



August 28, 2007

Open Letter to New York State Commission on Sentencing Reform

Dear Members of the New York State Commission on Sentencing Reform:

New York State is at a critical juncture in the evolution of criminal justice policy. As members of the Commission, you have a historic opportunity to help reverse the profoundly negative effects of injustice, racial bias, and inefficiency stemming from the state's drug sentencing laws.

The Rockefeller Drug Laws mandate extremely harsh prison terms for the possession or sale of relatively small amounts of illegal drugs. Intended to target major drug traffickers, the drug laws have instead led to the large-scale incarceration of low-level, nonviolent drug users. In practice, the laws have produced unconscionable racial disparities: Blacks and Hispanics comprise over 90 percent of those currently incarcerated for drug felonies -- a figure which is far out of proportion to their actual involvement with drugs. The laws have neither curbed drug use nor enhanced public safety. Instead, they have destroyed thousands of lives and wasted limited tax dollars.

As representative of the undersigned organizations, we are united in calling for a complete overhaul of the Rockefeller Drug Laws. We submit to the Commission four recommendations, each of which we believe is essential to instituting meaningful reform of the state's drug sentencing laws. We urge you to give these proposals careful and serious consideration as you proceed with your deliberations:

1. Restoration of judicial discretion in all drug cases;
2. Expansion of community-based drug treatment and alternative-to-incarceration (ATI) programs;
3. Reductions in the length of sentences for all drug offenses;
4. Retroactive sentencing relief for all prisoners currently incarcerated under the Rockefeller Drug Laws.

1. Restore judicial discretion

The Rockefeller Drug Laws' mandatory minimum sentencing scheme compels judges to hand out fixed sentences regardless of the circumstances surrounding an individual's arrest. The criterion for guilt is not the offender's role in the drug transaction or whether the offender poses a genuine threat to others, but simply the quantity of drugs in his or her possession at the time of arrest. The discretion to impose sentences based upon the unique circumstances of each case and to divert nonviolent offenders into suitable alternative-to-incarceration programs should be returned to the judiciary in order to ensure fair and appropriate sentences.

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2. Expand community based drug treatment and other alternative-to-incarceration programs

In 2000, the New York State Commission on Drugs and the Courts recommended the expansion of ATI programs “to every corner of New York State.” We agree with the Commission: the use of community-based drug treatment and other ATI programs should be greatly expanded. A multitude of studies demonstrate that drug treatment is effective in reducing levels of drug use and criminal activity. ATI programs do not compromise public safety, but they do increase the likelihood that participants will become contributing members of society. By implementing comprehensive drug treatment and rehabilitation programs, New York State can save taxpayer money, reduce recidivism, and help rebuild families and communities.

3. Reduce penalties for all drug offenses

The Legislature’s changes to the sentencing laws in 2004 and 2005 have not altered the fact that the penalties mandated by the RDLs are exceptionally harsh. In 2004, then Senate Minority Leader David Paterson issued a report whose central finding is as true today as it was then: New York State has, by far, *the harshest drug-sentencing statute in the entire country for a low-level drug seller with a prior non-violent felony conviction*. New York is out of step with the many states that have in recent years enacted appropriate sentencing reforms for low-level users and sellers.

4. Provide retroactive sentencing relief

Sentencing reform should be retroactive so that the thousands of individuals who are currently serving excessive prison terms can petition the courts to have their sentences reconsidered under fair standards. Retroactivity will help reduce enormous prison costs, deliver fairness in sentencing, and enable individuals to return to their families and communities.

We urge that the New York State Commission on Sentencing Reform issue a clear directive to eliminate the stark inequities that plague our criminal justice system. Overhauling the Rockefeller Drug Laws is a prerequisite for moving towards a system of justice that is both fair and protective of public safety.

Signed:

1199 National Health and Human Service
Employees Union, AFL-CIO
Antiracist Alliance
American Jewish Congress, Metropolitan Region
The Association of Legal Aid Attorneys, UAW 2325
Bailey House
Broadway United Church of Christ, NYC
Bronx Defenders

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Bronx HIV CARE Network
CAAAY Organizing Asian Communities
Center for Community Alternatives
Center for Community Alternative Sentencing and Employment Services
Center for Constitutional Rights
Center for Law and Justice
Citizen Action of New York
Citizens Union
CitiWide Harm Reduction
Coalition of Parole restoration
Coalition for the Homeless
Coalition on Detentions and Incarceration
Columbia Law Students for Enacting a Humane Drug Policy
Colombia Prison Access Working Group
Community Healthcare Network
Community Unitarian Church, White Plains
Congregation of Sisters of Good Shepherd, NY
Convent Avenue Baptist Church, Social Action Committee
Convent Avenue Baptist Church, Prison Ministry
The Correctional Association of New York
Council of Churches of the City of New York
Criminal Justice Policy Coalition
Critical Resistance
Cure NY
District Council 37, ASFCME
Delta Sigma Theta Sorority, Inc., Epsilon Tau Chapter
Direct Action network
Episcopal Church of the Intercession
Exponents/ARRIVE
Faith Coalition for Political Action
Families Against Mandatory Minimums
FIERCE
Fifth Avenue Committee
Fortune Society
Fourth Unitarian Society of Westchester
FUREE
Gay and Lesbian Independent Democrats
Grace Church, Brooklyn Heights, NY
Greater NY Council of Reform Synagogues
Greater NY Labor Religion Coalition
Harlem Congregation for Community Improvement, HCCI
Harlem Directors Group
Harlem Tenants Council
Harm Reduction Coalition
Hip Hop Summit Action Network

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Reform the Rockefeller Drug Laws **New York**

Hip Hop Summit Youth Council
Hispanic Episcopal Ministry
Housing Works
Humans Right Watch
ICARE
Integrity/Brooklyn Gay and Lesbian Episcopalians
Interfaith Alliance of Nassau County
Interfaith Drug policy Initiative
Interfaith Impact of New York State
Interfaith Partnership for Criminal Justice in NYC
Jew for Racial and Economic Justice
Justice Works Community
King of Kings Foundation
The Latino Commission on AIDS
Legal Action Center Legal Aid Society
Lutheran State Wide Advocacy
Malcolm X Grassroots Movement
Metropolitan Community Church of NY
The Mosque of Islamic Brotherhood
NAACP, NY State Conference of NAACP Branches
NAACP-legal Defense Fund
National Advocates for Pregnant Women
National Association of Social Workers, NYC
National Congredd for Puerto Rican Rights, Justice Committee
National Council of Negro Women, North Bronx
Neighborhood Defenders Service, State Program
New Paltz Green Party
New York AIDS Coalition
New York City Chapter/National Association of Social Workers
New York Mothers of the Disappeared
New York City AIDS Housing Network
New York Society for Ethical Culture
New York State Association of Criminal Defense Lawyers
New York State Community of Churches
New York State Episcopal Public Policy Network
New York State Church Women United
Northern Manhattan Young Democrats for Change
November Coalition
Nurse Practitioners of new York
NYC AIDS Housing Network
NYCLU
NYU Law Student Drug Policy Forum
The Osborne Association
Positive Health Prevention
Prison Families of New York, Inc.

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Prison Moratorium Project
Prisoners' Legal Services of New York
Professional Staff Congress, CUNY, AFT Local 12334
Queer Economic Justice Network
Pax Christi, Long Beach Island
Prison Moratorium Project
Prisoner Family Community Forum
Queers for Economic Justice
Seven Neighborhood Action Partnership
Students for a Sensible Drug Policy
Third Wave Foundation
VOCAL
Voter Disenfranchisement Project
WESPAC
Ya Ya Network