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### ► [Drug law resentencing: saving tax dollars with minimal community risk.](#)

**Gibney W., Davidson T.**

**New York, USA: The Legal Aid Society, 2010.**

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*In 1973, New York Governor Nelson Rockefeller introduced drug law sanctions condemning relatively minor offenders to up to life in prison. In the mid-2000s the prisoners were allowed to petition for release. Very few were re-imprisoned due to new offences, suggesting the original sentences were usually not needed to protect the community from drug crime.*

**Summary** This paragraph establishing the background to the featured report derives from other documents. The laws enacted in 1973 in New York by Governor Nelson Rockefeller and known as the [Rockefeller Drug Laws](#) required extremely long prison terms for possession or sale of relatively small amounts of drugs, including mandatory minimum sentences of 15 years to life for possession of just four ounces of illegal drugs, about the same as for some forms of murder. The [penalties applied](#) even to first time, non-violent drug offenders. The laws drove an unprecedented explosion of the prison population and became the national model for being 'tough on drugs'. Many states enacted their own versions. Nationally too, in the 1980s the US Congress agreed long mandatory minimums for drug offences.

The Rockefeller Drug Law Reform Act of 2009 was the third of a series of reforms allowing some serving sentences under the Rockefeller Drug Laws to apply to be re-sentenced in accordance with new sentencing frameworks generally imposing shorter sentences. The first was enacted in 2004, replacing the old 'indeterminate' sentences featuring long minimum and maximum terms with shorter, flat 'determinate' sentences. People sentenced as A-I felons under the old law could apply to be re-sentenced in accordance with the new framework. At the time, 473 were considered eligible to apply. In 2005, a more modest reform was enacted which allowed some people (estimated at around 550) serving sentences for the next most severe level of drug convictions, the A-II felonies, to apply for re-sentencing.

In order to assess the strength and validity of objections to the third round of reforms,

this study reviewed the recidivism record of offenders released in the first two rounds. In September 2009 the analysts obtained a list of people resentenced and released under the terms of the 2004 (279 people) and 2005 (297 people) reforms. These were checked against the records of the New York State Department of Correctional Services to determine whether each had ever been re-imprisoned.

## Main findings

In summary, the study found that 8.5% of people released early from prison under the reforms were later re-imprisoned, considerably fewer than among drug offenders released in the usual way after serving their sentences. Over the three years after leaving prison, the re-imprisonment rate for those released early was about three times better than after the highly praised 'Shock' offender rehabilitation programme.

Of the re-sentenced A-I felony cases, 19 of 279 people later returned to prison, seven because they had committed a new felony offence rather than due to technical parole violations. Of the re-sentenced A-II felony cases, 30 of 297 returned to prison, just six because they had committed a new felony offence.

Over the three or four years after their release in 2005 or 2006, about 11% of early release offenders returned to prison, about 4% due to new offences. These figures can be compared to the re-imprisonment rate for drug offenders released in the normal way of nearly 40% over three years, 11% due to new offences. Another comparison is with New York's six-month 'boot camp' Shock programme which focuses on treatment of low-risk prisoners, an usually high number of whom are drug offenders. Considered highly successful in reducing recidivism, over the three years after leaving the programme about 31% of offenders were re-imprisoned, about 15% for new offences.

## The authors' conclusions

Despite warnings of dangerous consequences by district attorneys, so far people released early under drug law reforms have proven a low risk to the community. Early release from prison has not only created considerable cost savings, but has also resulted in a very low rate of return to prison. The data supports the legislative judgment that the old drug law sentences were excessive and longer than necessary to protect the community. The process by which judges exercise discretion in deciding, on a case by case basis, who among eligible people should be re-sentenced and for what length of time is proving to act as an effective screen. Most those re-sentenced and released have not committed new crimes.

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