



NY: Spitzer must lead drug law reform

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Last week, the state Assembly passed important legislation to reform the draconian Rockefeller Drug Laws. The bill, sponsored by Assemblyman Jeffrion Aubry, D-Queens, increases drug treatment alternatives to incarceration, expands judicial discretion to restore fairness in our courts and, critically, allows for people currently serving harsh prison terms for low-level drug offenses to seek much-needed relief.

The Assembly should be commended for passing smart reforms. But where are the governor and the state Senate on drug law reform?

While running for governor, Eliot Spitzer campaigned on a promise: “Day One, Everything Changes.” Spitzer made campaign statements in support of real reform of the laws. Lt. Gov. David Paterson was a long-time reform champion while Senate minority leader. Families and advocates working for repeal of the failed Rockefeller Drug Laws were cautiously optimistic about Spitzer’s promise. It seemed entirely possible that on Day One, the Rockefeller laws, after nearly 34 long, terrible years, might really be repealed.

But in the first hundred days of the new administration, drug law reform went missing in action. Spitzer took on a variety of important issues, but the Rockefeller Drug Laws didn’t even make his priority list for the end of the legislative session.

Why is it so hard to win real reform, when everyone knows these laws are racist, ineffective, wasteful, and unjust? So asks longtime advocate Cheri O’Donoghue, whose son, Ashley, is serving seven to 21 years for a first-time, nonviolent drug offense. Ashley is one of more than 14,000 people incarcerated under these harsh laws.

The answer to Cheri’s question is downright sinister, but it’s no secret. The reason the Rockefeller Drug Laws haven’t been done away with is because of a despicable trinity of racism, cash cows and the U.S. census, not to mention the people who rely on this trinity for their political survival. From 1817 to 1981, New York built 33 prisons. But from 1982 to 2000, New York built 38 more prisons – all of them upstate. The unprecedented prison boom was largely an economic development plan meant to ameliorate the job loss upstate. Rural, white communities were clamoring to build and staff prisons. The Rockefeller Drug Laws delivered the bodies with harsh mandatory-minimum sentences for low-level drug offenses.

The RAND Corp. and other think tanks have shown that drug use and abuse is roughly equal across all racial groups. But the Rockefeller Drug Laws always have been marked by severe racial bias. Today, 91 percent of the people incarcerated under these laws are black and Latino. It's a scenario we'd expect to find in an apartheid state, not a democracy.

Once elected, Spitzer proposed the possibility of closing half-empty prisons in upstate New York, saving millions of dollars. Many groups applauded Spitzer, because New York's prison population has dropped in recent years and its archaic prison industrial complex needs an overhaul. The leading voices against studying closing prisons, though, were politically very powerful. The correction officers union and upstate politicians have parlayed the politics of imprisonment into lucrative businesses and political careers. The prospects for reform have at least dimmed, if they haven't died altogether.

The plot thickens, though. More than 76 percent of the state's prison inmates come from New York City. The U.S. Census Bureau counts them as residents of the upstate prisons in which they're incarcerated, not as residents of the communities from which they came.

Why does this matter? According to the Prison Policy Initiative, if prisoners were not counted as "residents," seven upstate Senate districts would be 5 percent short of their required population size, and thus have to be redrawn. This means that senators in those districts – all of them Republicans – would lose their seats, causing Republicans to lose their slim Senate majority. Unsurprisingly, Senate Republicans remain staunch opponents of repealing the Rockefeller Drug Laws.

Two vocal reform opponents – Sen. Dale Volker of suburban Buffalo and Sen. Michael Nozzolio of the Finger Lakes – have more than 17 percent of the state's prisoners in their districts. Is it any wonder why they oppose reform?

Spitzer was elected on his record as a crusader against waste and corruption, no matter what powerful interests stood in his way. Advocates for drug law reform hoped the new governor would stand up to the corruption and racism blocking real reform of the Rockefeller Drug Laws. He now has that chance, with the legislation passed by the Assembly and sent to the Senate. But the Senate, under Majority Leader Joseph Bruno, will block those reforms unless the governor gets more directly involved.

For the sake of justice, and families like the O'Donoghues, let's demand that the governor makes a priority of drug law reform. Because if nothing changes, nothing changes.

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