

# Prosecutor Questions Drug Law Reforms

## Says Major Dealers, Not Small Players, Had Sentences Reduced

By ANEMONA HARTOCOLLIS

The city's special prosecutor for narcotics criticized the revisions in the Rockefeller drug laws yesterday, saying they benefited major drug traffickers more than the low-level offenders they were supposed to help.

A year and a half after the State Legislature revised the drug laws in an effort to reduce harsh prison sentences for low-level offenders, a study by the prosecutor, Bridget G. Brennan, examined 84 drug offenders prosecuted by her office who have asked for resentencing since the laws were changed in 2004. The offenders had been convicted of possessing or selling enough hard drugs to make them eligible for sentences of at least 15 years to life.

The study found that judges granted lower sentences to 65 of those prisoners, and 22 of them, or about 34 percent, were either what she called "kingpins," leaders of international drug organizations, or "major traffickers," that is, leaders of local drug operations that moved large quantities of narcotics.

Of the kingpins and major traffickers, 16 were granted relief from lifetime parole, and four of them have been released, she said.

Ms. Brennan said her experience contradicted the conventional wisdom that the Rockefeller laws punished first-time, low-level offenders, particularly women, more harshly than the major traffickers who employed them.

"I think there was a misperception that the people serving these sentences were low-level nonviolent offenders," she said in an interview yesterday. "Or that they were unsophisticated naifs who were caught up and manipulated by a drug organization."

The study looked only at those cases handled by her office, which accounted for about a quarter of the prisoners released statewide since the 2004 reforms. Advocates of the reforms said yesterday that because the special prosecutor was charged with handling the most serious cases, the study was somewhat skewed.

"That means three-quarters of the resentencing would have been handled by local district attorneys, where, by definition, you would have people who were involved less higher up on the food chain," said Robert Gangi, executive director of the Correctional Association of New York,

which has long lobbied for reforms in the drug laws enacted in the administration of Gov. Nelson A. Rockefeller.

Still, the study offers the first prosecutor's perspective of how the reforms have played out at a time when legislators are still debating whether they went too far or whether to relax the sentencing laws even further.

The resentencing provision of the Drug Law Reform Act, as it is called, was aimed only at the 446 offenders who were serving life sentences at the time the law was passed in December 2004. Since then, according to Ms. Brennan's report, 168 of those

### Advocates press legislators for more extensive changes.

prisoners have been released statewide.

Mr. Gangi said he did not dispute that there were very few low-level offenders caught up in the life-sentence provisions of the Rockefeller laws. But, he said, there were roughly 14,500 other drug offenders locked up for lesser terms at the time the reforms took effect, and those prisoners did not benefit from the changes. Advocates are still seeking changes that would help those offenders — including outright repeal of the Rockefeller laws, which would give discretion in sentencing back to judges and allow anyone convicted under the old laws to apply for resentencing.

Ms. Brennan's report reflects an ongoing dispute between prosecutors and advocates for reform over how much sentencing discretion should be given to prosecutors, and how much to judges.

Ms. Brennan said yesterday that the reforms have swung the pendulum too far back in the direction of judges. She said she favored a "kingpin" provision that would require longer sentences for the leaders of drug organizations and those who have committed violent offenses.

"It's not that I think the reform should be completely rolled back," she said, "but I think the public needs to be aware of who this applied to. I just don't think it fits the stereotype a lot of people have."

Of the 84 prisoners who applied for resentencing, only one, Alan Anderson, was a first-time, nonviolent, low-level offender, the report said. Mr. Anderson was accused of boarding a bus at the Port Authority Bus Terminal in Manhattan carrying a knapsack that contained 4<sup>3</sup>/<sub>4</sub> ounces of cocaine, along with a small bag of cocaine and some marijuana in his shoes. He was sentenced to 15 years to life in May 1997. He was resentenced to eight years in February 2005, and released the next month, after serving about eight years.

Ms. Brennan said that only 10 of the 446 most serious offenders in prison in 2004 were women. Three of them were defendants prosecuted by her office, the report said, and "none appear to fit the description of the unsuspecting drug courier."

She said one defendant, Severiana Jacquez, was convicted of criminal drug possession and endangering a child after her 4-year-old daughter was found alone in a locked room with 11 ounces of cocaine. Tests showed that the girl had cocaine in her system, Ms. Brennan said.

Her report provided anecdotal information about all the resentencing cases handled by her office, but did not provide a clear picture of how much time the defendants whose life sentences were reduced had already served.

Among the four defendants who were released, for instance, was Luis Rivera, identified in the report as one of the leaders of an organization selling 10,000 small glassine envelopes of heroin a day on the Lower East Side. Two pounds of cocaine, guns and \$70,000 in cash were found in his apartment, the report said.

Mr. Rivera was sentenced to 25 years to life in December 1990, and resentenced to 15 years in July 2005, by Supreme Court Justice Bruce Allen, the report said. He was released from prison in February 2006, after serving 15 years, a reduction of 10 years from his original sentence.

Mr. Gangi said that even after resentencing, people like Mr. Rivera were serving what he considered to be long terms. Under the reforms, he said, the most a sentence could be reduced to is eight years. "In most cases, a court won't do that," he said.

"Nobody here is walking away from their punishment with a light prison sentence. Everybody here is still going to be doing, despite the prison reductions, a long time in prison."