



QEJ FACT SHEET ON ROCKEFELLER DRUG LAWS

OVERVIEW

The Rockefeller Drug laws, passed in New York State in 1973, took away sentencing discretion from judges, and forced them to impose mandatory minimum sentencing for anyone convicted of drug-related incidents. They have remained largely intact since their passing.

Recently, two small, but important, changes were made:

- The Rockefeller reform bill, passed in December 2004, allowed those convicted of A1 offenses (over 460 people), the most serious felonies under the RDL, to apply for re-sentencing. The bill also made minor reductions to the RDL mandatory minimums, increased merit time for those in prison under the Rock laws, doubled the minimum drug weights that trigger mandatory minimum felonies, and guaranteed termination of parole and probation for RDL offenses after 3 years.
- The A-2 Rockefeller reform bill, passed in August of 2005, allowed for allow nearly 550 people sentenced under the RDLs for nonviolent drug offenses to apply for re-sentencing under the 2004 changes.

The laws remain some of the harshest in the US, and incarceration rates continue to rise:

- Even after the changes of the last few years, those convicted of non-violent drug crimes, including possession and selling, face **mandatory minimum sentences**, regardless of their role in the offense. Those with the most serious offenses, A1 felonies, face 8 – 21 years in prison.
- These mandatory minimums still leave discretion to the prosecutors, not the judges.
- Rockefeller drug laws specify the same sentences for one-time offenders as for people convicted of murder, arson and kidnapping. This sentencing is harsher than that given to people convicted of some violent assaults.
- In 2004, nearly 35% of the people sent to state prison were convicted of drug offenses, compared to 11% in 1980.
- **There are now over 14,000 drug offenders incarcerated in New York State prisons.**

(Sources: The Correctional Association of New York, www.droptherock.org, Real Reform New York www.realreformny.org)

RATES OF DRUG USE IN LGBT COMMUNITIES

Studies have repeatedly shown a higher rate of drug use in LGBT communities (who face discrimination and stigma from families and society at large) than in heterosexual communities or the US population overall.

- A 1998 study found that 34% of trans women, and 18% of trans men, had a lifetime rate of intravenous drug use.
(Source: San Francisco Department of Public Health AIDS Office)
- Alcohol and drug abuse affects an estimated 20-30% of the gay and lesbian population – a rate that is two to three

times higher than the overall population. *(Source: The Midwest AIDS Prevention Project)*

- One study in Massachusetts found that 80% of transgender people had problems with drugs or alcohol. *(Source: The Gay, Lesbian, Bisexual, and Transgender (GLBT) Health Access Project)*

As Welfare and Medicaid are increasingly dismantled, LGBT poor and homeless people have few options for drug rehabilitation. Resources that could be going to low-income housing, job training programs, and affordable healthcare are instead being directed to increased policing and building more prisons. The recent federal budget reconciliation bill (S. 1932), passed February 1, 2006, only made deeper cuts into these social programs.

WOMEN AND PEOPLE OF COLOR

People of color and women continue to be incarcerated at increasingly higher rates as a direct result of these laws.

- 45% of women in prison on 2002 were sentenced for drug crimes.
- Currently, over 92% of people imprisoned under the Rockefeller Drug Laws are Black and Latino. Over 70% of those incarcerated under these laws come from New York City alone.
- Nationally, although African Americans comprise only 12.2% of the US population, and 13% of drug users, they comprise 38% of people arrested for drug offenses, and 59% of those convicted for drug offenses.
- Though white men make up the majority of drug users and dealers, only one in 63 white men (just 1.6%) were in prison or jail at the same time.
- In the US, an estimated 4.7 million Americans, or one in forty-three adults, have currently or permanently lost their voting rights as a result of a felony conviction, including 1.4 million African American men.

(Sources: American Friends Service Committee, Drug Policy Alliance, Partnership for Responsible Drug Information)

Under current law and practice, once arrested, immigrants can be detained indefinitely and without cause.

- In the wake of 9/11, government officials continue to arrest and indefinitely detain thousands of immigrants who might have committed even minor criminal offenses, or are even suspected of possible terrorist activity. An arrest and imprisonment under the RDLs –which could lead to a felony conviction – can significantly contribute to these detentions and eventual deportation. *(Source: Center for Constitutional Rights, www.ccr-ny.org)*
- Immigration and Customs Enforcement (ICE) currently detains about 200,000 immigrants a year. *(Source: AFSC)*

MORE POWER FOR CORPORATIONS AND THE RIGHT-WING

Many prisons are built, supplied and staffed by corporations, not the state. These corporations therefore have an investment in any laws that increase the number of prisons being built and a guarantee that more people will be in prison for longer.

- The largest prison corporations in the United States (The Correction Corporation of America, the international GEO Group, Inc. and Cornell Companies, Inc.) are large contributors to American Legislative Exchange Council, a Washington, D.C. based public policy organization that supports conservative legislators. ALEC's members include over 40% of all state legislators, and its legislative successes include California's "Three Strike" laws.
- As of December 2000, there were 153 private correctional facilities (prisons, jails and detention centers) operating in the United States with an imprisonment capacity of over 119,000 people.
- The private prison industry is now a \$2 billion industry housing about 5% of all inmates currently incarcerated
- Private prisons cost New Yorkers over half a billion dollars each year.

(Sources: American Friends Service Committee, Drug Policy Alliance, The Sentencing Project)

ALTERNATIVES

Drug rehabilitations programs are more humane, more effective, and significantly less expensive than imprisonment of people convicted of drug-related crimes. However, these programs are severely under-funded and are difficult to access.

- Drug treatment programs reduce crimes, such as violent felonies, at 15 times the rate of mandatory minimum sentences.
- Drug treatment programs have also been shown to be significantly more effective than prisons in increasing a person's ability to maintain employment.
- The cost of imprisoning one person for one year is about \$32,000. Yet, most drug treatment for outpatients care runs between \$2,700-\$4,500, per person per year; and residential drug treatment costs about \$17,000-\$21,000 per participant per year.

(Sources: The Correctional Association of New York, www.droptherock.org)