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N.J.'s drug-free zones must be reformed

The law doesn't protect school children. Instead, it imposes harsher penalties on black and, increasingly, Hispanic offenders.

Drug cartels are often compared to Fortune 500 companies in the way they operate. One chilling example was the 1980s development of a relatively low-cost derivative of cocaine -- crack -- designed to have mass appeal.

The crack epidemic swept across America's cities and suburbs like a plague. It smashed the already fragile social structure in poor communities, particularly predominantly black ones. Gangs battled in the streets to control the trade. Largely because of crack, urban centers became as dangerous as minefields for residents, who had to, and often still must, watch their step to avoid being caught up in the violence.

People in and outside these drug-war zones began demanding elected leaders do something to stop this scourge.

Unfortunately, as it had done with the federal war on drugs, Congress responded, and states such as New Jersey followed, with tougher enforcement that has done nothing but keep state and federal prisons swelled beyond humane levels.

In the past 20 years, these laws, such as drug-free penalty zones and mandatory minimum prison sentences, have resulted in crushing costs for taxpayers in New Jersey and other states. And, rather than improve the quality of life in hard-hit communities, the drug laws have created a revolving door of convicts who usually return to their neighborhoods unrehabilitated.

Reasoned reform of New Jersey's drug-free zone law has finally been proposed by a state sentencing commission. As one of the most onerous laws on the books, this issue demands the urgent attention of state lawmakers. State Sens. Bernard Kenny, D-Hoboken, and Joseph Coniglio, D-Paramus, and Assemblyman Peter Barnes, D-Edison, have sponsored bills that deserve immediate consideration.

Still, reforming the drug-free zone law must be only the first step in amending the state's mandatory sentences that cause unintended and unwanted outcomes, such as glaring racial disparities in arrests and incarceration.

The New Jersey Commission to Review Criminal Sentencing -- which quickly focused on the disparities caused by drug-free zones after its creation by the Legislature in 2004 -- must be made a permanent body. Its work is far from done.

The Legislature should approve and Gov. Jon Corzine should sign into law a bill, A-2103, by Barnes to

keep the commission in business. A Senate version, S-1401, is sponsored by state Sen. John Girgenti, D-Hawthorne, Passaic County.

Unworkable

As configured and enforced, New Jersey's drug-free zone law can never work as intended by the Legislature.

When former Gov. Thomas Kean signed the Comprehensive Drug Reform Act into law in 1987, lawmakers intended to push illicit drug activity away from school children. Later zones around parks and public housing were included.

The Legislature followed Congress in creating 1,000-foot drug-free zones without questioning the lack of rationale for such wide areas. Often, drug offenders cannot even see the school in the center of a 1,000-foot zone -- about the length of three football fields -- according to studies conducted last year by the sentencing commission.

So, the law is often violated, sometimes unintentionally, according to New Jersey Public Defender Yvonne Smith Segars, who also was vice chairwoman of the sentencing commission.

"The zone is not the deterrent intended," Segars said. "Instead, it has created racial disparity in drug penalties. A person committing the same (drug) offense in a rural or suburban area will not have the same severe penalties as a person in an urban area."

In Camden, which has several schools and off-limit public areas, 52 percent of the city is in a drug-free zone. In Newark, overlapping drug-free zones cover 76 percent of the city.

By contrast, in rural Mansfield Township in Burlington County, the zones cover just 6 percent of its area.

Discriminating rules

Several studies have shown illegal drug use and sales are committed by racial and ethnic groups in about the percentage they are represented in the population. But unequal law enforcement contributes to racial disparities in incarceration rates, according to a study released in March by the Justice Policy Institute in Washington, D.C.

In New Jersey, black people make up 68 percent of those arrested for drug-free zone offenses; Hispanics account 18 percent of the arrests. But black and Hispanic residents are about 27 percent of New Jersey's population.

New Jersey leads the nation in locking up nonviolent drug offenders -- most were snared in drug-free zones.

No one would advocate giving drug offenders a pass on their illicit activity. The illegal drug trade makes communities unsafe and unproductive. Yet, New Jersey's drug enforcement activities are not reducing drug use nor making residents safer.

And, the state's drug-free laws are costing taxpayers more each year.

Between 1983 and 2003, New Jersey's spending on prisons and staff increased 555 percent, from \$203.5 million to \$1.1 billion, according to a 2003 report from Trenton-based New Jersey Policy Perspectives. Corrections remains one of the fastest-growing expenses in the state budget.

Smart enforcement

To make it more likely that drug-free zones will work as intended, the New Jersey sentencing commission has recommended reducing the areas from 1,000 feet to 200 feet, but making the penalty a second-degree offense in all zones.

"This is a more practical, line of sight approach," said Deputy Attorney General Ben Barlyn, who also served on the commission. "If people can see a school, it should be clear they are in a drug-free zone."

The commission also is advocating ending mandatory minimum requirements and giving back sentencing discretion to judges. Segars said judges would be more free to require that offenders, who mostly are drug addicts, get the help they need to stay out of jail.

In terms of helping the most hard-pressed urban communities, as well as reducing the burden on taxpayers, these reforms are critical.

Like the federal war on drugs, New Jersey's harsh enforcement efforts have proved to be a failure. Another approach must be tried.

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