confine a single inmate for one year.

The drug laws' harshest provision requires that a judge impose a prison term of eight to 20 years for anyone convicted of selling 2 ounces or possessing 8 ounces of a narcotic substance. The penalties apply without regard to the circumstances of the offense or the individual's character or background.

The main criterion for guilt is not the offenders' role in narcotics transactions, but the amount of drugs in their possession at the time of arrest. The kingpins know enough not to carry drugs. It is the foot soldiers who get caught literally holding the bag and face long, hard prison time. This provision of the law actually provides an incentive to police and

prosecutors to concentrate on low-level dealers and users, rather than on the drug trade's major profiteers.

Despite studies showing that the majority of the people who use and sell drugs are white, 90 percent of the inmates doing time in New York for the sale or possession of narcotics are people of color. The drug laws and other law enforcement policies that produce this disproportionate outcome have had a devastating impact on communities of color.

Yet New York's politicians still have not removed the stain of the Rockefeller Drug Laws from the state's criminal code. Narrow economic and political concerns have blocked movement on this issue.

Since 1982, the state has opened 38 prisons, all in rural, mainly white, mainly depressed areas, all represented by Republican state senators. At the beginning of 2000, 93 percent of all New York prison inmates were confined in prisons situated in Republican Senate districts. Facilities in these areas receive more than \$1.1 billion annually to cover their operating expenses. They employ almost 30,000 people.

In addition, Albany policymakers have been unwilling to take on the state's district attorneys. The drug laws remove discretion from the judge's hands and concentrate it in the prosecutor's office.

Most New York prosecutors have aggressively opposed proposals to amend the drug laws because they are protecting their preserve. Many politicians fear speaking out against the self-interested posture of these law enforcement officials.

Countering these obstacles is the widely available evidence that alternatives are available that save money and cut crime. The Correctional Association of New York has performed an analysis demonstrating that the state could save over \$220 million annually by repealing the Rockefeller Drug Laws.

For a long time the truth about these laws has been all too evident: that they are unjust, ineffective, racially biased and extravagantly wasteful. It is a truth well known to David Paterson. He recently told a radio interviewer that his position on the drug laws has not changed "one iota" and that he will continue to promote reform.

The question remains. Will the state's dire financial straits and the need to cut government costs lead him to follow through on his past promises? And will he be able to bring along other state leaders to do the right thing and eliminate the state's drug statutes?

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