A Law and Order Kind of Guy

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Talk to David Soares and you get a sense of a nuts-and-bolts kind of guy, not the sort that would create a seismic shift in public policy. But Soares' Nov. 2 victory in the race for District Attorney of New York's Albany County seems to have jarred loose changes that once seemed impossible; reforms in the state's so-called Rockefeller drug laws, which are so harsh that an international human rights organization, Human Rights Watch, called for reform.

In mid-November, after 30 years of inaction in the face of public pressure, the New York State legislature changed the laws significantly, reducing the 15-to-life mandatory sentences for some offenders and allowing some 400 already-incarcerated to apply for re-sentencing under the new guidelines. While it's far from the full repeal many hope for, reform advocates praise the move as a first step toward more wide-ranging reform. They also credit the election of the soft-spoken Soares, 35, with the break in the decades-long legislative logjam.

Soares ran against his boss, Paul Clyne, the incumbent DA and outspoken supporter of the Rockefeller drug laws who fired his assistant DA in June, just minutes after Soares announced his challenge. The race between the two turned largely on their differences over the issue.

Reform was but one piece of Soares' platform, but one that evidently struck the deepest nerve. The New York state laws, enacted in 1973 and named for then-governor Nelson Rockefeller, removed judicial discretion and imposed dizzyingly steep sentences – a first-time offense for the possession for sale of two ounces of a narcotic substance or just simple possession of four ounces could yield 15 years-to-life. The recent law change would reduce the sentence range to eight to 20 years.

The racial inequities in the laws' application are also striking: whites use drugs at rates comparable to African-Americans and Latinos, but only 4.9% of those serving time under Rockefeller statutes are white, while 48.7% are black and 45.5% Latino, according to statistics complied by the New York City Legal Aid Society.

And the cost – the 17,000 individuals imprisoned under the statutes run the state of New York a $550 million-plus annual bill.

Those were the arguments that Soares, Albany County's first African-American district attorney, makes for reform and that he feels resonated with those who supported his campaign. Bottom line: "This is a law that doesn't work; it's

ineffective," he says. The issue mobilized his base for different reasons. "You can look at the disproportionate impact that the Rockefeller drug laws have on different communities and that's in and of itself enough to get those folks involved and passionate," he says. In more conservative quarters, the cost of keeping drug laws in place make calls for reform make sense.

Measured Approach

Soares doesn't come off like a firebrand – he talks like a lawyer, sometimes even like a cop, and refers to himself as law enforcement. He is, after all, a DA. He sounds downright law-and-order as he recalls a conversation with a district attorney down-state from Albany who disagrees with much of Soares' reform position, particularly that judges should have discretion on sentencing.

"The fear is always going to be that you take down a mid-to-upper level drug kingpin and that drug kingpin, through his counsel, puts together a little story and the judge gives him a slap on the wrist," Soares says, seemingly sympathetic. But ultimately, he doesn't buy it; at least in Albany County. "Judges are subject to recall," he notes.

With such a measured approach, Soares seems an unlikely figure to galvanize the ardently pro-reform grassroots network that carried him into office in a three-way race. (His former boss, Clyne, dropped out the final weekend after polling in the single digits.) But there he was on election night surrounded by a jubilant crowd of supporters.

His candidacy helped create the perfect storm to at long last get reform moving, just as advocates thought it was dead again, according to Karen Scharff, director of Citizen Action of New York and co-chair of the Capital District Working Families Party, which put grassroots muscle into Soares' campaign.

"It was very clear as the race [that elected Soares] was coming up that the legislature was going to kill Rockefeller drug law reform," Scharff says. The Assembly had a majority supporting reform, she explains, but that body, along with the Senate and the governor, couldn't agree on a plan, in large part, by Scharff's analysis, because of the adamant opposition of the state district attorney's association.

That's why reform advocates had long thought that "the best way to see it moved is to have a DA lose opposing drug law reform," Scharff says. They were evidently right – Soares, after explicitly running on Rockefeller law reform, won on November 2 and the legislature's final vote to moderate the laws came a mere month later. Three Senate opponents of reform had been defeated in the same elections, by candidates backed by philanthropist George Soros, funder of the Drug Policy Alliance.

The message had clearly come through – stall on reform at your political peril.

Giving Back

Despite his pivotal role in shaking loose changes in the law, Soares was not always particularly interested in drug policy.

"Those issues involving narcotics – I can't say it's the reason I became a prosecutor," he says. A graduate of Cornell and then Albany Law School at Union University, Soares also matriculated elsewhere: the "tough community," of Pawtucket, Rhode Island, a mill town of some 70,000 residents.

"I got out and I wanted to do something in my life, in my community, to give back," he says. He had come to the Albany County DA's office first as a law school intern, and fell in love with the work. "As a prosecutor, you really have an opportunity to impact communities with your work."

He arrived at his position on drug policy over time in the prosecutors office. "You start to process more and more cases and you think you're doing a fantastic job and cleaning up the streets, but then you realize – wait a minute. There are more police officers than when I started, there are more prosecutors today than when I started. There are more judges today than when I started. What are we doing?"

He wanted to see changes, but instead, he reflects, "I had locked up mothers and daughters, on the same court calendar on the same day." There was something terribly wrong, he concluded.

The real series of epiphanies occurred after he was appointed Albany's first community prosecutor. He started "thinking more like a problem-solver than a case-processor. You start looking for solutions."

Soares took a deliberate, tedious approach to lowering the crime rate in his area. He figured he couldn't solve the problems of the entire city – he would focus on 20 square blocks. He got aerial views to use as a map, and began a painstaking assessment of the area, using color-coded pins to map out the results. "What I discovered was, there was something in the neighborhood of 86 parolees, there were 30-something probationees, there were certain folks receiving Section 8 housing vouchers, there were social service recipients there, churches, a number of civic organizations." He even kept track of licensed and unlicensed dogs.

And Soares did what few DAs would ever do; he attended community and church meetings, notebook and mind wide open, and he listened. "After they get past the venting, people will really start to communicate with you and tell you what the problems are," he says.

Soares could also see the problems for himself. "It's pretty obvious why drug dealers look to those neighborhoods to go in and conduct their trade. It's the dark streets, it's the vacant buildings, it's the high grass with abandoned cars there." As a DA, he could pick up the phone, get cars towed and lots cleared.

"We've got to stabilize the environment, sort through the people you have removed to make sure you're providing treatment for those that need it, and then providing incarceration for those who are trafficking, dealing with those sentences appropriately," he enumerates. "These things have to be moving along the same track."

He's taken with a program in Brooklyn that provides an alternative to prison. "Folks are getting treatment on the inside, they're in for two years and it's treatment as well as education and vocational support. They have to go through it all before they can come out."

Two years, Soares says, is a long enough time to ensure a measure of success for the person coming back out onto the street. And that's where Soares' approach of improving life in the community comes into play in keeping a drug offender clean and moving forward.

A Laboratory For Reform

Soares' experience as community prosecutor is the prism through which he views his new role as Albany County DA. He hopes to make the county a laboratory for reform. Buy-in from those who elected him is key, including Albany County's African-American community, approximately 5% of a white-majority county. Meanwhile, his supporters join him in looking for further reforms in the Rockefeller drug laws. The first step is incremental, says Michael Blain, policy director of the Drug Policy Alliance, "But it's been nowhere. Incremental is good." He calls the sentence reductions "half of phase one."

The four phases, Blain says, are sentence reduction, judicial discretion – that is, putting sentencing in the hands of judges instead of locking them in by law; retroactivity and treatment. There is some measure of retroactivity in the recent reforms – some 400 of those already serving time under the laws can now apply for relief.

States like California, Michigan and Pennsylvania have changed drug policy to emphasize treatment or allow more judicial discretion.

Dan Cantor, social policy director of the Working Families Party, sees more Rockefeller drug law reform in the future, but thinks that substantial change will only come with a new governor. He's pleased with the base the Soares campaign built around the drug policy reform issue.

"This is one of those rare cases where you say, let's turn a campaign about a candidate into an issues campaign," he says. It's clear Cantor has an eye on mobilizing that base for the governor's race in 2006, when Democrat Eliot Spitzer will take on incumbent George Pataki. Spitzer, Cantor says, is good on the reform issue.

Soares is hopeful that what he does in Albany can offer a blueprint for a viable

drug policy to the rest of the state and country. "We need to continue exploring the opportunities we have to bring this issue to the consciousness of more folks," he says, "and start treating some of these issues as issues of public health."

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