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Drug laws

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The conference argues that resources could be better spent on community-based drug rehabilitation for non-violent offenders, rather than on lengthy mandatory prison sentences.

The conference notes that the New York State Department of Corrections spends \$32,000 per prisoner per year to incarcerate offenders. According to the Partnership for Responsible Drug Information, the state has added 40,000 beds to its prison system since 1981, for a total capital expense of \$4 billion. Despite the increase in beds, prisons remain severely overcrowded, forcing approximately 9,000 inmates to be double bunked or double celled.

The conference cites a successful Arizona program that treats drug offenders rather than imprisoning them; the program saved the state \$2.5 million in its first year of operation.

In May of this year, the 29th anniversary of the Rockefeller Drug Laws, the conference again called on the state to reform the laws to give judges greater discretion in considering the circumstances and disposition of drug offenses. The conference also called for reduction of current sentencing terms, judicial review of current sentences, and increased state funding for alternative sentencing and addiction-treatment programs.

The opposition

The New York State Catholic Conference is not alone in its quest to see the Rockefeller Drug Laws reformed. It is joined by many groups and individuals — locally, statewide and nationally — who are calling for something to be done before the laws can celebrate another anniversary.

Among those who seek drug-law reform is John R. Dunne, an attorney from Albany. What makes Dunne's opposition to the Rockefeller Drug Laws unique is the fact that, as a Republican state senator from Nassau County in 1973, he was a staunch supporter of the laws' passage.

The 1970s were a period that saw a serious outbreak of middle-level crime attributed to drug addicts, Dunne said in an interview from his Albany law office. Drug-treatment programs were deemed too expensive, so the Rockefeller Drug Laws were enacted in hopes that they would deter drug abuse and drug dealers.

"Unfortunately, it didn't have that effect," Dunne said. "The level of addiction is greater today than it was then."

Dunne said he came to the realization that New York's drug laws didn't work while serving as a member of President George Bush's administration in the late 1980s. As assistant attorney general, he was in charge of investigating complaints about prison conditions. It was through this job that he witnessed state and federal prisons filling up with drug criminals, especially in New York, where a substantial number of low-level, non-violent drug offenders were being incarcerated under the laws he had



worked to enact.

After Bush lost the 1992 presidential election, Dunne said he came home to Albany and began speaking out against the Rockefeller Drug Laws. Five years ago, he founded a group, called the Campaign for Effective Criminal Justice, which is made up of former state legislators, judges and others — including the Diocese of Albany's Bishop Howard Hubbard — who are working to reform the laws.

"There are a lot of people who were there (in state positions in 1973) ... that have changed their opinion," he said.

Although Dunne would like to see the laws repealed, he believes reform is a more realistic goal. He and other drug-law reform advocates want the following changes made in the Rockefeller Drug Laws:

- Removal of mandatory sentences
- Restoration of judges' discretion in sentencing
- Provisions for inmates currently serving terms under the laws to be able to apply for resentencing
- Provisions for the funding of drug-treatment programs

Fred Halley of Brockport, a member of the Rochester chapter of the League of Women Voters, agrees with Dunne's suggested reforms.

Halley, too, originally had high hopes for the Rockefeller Drug Laws, believing they might help with the War on Drugs. He changed his mind in the early 1980s, after he visited Attica Correctional Facility with a religious group to provide a weekly worship program. In talking to inmates, he learned the circumstances of their incarcerations, and realized the Rockefeller Drug Laws were not accomplishing what they were supposed to.

"It was a surprise to see how ineffective they've been," Halley said.

Halley said he decided to take part in the local League of Women Voters' Balancing Justice program, in which small groups met to talk about criminal-justice issues. Halley's group discussed the Rockefeller Drug Laws at length, and decided to educate the 200 program participants about the laws prior to this November's elections. Group members gathered information about the laws and suggested reforms, and are preparing a mailing for the week of Sept. 9.

"What we want to do is protect the community and right the people who have been wronged," Halley said of drug-law reform. "It took a long time to get where we are. It will take a long time to get out of it too."

That's an opinion that Edie Reagan of Ithaca shares.

Reagan is coordinator of justice and peace ministry for Catholic Charities of the Southern Tier. She also helped found 2 1/2 years ago the Tompkins County Interfaith Campaign to Reform the Rockefeller Drug Laws. The group was born of Catholic Charities' public-policy priority to work to reform the laws.

"We've done a lot of good work," Reagan said.

That work includes getting the Tompkins County Board of Representatives to pass a resolution calling for drug-law reform. The group has also sponsored community forums that featured such speakers as Elaine Bartlett, a former inmate incarcerated under the drug laws who was granted clemency by Gov. George Pataki, as well as representatives of the national organization Families Against Mandatory Minimums. The group also hosted a breakfast meeting for local clergy members at which a representative of the New York State Catholic Conference spoke.

"We also try to support the Drop the Rock rally in Albany each March," Reagan added.

The Drop the Rock campaign, which maintains a Web site at www.droptherock.org, is an effort by the New York Correctional Association to repeal the Rockefeller Drug Laws. Reagan said that at first, the Tompkins County Interfaith Campaign had five members who attended the rally. Last year, it sent a van full of people, and this year a busload attended.

The Tompkins County Interfaith Campaign endorses the Drop the Rock campaign, although Reagan believes that drug-law repeal is a pie-in-the-sky goal. But reform is within reach, she said, and to help foster it, the Tompkins County group plans to poll state Assembly and Senate candidates about the laws and what they would do to reform them if elected. The results of the polls will be distributed via area media and e-mail lists prior to November's elections.

Reagan says she does not like the "one size fits all" approach of the laws.

"It's so unjust a judge is not able to consider all the circumstances," she said. "It's really having a devastating affect on families."

A father's story

James Muscoreil Sr. knows all too well the devastating affect the Rockefeller Drug Laws can have on a family. His son, Kevin, has been incarcerated for nearly 10 years, having been sentenced under the laws to 15 years to life for possessing a small amount of cocaine.

"Trust me, it has its toll on your family," Muscoreil said.

For example, he said, it took him three years before he could admit to others that his son was in jail. Kevin was recently transferred to a prison that only allows visitors on weekends, so Muscoreil's weekends are now spent at Orleans Correctional Facility in Albion. He also pays hefty phone bills due to collect calls Kevin makes to him. And while Kevin was first incarcerated, he married his then-girlfriend, who was unfaithful to him and had another man's child. The couple divorced.

"Life has not been good because of Kevin's situation," Muscoreil said. "You can't live when you know your son is incarcerated. Not only is Kevin in prison himself, my whole family is incarcerated with him."

But Muscoreil is working to change that. Kevin was denied clemency from Gov. Pataki in 2001. Two months ago, Pataki was in Muscoreil's hometown to honor the chief of the South Wilson Volunteer Fire Co., of which Muscoreil is a member. Muscoreil arranged to meet with the governor personally, and placed Kevin's new clemency appeal directly in his hands. He won't know whether Kevin will be granted clemency until a few days before Christmas.

"Kevin made a terrible mistake ... he shouldn't go unpunished," Muscoreil said. "(But) the punishment should surely fit the crime."

Reform options

State politicians, including Gov. Pataki and members of both houses of the Legislature, have taken a cue from mounting public opposition to the drug laws and have developed their own reform plans. In June, the Legislature seemed close to a compromise on reform prior to the end of its session, but once again, the session ended with no reform plan in place.

Out of all the suggested reforms being circulated in Albany, advocates seem to favor those introduced by Assemblyman Jefferson L. Aubry, a Democrat from Queens. He calls for the repeal of the Rockefeller Drug Laws and of mandatory minimum sentences, and for the establishment of new sentencing guidelines. The new guidelines would allow judicial discretion in sentencing offenders to alternative punishment, such as drug-treatment programs.

Hopes for reform may have been dashed once again, but advocates aren't giving up.

"I'm not getting discouraged," Dunne said. "I'm continuing to fight for it."

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