

# The New York Times

## 35 Years of Rockefeller Drug Laws, and Hope There Won't Be 36

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New York governors come and go (some more swiftly than others). State lawmakers tend to hang around longer, but most of them eventually move on as well. For true endurance, the statutes known as the Rockefeller-era drug laws are hard to beat. The same may be said about attempts to scrap those laws, which came into being in 1973, so long ago that disco was just beginning to be hot.

Nelson A. Rockefeller was governor then. Drug criminals had New York by the throat in one of the city's periodic heart-of-darkness phases. Rockefeller wanted to show he could be tough as nails with dope dealers. The result was statutes that eternally bear his name in common idiom. Their essence was to send drug felons to prison for very long stretches, with sentences made mandatory and leniency rendered unacceptable even for first-time offenders.

The laws were amended in 2004 and 2005, to ease some of the most severe sentences. By then, they had been deemed overly harsh by most New Yorkers, save perhaps those with portraits of Torquemada on their walls. Occasional polls, like one for this newspaper in 2002, show that New Yorkers overwhelmingly would grant judges more of a free hand in sentencing. That includes a chance to send drug-addicted small fry into treatment rather than to prison.

We are now in a moment when the laws are being scrutinized again, in public hearings organized by a consortium of six New York State Assembly committees. A first round was held in Manhattan last Thursday, on the 35th anniversary of the laws' signing by Rockefeller, and a second round is planned for Rochester on Thursday.

Judging from the remarks of Assembly members at last week's session, they want major change, in particular to expand "judicial discretion" over the fate of convicted drug offenders. "We're on the precipice of real Rockefeller law reform," said Assemblyman Joseph R. Lentol, a Brooklyn Democrat. Mr. Lentol is among half a dozen lawmakers who were in the Legislature back in 1973. He voted against the laws then, and doesn't like them any better now.

But it is far from clear what, if anything, lies beneath that precipice. The State Senate, dominated by Republicans, albeit with a weakened grip, has not been eager to join the Democratic-led Assembly in tossing the Rockefeller laws over the edge.

Indeed, positions have shifted little over the years.

Those who raise cries of “drop the Rock” say that mandatory sentences are mindless and unfair to nonviolent offenders, that they give too much power to prosecutors and not enough to neutral judges, that they steer too many low-level schnooks away from relatively inexpensive rehab that would serve them (and the state treasury) well, and that they are directed disproportionately hard toward African-Americans and Latinos.

A leading critic of the laws, the Correctional Association of New York, says that their effect is to give elected officials from 35 years ago, many of them dead, more power over today’s narcotics cases “than the judges who currently sit on the bench and hear all the evidence presented.”

In the same camp, you would probably find the present governor, David A. Paterson. He has not spoken up on the subject of late, but he got himself arrested in an anti-Rock protest six years ago, when he was a state senator.

On the other side are those, including many of the state’s district attorneys, who say that the threat of tough sentences is enough to induce some addicted drug violators to seek treatment. And don’t kid yourself, prosecutors say; street-corner dealers, even if not necessarily “drug kingpins,” are violence-breeding menaces. Neighborhoods, they say, are well rid of these lowlifes.

On the laws’ 35th anniversary, each side went to the hearing armed with anecdotes and statistics. A figure that stood out, though, was one that went unmentioned.

Bridget G. Brennan, the special narcotics prosecutor for New York City, noted that in 1970 there were 1,146 homicides in the city. (Police records put the number at 1,117, but that’s not the point.) In 2007, that figure had been sliced to 496. The implication was that we could thank the Rockefeller laws for this marvelous result.

Unmentioned was another number: 2,245. That’s how many homicides the city recorded in 1990, our most blood-soaked year.

So for 17 years, starting with 1973, the murder rate grew and stayed implacably high, even with the Rockefeller laws. Then, over the next 18 years, the rate dropped sharply. The roller-coaster statistical ride is enough to make one wonder, at least in regard to murder, if the Rock really had anything to do with the numbers going up or down.