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## Laws

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fications.

Former State Sen. John R. Dunne — who cosponsored the original legislation that created the laws — last year formed the Campaign for Effective Criminal Justice to lobby for reform of the laws. The group includes former judges and legislators, including former State Sen. H. Douglas Barclay, the 1973 legislation's sponsor.

Meanwhile, Gov. Rockefeller's own brother, Laurence, joined the chorus, declaring in a letter published in the May 7 *New York Times*, "I believe that in light of the current knowledge, my brother, who was both a realistic and humane leader, would today be open to a thoughtful review of the drug policy issue."

On March 9, the bishops of New York state had weighed in on the issue, calling for the revamping of the laws.

Locally, the Public Policy Committee of the Diocese of Rochester in May issued a packet of materials on the Rockefeller drug laws, a series of bulletin articles explaining misperceptions about the effectiveness and results of the laws and giving examples of people affected by them, and sample pulpit announcements. The packet also includes a petition for people to sign by June 30 that calls for "major modification of the 'Rockefeller' drug laws, including new sentencing guidelines for offenses involving the possession and sale of controlled substances and allowing judicial discretion in sentencing nonviolent drug offenders to alternative punishments, addiction treatment or educational programs."

"At some point we as a society have to come to understand that building more jails and incarcerating more people is not going to solve the crime problem," said Monroe County Public Defender Ed Nowak, a Public Policy Committee member.

## Fear, and consequences

Rochester City Court Supervising Judge John R. Schwartz has a notion why the tough Rockefeller laws were passed in 1973.

"The thinking in the '70s was that by giving these people stiff sentences, it would scare other people from committing crimes," he said. "The tragedy of the Rockefeller drug laws was there was not a recognition that drug use is a disease, and frankly it is a treatable disease."

Not understanding the nature of addiction, and fear of crime, promoted support



for these stiffer laws, he added.

But what they created was a revolving door, Judge Schwartz contended.

"If you simply put them in prison, when they come out they will still be addicts," he said. "When they got out of jail, they'd be right back in front of us."

The policy also resulted in the steady growth of the prison population, noted Rich McDevitt, associate director of the New York State Catholic Conference. He pointed out that the number of individuals incarcerated in state prisons swelled from around 12,000 in 1973 to approximately 70,000 in 1999 — 130 percent of capacity.

According to the state Department of Corrections, of those 70,000 inmates, approximately 22,000 are incarcerated for drug offenses. Approximately 25 percent of those drug offenders were convicted of simple drug possession.

Once in prison, inmates often do not receive the help they need to overcome their addictions — reform advocates note that Gov. Pataki cut funding for such prison programs as drug treatment and education that have helped promote rehabilitation — and thus when released often end up being arrested again.

Moreover, advocates contend that the laws not only fail to stop people from using drugs, they tend to imprison only the lower-level drug users and dealers, not major drug traffickers.

"A lot of these people (who are imprisoned) are people who have been used by other people as distributors, as mules," Caldwell said.

These lower level distributors are often coerced into helping — sometimes even unknowingly transporting drugs — and many of them are themselves drug addicts, he explained. Meanwhile, when the larger dealers are caught they often turn state's evidence, and thus avoid jail time or are sentenced on reduced charges.

And all too often, he added, the people who are caught are the poor and minorities — even though studies show that the

majority of people who use drugs are white.

In fact, statistics from the state's Department of Correctional Services showed that in 1996, for example, whites constituted only 5.3 percent of the drug felons in New York prisons, and blacks and Hispanics 94.2 percent.

The human costs extend beyond just the individuals incarcerated, reform advocates say. Because a number of the people imprisoned are parents, their families are split. The parent left behind often has to struggle to survive, and in the case of single parents, the children often end up in foster care — at a cost of \$20,000 per child.

"I know what it does to families because you have these long sentences," observed Clare Regan, a staff member of the Judicial Process Commission. Studies show, she claimed, "if you have a kid whose mother or father is in prison, the kid is five times more likely to end in prison."

## Alternatives

McDevitt pointed out that church leaders are not opposed to incarceration per se, especially for violent offenders. But they contend that there should be more treatment programs in prisons, that judges should be given more say in the length of sentences, and that judges should have the option to direct some people to drug treatment as an alternative.

"What we are suggesting is that there should be a diversion of people who would be better fitted for a treatment program than for incarceration," McDevitt said.

One such alternative already exists in Rochester.

In 1995, Judge Schwartz, out of "frustration with the revolving door criminal justice system," created a drug court.

Through the court — currently presided over by Judge Joseph Valentino — some nonviolent offenders have their cases deferred while they undergo drug treatment and remain clean for a year, earn GEDs and find jobs. If they successfully complete the program, their sentences can be dropped or reduced (with a conditional discharge).

In the four years the program has existed, there have been 2,000 participants — including 700 currently enrolled. A total 376 people are graduates and, Schwartz noted with pride, "29 drug-free babies" were born to participants.

"The recidivism rate (for graduates) is 13 percent," he reported — in contrast with the nationwide recidivism rate of 70 percent for people incarcerated.

The Rochester court has proven so successful that 15 other drug courts in New

York state are modeled on it, 10 more such courts will be operating in the state by the end of the year, and the U.S. Department of Justice uses the Rochester court as a "mentoring court" for similar efforts nationwide, the judge reported.

But, he acknowledged, even here there is room for the court to expand. The reason it hasn't, he said, is simply due to "politics."

Politicians concerned about voters' views, however, might find two recent polls surprising.

A recent poll by Zogby International found that 64 percent of respondents wouldn't consider anyone who votes for reducing prison terms as soft on drugs, as opposed to 31 percent who would. In fact, 51 percent said they would be more likely to vote for a candidate who supported giving judges more discretion on sentencing for drug crimes and for reducing sentences.

Meanwhile, a Quinnipiac College Polling Institute survey published in the May 26 *New York Law Journal* found that New York residents thought by a 69-26 percent margin that judges should be allowed to set drug-crime related sentences on a case-by-case basis rather than have the sentences set strictly by state law.

Reform advocates note that from a purely practical point of view, allowing the option of drug treatment makes sense.

The state spends approximately \$32,000 per inmate. Outpatient drug treatment programs cost less than \$4,000, and residential drug treatment programs generally run \$17,000 to \$20,000, diocesan officials note.

Thus, reform advocates say, routing nonviolent drug offenders to treatment will save the state tens of millions of dollars.

Moreover, Nowak predicted, through providing drug treatment programs, "We will see a reduction in crime."

Suzanne Schnittman, the diocese's life issues coordinator, cautioned that the Public Policy Committee focus on reforming the Rockefeller drug laws is just part of an overall approach to the issues involved.

"The legislative angle is one way of looking at crime, drugs and treatment," she explained. "But we see this as one step in many in a dialogue in neighborhoods with people who are most closely touched by drugs, drug crimes and their effects."

Schnittman added that even after the petitions are all gathered and sent to legislators, diocesan efforts to confront the the Rockefeller drug law issue will not be over.

"I think the responses will encourage us to update the materials all summer, and to follow this issue very closely," she said.

## COURIER CLASSIFIEDS

## GENERAL

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