

# The Law of Unintended Consequences

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## A Review of the Drug Law Reform Acts of 2004 and 2005

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Office of The Special Narcotics Prosecutor

*for the* City of New York

June 27<sup>th</sup>, 2006

# THE LAW OF UNINTENDED CONSEQUENCES:

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## **The Special Narcotics Prosecutor's Experience Under the Drug Law Reform Acts**

In December of 2004 and August of 2005, sweeping revisions to New York State's narcotics laws were enacted by the legislature. The new laws, the Drug Law Reform Acts of 2004 and 2005, were intended to mitigate what was perceived as the harsh effects of the narcotics laws then in effect, commonly referred to as the "Rockefeller Drug Laws." For crimes committed after they passed, the Drug Law Reform Acts eliminated lifetime sentences for even the worst offenders, reduced penalties for all levels of felonies, created a distinction for sentencing purposes between recidivists who had violent and non-violent felony convictions, and relaxed some plea-bargaining restrictions. For those already incarcerated, they empowered judges with sole discretion to eliminate lifetime supervision and reduce sentences for convicted A-I and A-II level felony offenders (the highest category crimes in New York), in a "resentencing" procedure.

This report examines the experience of the Office of the Special Narcotics Prosecutor for the City of New York under the new laws. The Special Narcotics Prosecutor's Office, created in response to the heroin crisis of the 1970s, has jurisdiction over felony narcotics crimes committed anywhere in New York City, and has sent to prison more high level drug traffickers than any prosecutor's office in the state. As such, this office has a unique vantage point from which to assess the impact of the new laws.

That experience reveals that the Drug Law Reform Acts might well be titled the Law of Unintended Consequences. When the Drug Law Reform Acts were passed, law makers uniformly hailed them as a way to reduce prison time for low level couriers doing the bidding of major traffickers. In fact, of the 65 A-I felons who obtained the benefit of the new laws in Special Narcotics cases, only one fit that profile. In drafting the Reform Acts, lawmakers apparently failed to recognize that for years prosecutors had mitigated A-I sentences by reducing charges against first-time, non-violent, low-level offenders. And so, under resentencing provisions of the Drug Law Reform Acts, the greatest sentencing relief was granted to high-level drug traffickers, or those with significant felony records. The following highlights the experience of Special Narcotics:

- One third of all A-I prisoners who had life terms eliminated were kingpins or violent drug traffickers.
- Of those who were relieved of lifetime supervision, half (48%) had a previous felony conviction; 45% were convicted of selling cocaine or heroin in an amount large enough to supply several hundred individual users.
- Drug kingpins saw the largest reductions in their sentences – up to 11 years off and elimination of lifetime supervision.
- A-II resentencing benefits were reserved for defendants serving the longest sentences. Nearly all were originally charged with more serious crimes and had already received substantial sentence reductions.
- The results were inconsistent. Some judges viewed resentencing as applying only to low level, first time offenders; other judges believed it applied even to leaders of large scale violent organizations that destroyed neighborhoods.

Finally, provisions of the Reform Acts lowering penalties for lesser felony narcotic offenses appear to have additional unintended consequences. Lower level felony offenders are typically those guilty of street-level sales of narcotics. In Special Narcotics cases, one thing has remained unchanged: under the new laws, as well as under the old law, the vast majority of first-time felony offenders do not go to prison. Since the Reform Acts, roughly 90% of B level felony defendants sent to state prison have at least one prior conviction. The average prison sentence for a B level Special Narcotics offender is now two and a half years, although most prisoners will actually serve between eighteen and twenty-five months. But for most second-felony offenders (those who have, for instance, been convicted of selling drugs, put on probation, and then sell drugs again), the new laws have reduced prison sentences.

The Alternative Sentencing Bureau of the Office of the Special Narcotics Prosecutor has reported that, since the enactment of the Reform Acts, fewer defendants are electing to enter drug treatment programs. Where prison terms are relatively short, the incentive to enter a rigorous, long term, residential drug treatment program is diminished. Discouraging addicted defendants from going into treatment programs would perhaps be the most ironic unintended consequence of drug law reform.

In the report that follows, we analyze the provisions of the Drug Law Reform Acts, review the experience of the Office of the Special Narcotics Prosecutor under the new laws, and propose a Drug Kingpin Statute to single out for the harshest sanctions those offenders who most deserve long sentences.

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## I. Background

The Drug Law Reform Acts of 2004 and 2005 were enacted to mitigate perceived harshness of the narcotics laws then in effect, popularly known as the “Rockefeller Drug Laws,” which had their genesis in the drug crisis of the 1960s and early 1970s. The drug of choice in New York in those days was heroin, and the human toll it exacted was enormous.

In response to that problem, in 1967, New York State created the Narcotics Addiction Control Commission, or NACC, a vast state-wide apparatus designed to get heroin abusers into treatment, either through voluntary enrollment, through civil commitment, or as a means of resolving a criminal charge. After five years in operation, the program was declared an abject failure. Treatment programs were ill-conceived; thousands of addicts absconded; follow-up was nonexistent. The heroin epidemic and skyrocketing crime rates continued unabated, but few narcotics dealers were going to state prison. New Yorkers became frustrated with perceived leniency on the part of prosecutors and sentencing judges and enacted new statutes which came to be known as the Rockefeller Drug Laws requiring mandatory prison sentences for many narcotics felonies and restricting prosecutors’ ability to plea bargain cases.

In the decades that followed, critics questioned whether all offenders imprisoned under these laws deserved the mandated penalties, and the laws were significantly revised prior to 2004. After lengthy public debate, the New York State Legislature in December, 2004 passed the Drug Law Reform Act; in August, 2005 the legislature passed a second Reform Act.

The goals of reform were: to eliminate life sentences for top narcotics crimes; to mitigate penalties for lesser narcotics offenses; and to allow those serving sentences for the highest categories of narcotics crimes to apply for resentencing.

The purposes of this report are: to analyze the provisions of the Acts; to examine how the Acts have, in practice, changed the outcomes of cases; to discuss lessons learned from this chapter of drug law reform; and finally to offer policy recommendations, including enactment of a Drug Kingpin Law.

## II. Provisions of the Drug Law Reform Acts

The Drug Law Reform Acts made the following changes:

- Life sentences were eliminated.
- For the highest possessory offenses, narcotic weights required for conviction were doubled. Criminal Possession of a Controlled Substance in the First Degree, which had previously required possession of 4 ounces, was now defined as requiring 8 ounces or more. Similarly, Possession in the Second Degree was redefined to increase the threshold weight from 2 ounces to 4 ounces.
- A new sentencing grid was enacted, which substituted determinate<sup>1</sup> sentences for indeterminate sentences, and generally lowered the sentences offenders would actually serve.
- A new distinction at sentencing was made between those offenders who had previous convictions for violent crimes, and those whose previous felony convictions had been for non-violent crimes.
- Convicted felons currently serving terms of imprisonment for A-I felonies, and certain prisoners serving sentences for A-II felonies, could apply for resentencing according to provisions of the new law.
- Some plea bargaining restrictions were relaxed, allowing those accused of a Class A-I level felony to plead guilty to a Class B felony.
- Courts were empowered to order participation in prison-based treatment programs as a condition of sentence.
- A provision for additional merit time was enacted, allowing prisoners charged under the old law who complete certain programs to receive an additional 1/6 merit time discount off their minimum sentence.
- Parole was eliminated; in its place a period of “post-release supervision” was added to sentences of incarceration.

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<sup>1</sup> A determinate sentence specifies a definite period of time in prison. An indeterminate term specifies a range of time, and within that range, the parole board determines when a prisoner should be released from incarceration.

### III. Impact of the Reform Acts: An Evaluation

A year and a half has passed since the first Reform Act was enacted, and while the full impact of the revisions can not yet be assessed, it is clear that a bill which was intended to mitigate sentences for non-violent, low-level, first-time offenders, has instead given the biggest breaks to major traffickers and kingpins.

In passing the Act, legislative leaders made clear whom they wanted to help – those who were exploited by drug organizations to do their dirty work. Assembly Speaker Sheldon Silver said, “Where we are dealing with non-violent offenders, particularly first timers...we should strive to reclaim lives and to reconnect these families.”<sup>2</sup> According to Senate Majority Leader Joseph Bruno, the new law “provides opportunities of relief for all non-violent offenders sentenced under the previous law.”<sup>3</sup>

However, the Reform Act cast a wide net, allowing **all** top drug offenders to apply for relief, including those who reaped immense profits from the narcotics trade, and others with violent criminal histories. Few top narcotics offenders imprisoned on Special Narcotics cases fit the portrayal envisioned in the statements accompanying the bill signing; those who did have been released. On the other hand, kingpins and major traffickers, who were originally given the longest sentences, have since been granted the largest sentence reductions. Some of them have been released. Eighteen months after the passage of the Drug Law Reform Act of 2004 (DLRA), the legislative changes have had the following effect on Special Narcotics prosecutions:

#### A-1 Felony Sentence Reform

- **Sentences Slashed for Convicted Drug Kingpins and Violent Felons:** One third (**34%**) of A-1 prisoners who had life terms eliminated were top tier or violent drug offenders (See Appendix 1, resentencing for kingpins and major traffickers). Kingpins saw the largest reductions in their sentences, up to 11 years off their original sentences and elimination of lifetime supervision.

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<sup>2</sup> Assembly Speaker Sheldon Silver on Rockefeller Drug Law Reform, Press Release, December 14, 2004.

<sup>3</sup> Senate Majority Leader Joseph Bruno, Press Release, December 7, 2004.

- **Terms Reduced for Prisoners with Multiple Felonies:** In almost half (46%) of the cases where lifetime supervision has been eliminated, prisoners had committed a felony offense other than the narcotics case for which they were serving time. (See Appendix 2)
- **Drug Suppliers Had Sentences Reduced:** In 45% of cases where lifetime supervision has been eliminated, prisoners were convicted of selling enough cocaine to fill at least 650 crack vials, or enough heroin to fill at least 1,750 glassine envelopes. (See Appendix 3)
- **Resentenced Prisoners Possessed Huge Quantities of Narcotics:** 56% of resentenced prisoners were convicted solely of possession. The largest seizure was 2,200 pounds, and the smallest 4 ounces. Nine prisoners, about one-fifth, had more than 100 pounds, with 24 prisoners possessing a pound or more.
- **One Prisoner Fit The Picture of “first-time, non-violent, low-level” drug possessor:** Of the 84 prisoners who applied for resentencing on A-I cases handled by Special Narcotics, Alan Anderson was the only applicant who matched all aspects of the description. He was resentenced and released from prison. (See Appendix 4).
- **Inconsistent Results:** The Reform Act gave judges much discretion and little specific direction, resulting in wide disparities in re-sentencing decisions. Similarly situated defendants were sentenced differently under the DLRA depending on which judge reviewed the case. (See Appendices 1 and 5).

## A-II Felony Sentence Reform

- **A-II Drug Felons Receive a Double Benefit:** Ninety-five percent (95%) of the A-II drug offenders prosecuted by Special Narcotics were originally charged with a higher level A-I felony and had already received a substantial benefit through plea bargaining.
- **Only The Most Serious Offenders Get Reductions:** The Reform Act did not allow prisoners serving minimum sentences to apply to have sentences reduced. Major traffickers were primary beneficiaries of A-II sentence reductions.

## B Felony Sentence Reform

- **B Felony Sentences Reduced:** State prison sentences for Special Narcotics defendants charged with a B offense and sentenced under the new law average less than two and a half years. Prisoners are eligible for a release program within 18 months.

- **Diversion Programs See Fewer Applicants:** Special Narcotics has seen a decrease in first offenders applying to treatment programs. Some repeat felons already in programs are opting to serve shorter state prison terms instead of completing rehabilitation.

## A. A-I FELONY SENTENCE REFORM

The chart below summarizes the main changes to A-I felony statutes

Pre DLRA	Post DLRA						
<p><b>Possession</b>  <u>Minimum Amount:</u> 4 ounces or more of cocaine or heroin.  <b>To meet <i>minimum possession</i> requirement:</b> 1300-3500 glassines or crack vials.</p>	<p><b>Possession</b>  <u>Minimum Amount:</u> 8 ounces or more of cocaine or heroin.  <b>To meet <i>minimum possession</i> requirement:</b> 2600-7,000 glassines or crack vials.</p>						
<p><b>Sale</b>  <u>Minimum Amount:</u> 2 ounces or more of cocaine or heroin.  <b>To meet <i>minimum sale</i> requirement:</b> 650-1750 glassines or crack vials.</p>	<p><b>Sale (Unchanged)</b>  <u>Minimum Amount:</u> 2 ounces or more of cocaine or heroin.  <b>To meet <i>minimum sale</i> requirement:</b> 650-1750 glassines or crack vials.</p>						
<p><b>Penalty</b>  Range 15 to life up to 25 to life.  No enhancement for prior felony.   Prisoners served portion of minimum before applying to parole board for release.   On lifetime parole supervision.</p>	<p><b>Penalty</b></p> <table border="1"> <tbody> <tr> <td>First Felony</td> <td>8 to 20</td> </tr> <tr> <td>Second Felony</td> <td>12 to 24</td> </tr> <tr> <td>Prior Violent Felony</td> <td>15 to 30</td> </tr> </tbody> </table> <p>Judges sentence within range; prisoners serve two thirds of sentence before eligible for release programs.  On post release supervision up to five years.</p>	First Felony	8 to 20	Second Felony	12 to 24	Prior Violent Felony	15 to 30
First Felony	8 to 20						
Second Felony	12 to 24						
Prior Violent Felony	15 to 30						

<b>Example: Actual Time Served With Merit Time, Good Time, etc.<sup>4</sup></b>		<b>Example: Actual Time Served With Merit Time, Good Time, etc.</b>	
Sent. Minimum	15 years	Sent. Minimum	8 years
Sent. Maximum	Life		
Parole eligibility	10 years	Conditional release	5.7 years
Temporary release eligibility	8 years	Temporary release eligibility	3.7 years

### 1. Dozens of A-I Prisoners Serving Life Sentences Apply for Reduction

The DLRA included a provision allowing all of New York’s 446 prisoners incarcerated on life sentences for A-I narcotics convictions to apply to their original sentencing judge to have their sentences reduced. From January 13, 2005 to May 15, 2006, Special Narcotics responded to 84 applications from drug offenders convicted of an A-I felony seeking to cut their prison time, about a quarter of the applications received statewide. Of the 168 A-I prisoners released statewide, about a quarter have been released on Special Narcotics cases.

The legislation authorizing resentencing stated that life sentences should be replaced by sentences within the range set by the DLRA unless “substantial justice” dictated otherwise. No further standard for review was incorporated into the statute, which explicitly allowed judges to consider a prisoner’s record while incarcerated, as well as any other factors relevant to sentencing.

### 2. Who Are the A-I Drug Offenders?

#### a. A-I Offenders Who Are Kingpins and Major Traffickers

Major narcotics dealers charged with possession or sale accounted for 26% of the applications for re-sentencing. Here are some examples of the major drug traffickers who received significantly reduced sentences.<sup>5</sup>

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<sup>4</sup> Good time is earned for good behavior; merit time is earned by participation in certain educational, vocational or treatment programs and is only available to non-violent inmates. Temporary release (work release) is available to all inmates, restrictions apply if a deadly weapon was used or threatened.

- **Luis Rivera** was a high level trafficker in a drug organization selling 10,000 glassines of heroin per day on the Lower East Side. He employed at least 30 managers. At the time of arrest, police recovered two pounds of cocaine, guns, and \$70,000. His sentence was reduced by 10 years. He was released from prison on February 27, 2006.
- **Bernardo Mejia** was a high level member of an international cocaine organization. He was convicted of possessing 660 pounds of cocaine. His sentence was reduced by 10 years.
- **Jorge Contreras** and his brother **Cristino** were leaders of a drug organization that imported hundreds of kilograms of cocaine from Venezuela into the United States. **Jorge Contreras'** sentence was reduced by 10 years. **Cristino Contreras'** sentence was reduced by 8 years.
- **Lisandro Montes De Oca** was one of the heads of a multi-kilogram cocaine organization that imported hundreds of kilograms of cocaine into the United States, and collected and laundered millions of dollars in narcotics proceeds. His sentence was reduced by 11 years.

**b. A-I Offenders with Other Convictions, Including Convictions for Violence**

Of the 41 A-I drug offenders with other felony convictions, 22 were relieved of life time supervision. Ten have been released from prison. Here are examples.<sup>6</sup>

- **Joseph Petito** had a prior conviction for Manslaughter in the First Degree (for shooting a man in a bar) and was subsequently convicted of Criminal Possession of a Controlled Substance in the First Degree. His sentence was reduced by 2.5 years. He was released from prison on May 9, 2005.
- **Jorge Sprau** was convicted of Criminal Possession of a Controlled Substance in the First Degree for having 6 3/8 ounces of cocaine. Previously, he had been convicted of Criminal Sale of a Controlled Substance in the Fourth Degree and Criminal Possession of a Weapon in the Fourth Degree. While in prison, he had 44 infractions of prison rules and was repeatedly disciplined for stabbing and assaulting other inmates. While incarcerated, he was convicted of two felony offenses: Attempted Criminal Possession of a Weapon in the Third Degree for having a ten inch long blade; and Attempted Promoting Prison Contraband for possessing a razor blade

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<sup>5</sup> See Appendix 1 for list of kingpins and major traffickers who applied for resentencing.

<sup>6</sup> See Appendix 6 for list of A-I offenders convicted or implicated in homicides and serious assaults.

melted into a toothbrush handle. His narcotics sentence was reduced by three years; he was released from prison and deported.

### **c. A-I Offenders with Guns**

Loaded guns are frequently recovered along with large caches of narcotics. The DLRA did not prohibit an offender who possessed a gun at the time of his narcotics crime from applying for re-sentencing. As a result, 18% (15) of A-I drug offenders who applied for re-sentencing possessed loaded weapons at the time of their arrest. Eleven have been re-sentenced<sup>7</sup> and relieved of lifetime supervision, and eight have been released from prison. These are some examples:

- **Emanuel Pacheco** sold 2 ounces of crack, and possessed 653 vials of crack (2 ounces). After arrest, Pacheco was released and absconded. He was arrested two years later in Ulster County, returned on his Special Narcotics warrant and convicted of Criminal Sale of a Controlled Substance in the First Degree. He was also convicted of possessing a weapon used in a homicide in Brooklyn. His sentence was reduced by 3 years. He was released August 23, 2005.
- **Charles Green** was a leader of a crack organization. Eleven thousand vials of crack-cocaine, five loaded guns, a police scanner and several bulletproof vests were recovered from Green's stash apartment. He was convicted of Criminal Possession of a Controlled Substance in the First Degree. His sentence was reduced by 2 years. He was released from prison on July 18, 2005.

### **d. Few A-I Drug Offenders Are Women**

A review of applications for re-sentencing did not reflect widely held impressions that many imprisoned A-I offenders were women who served as unsuspecting drug mules.<sup>8</sup> In fact, at the time DLRA was signed into law, only 10 of the 446 A-I offenders in prison (2%) were women. Three of those women were Special Narcotics defendants and made applications for re-sentencing and none appears to

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<sup>7</sup> See Appendix 7 for list of A-I offenders possessing weapons.

<sup>8</sup> "It is not known how many of the 2108 women in prison for drug crimes at the end of 1997 were mules. But it is clear that women are disproportionately affected by the Rockefeller drug laws. There are now 3628 women in New York State prisons, up from 397 in 1973. Sixty per cent of these women are in for drug charges compared with 32 per cent of men. An estimated 75 per cent of these female inmates have children." See, "New York's Drug-Law Debacle," Village Voice, May 12, 1998, Jennifer Gonnerman. See also, "How You Can Help a Woman Reach for Freedom," Glamour, July 2004, page 148; "Women Find a New Arena for Equality: Prison," The New York Times, December 29, 2003, A 9, Fox Butterfield; "Women Doing Hard Time," The Arizona Republic, October 18, 2003, Judi Villa.

fit the description of unsuspecting drug courier. All three were re-sentenced to reduced terms, relieved of lifetime supervision and two of them have been released from prison. Their cases are detailed below:

- **Leticia Muneton** assisted in the delivery of 330 pounds of cocaine. She was convicted of Criminal Possession of a Controlled Substance in the First Degree. Her sentence was reduced by 7 years. She was released on June 22, 2005.
- **Miguelina Gilbert** sold cocaine over a two year period while employed as a state parole officer. She was convicted of Criminal Sale of a Controlled Substance in the First Degree. Her sentence was reduced by 7 years. She was released from prison on February 22, 2005.
- **Severina Jacquez** was convicted after her four-year-old child was found alone in a locked room with 11 ounces of cocaine. Medical tests showed that the child had ingested cocaine. During trial, Jacquez fled. She returned 11 years later to reclaim bail money. She was convicted of Criminal Possession of a Controlled Substance in the First Degree, and Endangering the Welfare of a Child. Her sentence was reduced by 8 years.

What is striking about these examples is the degree to which the Drug Law Reform Act yielded results that apparently were not intended by the legislature that passed it, or the Governor who signed it. Appendix 5 contains a summary of every case prosecuted by Special Narcotics in which a prisoner applied for a reduction of his A-I term. This record reveals that many judges tried to be balanced in their application of the new law, granting relief only to those who deserved it under the rationale of the Reform Act. But other judges lowered sentences for those who could only be termed drug “kingpins.” Judges have reduced sentences for all but seven of the 84 prisoners who applied. So far, 39 defendants have been released from prison.

## **B. A-II FELONY SENTENCE REFORM**

On August 30, 2005, the New York State Legislature passed further revisions to the New York State drug laws permitting defendants serving life terms on A-II drug felonies to be re-sentenced to reduced terms.<sup>9</sup> A-II drug felonies are the second-highest drug charge in the Penal Law.<sup>10</sup> As with the

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<sup>9</sup> The A-II re-sentencing procedure is identical to A-I procedure. Judges have sole discretion to determine which prisoners should be given reduced terms. However, unlike A-I re-sentencing protocols, under the A-II re-sentencing law, prisoners must be serving terms long enough that they are at least three years away from their eligibility for parole, and they may not be currently serving sentences for an A-I offense (other than a drug crime), a violent felony, or other designated offenses.

first DLRA, the stated legislative intent of the DLRA-II is to decrease prison sentences for non-violent, first-time offenders.<sup>11</sup> The new law went into effect on October 30, 2005. The chart below summarizes the central changes in A-II statutes.

Pre DLRA-II	Post DLRA-II						
<p><b>Possession</b>  <u>Minimum Amount:</u> 2 ounces or more of cocaine or heroin.</p> <p><b>To meet <i>minimum possession</i> requirement:</b> 650-1750 glassines or crack vials.</p>	<p><b>Possession</b>  <u>Minimum Amount:</u> 4 ounces or more of cocaine or heroin.</p> <p><b>To meet <i>minimum possession</i> requirement:</b> 1300-3500 glassines or crack vials.</p>						
<p><b>Sale</b>            Amount: 1/2 ounce or more of cocaine or heroin.  <b>To meet <i>minimum sale</i> requirement:</b> 165-440 glassines or crack vials.</p>	<p><b>Sale (Unchanged)</b>            Amount: 1/2 ounce or more of cocaine or heroin.  <b>To meet <i>minimum sale</i> requirement:</b> 165-440 glassines or crack vials.</p>						
<p><b>Penalty – “Rockefeller” Sentence</b>            Range 3 to life up to 8 1/3 to life.            Prior felony: 6 to life to 12 to life.</p> <p>Prisoners served portion of minimum before applying to parole board for release.</p> <p>On lifetime parole supervision.</p>	<p><b>Penalty – No Life Sentence</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 5px;">First Felony</td> <td style="padding: 5px;">3 to 10</td> </tr> <tr> <td style="padding: 5px;">Second Felony</td> <td style="padding: 5px;">6 to 14</td> </tr> <tr> <td style="padding: 5px;">Prior Violent Felony</td> <td style="padding: 5px;">8 to 17</td> </tr> </table> <p>Judges sentence within range.            On post release supervision up to five years.</p>	First Felony	3 to 10	Second Felony	6 to 14	Prior Violent Felony	8 to 17
First Felony	3 to 10						
Second Felony	6 to 14						
Prior Violent Felony	8 to 17						

<sup>10</sup> PL §220.18, Criminal Possession of a Controlled Substance in the Second Degree (possession of 4 ounces); PL §220.41, Criminal Sale of a Controlled Substance in the Second Degree (sale of one-half ounce). The minimum authorized sentence for these crimes is three years (PL §70.71(2) (b) (ii)).

<sup>11</sup> The New York State Assembly Memorandum in Support of Legislation, 2005, Ch 643, August 30, 2005

Example: Actual Time Served With Merit Time, Good Time, etc.		Example: Actual Time Served With Merit Time, Good Time, etc.	
Sent. Minimum	3 years	Sent. Minimum	3 years
Sent. Maximum	Life		
Parole eligibility	2.5 years	Conditional release	2.1 years
Temporary release eligibility	.5 years (six months)	Temporary release eligibility	.5 years (six months)

A-II offenders prosecuted by Special Narcotics as a group are markedly different from A-I offenders in one critical respect: before the passage of DLRA-II, the vast majority had already received a reduced sentence through plea bargaining. Unlike most A-I offenders who were convicted after trial, practically all A-II (95%) offenders were originally charged with A-I offenses and pled guilty to reduced charges in order to receive a lower sentence.

The DLRA-II has given these A-II drug offenders a second opportunity to reduce their sentences. Furthermore, DLRA-II targets the A-II drug offenders with the longest sentences, excluding from consideration for resentencing those serving minimum terms, thereby favoring the higher level traffickers.<sup>12</sup> In the seven months since the passage of DLRA-II, Special Narcotics has received 300 applications, and 110 have been fully briefed. Eighty-two (82) are awaiting decision; 15 have been granted reduction (9% of the total A-II prisoners resentenced statewide); 7 denied; 6 have withdrawn their applications. Below are some examples of the drug offenders who have been granted relief from lifetime supervision and received sentencing reduction over the Special Prosecutor’s opposition:

- **Eric Thompson** received more than 500 pounds of cocaine driven by tractor trailer from Florida to the Bronx; \$180,000 was recovered from his safe deposit box at time of arrest, and \$30,000 from his brownstone in the Bedford Stuyvesant section of Brooklyn. He had a prior conviction for a narcotics felony.

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<sup>12</sup> The reason for this is likely that, for A-II offenders who received minimum sentences pre DLRA-II, there is very little difference between actual time served under the old law and post DLRA-II. Under both, inmates may be eligible for temporary release after serving six months, and for parole or conditional release (which are basically identical) after 30 months under the old law and 25 and a half months under the new law.

- **Audley Jones** conducted narcotics and gun sales over the course of two years, including sale of AK-47s. He had four prior felony convictions, including convictions for narcotics and weapons possession.
- **Jose Zubillaga**, a building superintendent, conducted narcotics and gun sales a half dozen times, in the building he managed, occasionally while minor children were present in his apartment. Sales totaled about \$11,000.
- **Antonio Marte** managed a complex international narcotics organization trafficking in heroin and cocaine imported from the Caribbean. His organization transmitted hundreds of thousands of dollars in narcotics proceeds. Marte was responsible for distribution of cocaine and heroin in New York City and Rhode Island.

### C. B-FELONY REFORM

Most prisoners currently incarcerated in state prison for drug offenses on Special Narcotics cases were originally charged with B felony offenses related to drug dealing. The vast majority (89%) are second time felons arrested for selling a narcotic or possessing it with the intention to sell it. Because the Reform Act raised the weight of narcotics required for A felony possession convictions, the B felony category now includes the possession of large quantities of narcotics, and encompasses a group of serious offenders previously facing A-level charges. For example, in a recent case, a defendant threw out of a window a bag containing almost 500 glassine envelopes of heroin while a search warrant was being executed. The seized heroin had a street value of about \$5,000. The top arrest charge is a B felony. Prior to the Reform Act, it would have been an A-II level charge.

The chart below summarizes Reform Act changes affecting B level felony offenses.

<i>Pre DLRA</i>	<i>Post DLRA</i>
<p><b>Possession</b></p> <p><u>Penal Law Sec. 220.16 (1)</u>: Any amount of cocaine or heroin <b><i>with intent to sell it.</i></b></p> <p><u>Penal Law Sec. 220.16 (12)</u>: One-half ounce or more of cocaine or heroin.</p> <p><b>To meet <i>minimum possession requirement</i></b>: Between 165 and 440 glassines of heroin or cocaine or crack vials.</p>	<p><b>Possession</b> (Unchanged)</p>

<p><b>Sale</b> Any amount of cocaine or heroin.</p>	<p><b>Sale (Unchanged)</b></p>																
<p><b>Penalty</b></p> <p>Range 1 to 3 up to 8 1/3 to 25. Prior felony: 4 1/2 to 9 to 12 1/2 to 25.</p> <p>Prisoners served portion of minimum before applying to parole board for release; on parole supervision for remainder of sentence unless given early discharge.</p>	<p><b>Penalty</b></p> <table border="1" data-bbox="824 363 1458 699"> <tr> <td>First Felony</td> <td>1 to 9; (Sale on School Grounds minimum 2)</td> </tr> <tr> <td>Second Felony</td> <td>3 1/2 to 12</td> </tr> <tr> <td>Prior Violent Felony</td> <td>6 to 15</td> </tr> </table> <p>Judges sentence within range; prisoners serve a portion of sentence before eligible for release programs. On post release supervision for up to three years.</p>	First Felony	1 to 9; (Sale on School Grounds minimum 2)	Second Felony	3 1/2 to 12	Prior Violent Felony	6 to 15										
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Prior Violent Felony	6 to 15																
<p><b>Example: Actual Time Served With Deductions for Merit Time, Good Time, etc.</b></p> <table border="1" data-bbox="159 1098 792 1591"> <tr> <td>Sent. Minimum</td> <td>1 year</td> </tr> <tr> <td>Sent. Maximum</td> <td>3 years</td> </tr> <tr> <td>Parole eligibility</td> <td>9 1/2 months</td> </tr> <tr> <td>Temporary release eligibility</td> <td>6 months May be eligible for shock incarceration (6 months).</td> </tr> </table>	Sent. Minimum	1 year	Sent. Maximum	3 years	Parole eligibility	9 1/2 months	Temporary release eligibility	6 months May be eligible for shock incarceration (6 months).	<p><b>Example: Actual Time Served With Deductions for Merit Time, Good Time, etc.</b></p> <table border="1" data-bbox="824 1098 1458 1591"> <tr> <td>Sent. Minimum</td> <td>1 year</td> </tr> <tr> <td></td> <td></td> </tr> <tr> <td>Conditional release</td> <td>8.4 months</td> </tr> <tr> <td>Temporary release eligibility</td> <td>6 months May be eligible for shock incarceration (6 months).</td> </tr> </table>	Sent. Minimum	1 year			Conditional release	8.4 months	Temporary release eligibility	6 months May be eligible for shock incarceration (6 months).
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Special Narcotics has analyzed the cases of the 2,586 defendants arrested and originally charged with B level drug dealing felony offenses who were sentenced in the year since the DLRA took effect.<sup>13</sup> The DLRA reduced sentences for all drug defendants, except those with prior convictions for violent crimes. The following outlines the findings:

#### Who Goes to State Prison Under the New Law?

- ✓ 89% of those sentenced to state prison had prior felony convictions.
- ✓ The average prison sentence for offenders sent to state prison was less than 2.5 years.
- Drug Offenders with No Prior Felony Convictions:
  - ✓ Only 36 first time felony offenders (less than 1.5% of all arrested for B level drug dealing) were sentenced to more than one year in prison. In each case, aggravating factors were present, such as other pending cases, severity of the crime, or a prior misdemeanor criminal history.
- Treatment Applications Trailing Off:
  - ✓ Decrease in number of defendants applying to alternative to incarceration programs.

A very troubling trend, which Special Narcotics is closely following, is the extent to which reduced sentences are diminishing incentives for addicted defendants to enter and complete treatment. Most Special Narcotics defendants are not addicts; they deal drugs to make money. Obviously, they are not amenable to treatment. For them, the threat of a state prison sentence can be a deterrent to future drug dealing. Eighty-nine percent of defendants arrested for drug dealing and sent to state prison for longer than a year are prior felony offenders.

However, a number of Special Narcotics defendants are addicted, and serve as low level street sellers. They are not entrusted by the trafficking organization with substantial amounts of drugs, but openly sell narcotics and are paid in narcotics. For more than a dozen years, Special Narcotics has offered treatment to this group of defendants as an alternative to incarceration, allowing a dismissal of a felony case upon successful completion of rigorous and closely monitored treatment programs. The

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<sup>13</sup> Defendants were arrested and charged with the following: Penal Law (PL) § 220.39 Criminal Sale of a Controlled Substance in the Third Degree (Sale of any amount of a narcotic drug); PL § 220.16 (1) Criminal Possession of a Controlled Substance in the Third Degree (Possession of any amount of a controlled substance with intent to sell), PL § 220.16 (12) Criminal Possession of a Controlled Substance In the Third Degree (Possession of a ½ ounce or more of an aggregate weight of a narcotic drug); PL § 220.44 Criminal Sale of a Controlled Substance in or Near School Grounds (Sale of any amount of a narcotic drug within 1000 feet of school grounds).

prison sentences these addicts face have been a powerful incentive for them to remain drug free as they complete their programs.

#### **IV. RECOMMENDATION: NEW YORK NEEDS A DRUG KINGPIN STATUTE AND ENHANCEMENT OF PENALTIES FOR DRUG FELONS WITH GUNS**

*Those for whom the culture of drugs and violence is a way of life; whose mission is to add to the legions of addicted and self-destructive, should be punished severely and to the fullest extent of the law.*

##### **Remarks by Assembly Speaker Sheldon Silver<sup>14</sup>**

Despite legislative statements that sentences for drug kingpins and drug dealers who possessed guns should be enhanced,<sup>15</sup> no provisions for increased punishment were built into drug law reform. The legislature should pass an effective drug kingpin statute and enhance penalties for offenders who possess guns. There is currently no New York State law targeting kingpins and major traffickers.

The crucial goal of narcotics enforcement is to dismantle violent and highly sophisticated drug organizations and to prosecute drug kingpins overseeing drugs, money, and employees. Although they control the organization, the kingpins rarely touch narcotics themselves. New York's current narcotics statutes focus on those who sell or possess the drugs, and it is often challenging to use these laws to prosecute kingpins.

A drug kingpin statute is needed to appropriately charge and penalize the drug organization's leader, so that he cannot shield himself from culpability for the crimes committed by organization members at his behest. Several kingpin proposals have been advanced in the past, but most have been so fundamentally flawed that they would allow kingpins to escape prosecution. Special Narcotics has proposed a statute designed to target this group effectively. (See Appendix 8).

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<sup>14</sup> Remarks by Assembly Speaker Sheldon Silver *Bill Signing: Rockefeller Drug Law Reform*, December 14, 2004, <http://assembly.state.ny.us/Press/20041214a/>

<sup>15</sup> New York State Assembly Memorandum in Support of Legislation, 2004, Ch 738

## V. CONCLUSION

The DLRA has already comprehensively reduced sentences for all but a small group of felony drug offenders with previous convictions for violent crimes. It has appropriately led to the release of some drug offenders who were serving excessively long sentences, but its overly broad provisions gave little direction to judges regarding its implementation. As a result, under the Drug Law Reform Acts, the greatest benefits have been reserved for drug kingpins and major traffickers.

Some have suggested further reducing sentences and expanding resentencing to B felony offenders. As this report indicates, further reductions to the sentences of B level drug dealers are unnecessary, and may compromise not only public safety, but the effectiveness of alternative to incarceration programs. At the very least, law makers must carefully consider whether the reforms passed in 2004 and 2005 actually accomplished the intended legislative goals before implementing further changes.

# APPENDIX 1

## RESENTENCING APPLICATIONS FOR KINGPINS AND MAJOR TRAFFICKERS

Defendant	Synopsis	Sentenced/Released
<b>Luis Rivera</b>	Manager of organization selling 10,000 glassines of heroin per day on Lower East Side. 2 pounds of cocaine, guns, and \$70,000 recovered.	Lifetime Supervision Eliminated Sentence Reduction: 10 years <b>Released</b>
<b>Alejandro Lopez</b>	Head of Lower East Side “Rock” cocaine organization making weekly sales of \$150,000. Cocaine, submachine guns, pistols, and stun gun recovered.	Lifetime Supervision Eliminated Sentence Reduction: 8 years
<b>Charles Green</b>	Leader of crack organization. 11,000 vials of crack, loaded guns, police scanner, and bulletproof vest recovered.	Lifetime Supervision Eliminated Sentence Reduction: 2 years <b>Released</b>
<b>Alexis Perry</b>	Member of violent “Vigilantes” gang. Trafficked heroin. Killed trial witness. Faced 16 sale/possession counts.	Lifetime Supervision Eliminated Sentence Reduction: 5 years
<b>Nathaniel Walker</b>	Member of “Vigilantes” gang. Co-defendant of Alexis Perry. Shot and killed trial witness. Faced 42 sale/possession counts.	Awaiting Decision
<b>Barrington Reynolds</b>	Manager of large violent cocaine operation. Organization put contract out on undercover officer.	Lifetime Supervision Eliminated Sentence Reduction: 3 years
<b>Luis Torres</b>	Leader of drug organization that distributed cocaine and heroin. Employed thirty managers that sold 10,000 glassines of heroin per week.	Awaiting Decision
<b>Bernardo Mejia</b>	High-level member of international cocaine organization. Possessed 660 pounds of cocaine.	Lifetime Supervision Eliminated Sentence Reduction: 10 years

Defendant	Synopsis	Sentenced/Released
<b>Sergio La Fontaine</b>	Ran large heroin and cocaine organization. Prior convictions for narcotics conspiracies.	Resentencing Denied
<b>Fernando Franco</b>	Transported 4,000 pounds of cocaine. \$1.9 million seized. Convicted of robbery while narcotics case pending.	Resentencing Denied
<b>Jorge Contreras</b>	Imported hundreds of pounds of cocaine from Venezuela. 250 pounds of cocaine recovered.	Lifetime Supervision Eliminated Sentence Reduction: 10 years
<b>Cristino Contreras</b>	Imported hundreds of pounds of cocaine from Venezuela. 250 pounds of cocaine recovered. Brother and co-defendant of Jorge Contreras.	Lifetime Supervision Eliminated Sentence Reduction: 8 years
<b>Lisandro Montes De Oca</b>	High-level member of international cocaine distribution ring importing thousands of pounds of cocaine. Laundered millions of dollars. Federal money-laundering conviction.	Lifetime Supervision Eliminated Sentence Reduction: 11 years
<b>Tirso Salcedo</b>	Head of international cocaine organization. Co-defendant of Montes De Oca (who was resentenced by a different judge).	Resentencing Denied
<b>Wilfredo Scherry</b>	Head of organization that imported thousands of pounds of cocaine. Laundered millions of dollars.	Lifetime Supervision Eliminated Sentence Reduction: 3 years
<b>Luis Grueso</b>	Leader of organization that imported thousands of pounds of cocaine in hidden compartments in autos and trucks.	Proposed Sentence Reduction: 7 years (prisoner rejected and is appealing)
<b>Leticia Muneton</b>	Coordinated delivery of 332 pounds of cocaine.	Lifetime Supervision Eliminated Sentence Reduction: 7 years <b>Released</b> <b>Deported</b>

Defendant	Synopsis	Sentenced/Released
<b>Orlando Rodriguez</b>	Coordinated delivery of 220 pounds of cocaine.	Proposed Sentence Reduction: 2 years (prisoner to decide whether to accept)
<b>Javier Ramirez</b>	Garage owner stored 300 pounds of cocaine.	Lifetime Supervision Eliminated Sentence Reduction: 4 years <b>Released</b>
<b>Roberto Oms</b>	Sold 4 ½ pounds of heroin for \$150,000. Another 4 ½ pounds recovered.	Lifetime Supervision Eliminated Sentence Reduction: 7 years
<b>Jose Felix</b>	Sold 4 pounds of cocaine. Another 10 pounds recovered.	Lifetime Supervision Eliminated Converted to Determinate Term of 15 years
<b>Ryan Thai</b>	Major heroin trafficker. Sold 1 ½ pounds of heroin.	Resentencing Denied (already out of prison at time of reduction request)

# APPENDIX 2

## Other Convictions

Defendant	Other Conviction	Charge	Sentenced/Released
<b>Ramon Alcequier</b>	Prior	Attempted Criminal Sale of a Controlled Substance (“CSCS”), 3 <sup>rd</sup> .	Awaiting Decision
<b>Jose Alvarado</b>	Prior	Attempted Criminal Possession of a Controlled Substance (“CPCS”) 3 <sup>rd</sup> .	Lifetime Supervision Eliminated  Sentence Reduction: 2 years
<b>George Antonetty</b>	Prior	Armed Bank Robbery; Conspiracy to Commit Armed Bank Robbery (Federal)	Awaiting Decision
<b>Ernesto Aponte</b>	Prior	CSCS 3 <sup>rd</sup>	Awaiting Decision
<b>Dashawn Brown</b>	Prior	2 convictions for Possession of a Dangerous Substance with Intent (New Jersey)	Lifetime Supervision Eliminated  Sentence Reduction: 3 years
<b>Manny Cabassa</b>	Prior	Robbery 1 <sup>st</sup>	Awaiting Decision
<b>Alvaro Carvajal</b>	Prior  Subsequent	Conspiracy to Distribute Cocaine; Importation of Cocaine (Federal)  After his New York conviction, he was convicted of Conspiracy to Import Cocaine for federal crimes committed in connection with his cocaine enterprise.	Awaiting Decision
<b>Dario Castro</b>	Prior	Attempted CSCS 3 <sup>rd</sup>	Lifetime Supervision Eliminated  Sentence Reduction: 3 years  <b>Deported</b>

Defendant	Other Conviction	Charge	Sentenced/Released
<b>Mario Castro</b>	Prior	CPCS 5 <sup>th</sup>	Lifetime Supervision Eliminated  Sentence Reduction: 3 years  <b>Deported</b>
<b>Luis Delacruz</b>	Prior	2 convictions for CSCS 3 <sup>rd</sup> ; Criminal Facilitation 2 <sup>nd</sup>	Lifetime Supervision Eliminated  Sentence reduction: 3 years
<b>Rufino Desla</b>	Subsequent	Conspiracy to Distribute Heroin (federal)	Awaiting Decision
<b>Jose Felix</b>	Prior	Criminal Possession of a Weapon ("CPW") 3 <sup>rd</sup>	Lifetime Supervision Eliminated  Sentence Reduction: Converted to determinate sentence of 15 years  <b>Deported</b>
<b>Jose Fernandez</b>	Prior	Attempted CPCS 3 <sup>rd</sup>	Lifetime Supervision Eliminated  Sentence Reduction: 3 years.
<b>Fernando Franco</b>	Concurrent (pled while under indictment for narcotics case)	Robbery 1st; Driving While Intoxicated; Leaving the Scene of an Accident	Resentencing Denied
<b>Francisco Gabriel</b>	Prior	CPW 3 <sup>rd</sup>	Lifetime Supervision Eliminated  Sentence Reduction: Converted to Determinate Term of 15 years.  <b>Deported</b>

Defendant	Other Conviction	Charge	Sentenced/Released
<b>Cesar German</b>	Concurrent (pled at same time pled to narcotics case) <hr/> Prior	Indicted for shooting and paralyzing a male victim; convicted of CPW 3 <sup>rd</sup> <hr/> Possession of a Weapon (Puerto Rico)	Lifetime Supervision Eliminated  Sentence Reduction: Converted to Determinate Term of 22 years  <b>Deported</b>
<b>Timothy Glass</b>	Concurrent (pled while under indictment for narcotics case) <hr/> Prior	Indicted for Attempted Murder 2 <sup>nd</sup> ; convicted of Attempted Conspiracy 2 <sup>nd</sup> . <hr/> Reckless Endangerment 1 <sup>st</sup> ; Grand Larceny 2 <sup>nd</sup> .	Lifetime Supervision Eliminated  Sentence Reduction: Converted to Determinate Term of 15 years
<b>Terrance Hunter</b>	Prior <hr/> Subsequent (committed while in prison)	Burglary 2 <sup>nd</sup> ; Attempted Burglary 1 <sup>st</sup> <hr/> Attempted Promoting Prison Contraband 1 <sup>st</sup>	Lifetime Supervision Eliminated  Sentence Reduction: Converted to Determinate Term of 15 years
<b>Sergio LaFontaine</b>	Prior	Sale of a Controlled Substance; Conspiracy to Distribute and Possess with Intent to Distribute (Federal)	Resentencing Denied
<b>Genaro Lozano</b>	Prior	Attempted CPCS 3 <sup>rd</sup>	Lifetime Supervision Eliminated  Sentence Reduction: 3 years
<b>Lisandro Montes de Oca</b>	Prior <hr/> Subsequent	CPCS 2 <sup>nd</sup> <hr/> Conspiracy to Commit Money Laundering (Federal)	Lifetime Supervision Eliminated  Sentence Reduction: 9 years
<b>Jose Mundo</b>	Prior <hr/> Concurrent (pled guilty while incarcerated)	Manslaughter 1 <sup>st</sup> ; False Claim to U.S. Citizenship (Federal) <hr/> Illegal Entry into the U. S. (Federal)	Lifetime Supervision Eliminated  Sentence Reduction: 7 years  <b>Released</b> (to federal custody)

Defendant	Other Conviction	Charge	Sentenced/Released
<b>Roberto Oms</b>	Concurrent (committed while a fugitive on narcotics case) <hr/> Subsequent (committed while awaiting sentencing in Rikers Island)	Theft; Forgery (Florida) <hr/> Promoting Prison Contraband 1st (Bronx)	Lifetime Supervision Eliminated  Sentence Reduction: 7 years
<b>Emanuel Pacheco</b>	Concurrent (committed while fugitive on narcotics case)	Indicted in Brooklyn for Murder 2nd and CPW 3rd; convicted of CPW 3rd and Bail Jumping; prison conviction for ordering assault on a prisoner	Lifetime Supervision Eliminated  Sentence Reduction: 2 1/2 years  <b>Released</b>
<b>Victor Perez</b>	Prior	Marijuana Possession with Intent (Pennsylvania)	Lifetime Supervision Eliminated  Sentence Reduction: 7 years
<b>Alexis Perry</b>	Concurrent	Murder 2nd	Lifetime Supervision Eliminated  Sentence Reduction: 5 years
<b>Joseph Petito</b>	Prior	Manslaughter 1st	Lifetime Supervision Eliminated  Sentence Reduction: 2 1/2 years  <b>Released</b>
<b>Daniel Quinones</b>	Concurrent	Grand Larceny 3rd; Burglary 3rd	Lifetime Supervision Eliminated  Sentence Reduction: 3 years
<b>Jose Quinones</b>	Prior	CPW 3rd	Application Withdrawn

Defendant	Other Conviction	Charge	Sentenced/Released
<b>Alberto Ramos</b>	Prior	Criminal Contempt 1 <sup>st</sup>	Lifetime Supervision Eliminated  Sentence Reduction: 3 years
<b>Anthony Rampino</b>	Prior	Sale of Heroin (Federal); Criminal Possession of a Dangerous Drug 5 <sup>th</sup>	Resentencing Denied
<b>Barrington Reynolds</b>	Prior	CPW 3 <sup>rd</sup>	Lifetime Supervision Eliminated  Sentence Reduction: 3years
<b>Jose Rodriguez</b>	Prior	Attempted CSCS 3 <sup>rd</sup>	Lifetime Supervision Eliminated  Sentence Reduction: 3 years
<b>Orlando Rodriguez</b>	Prior	CPCS 5 <sup>th</sup>	Awaiting Decision
<b>Wilfredo Schery</b>	Concurrent	Conspiracy to Possess with Intent to Distribute (Federal)	Lifetime Supervision Eliminated  Sentence Reduction: 3 years
<b>Michael Singleton</b>	Prior	CPW 3 <sup>rd</sup> ; Unlawful Possession of a Weapon 3 <sup>rd</sup> (New Jersey); CSCS 3 <sup>rd</sup>	Lifetime Supervision Eliminated  Sentence Reduction: 2 years  <b>Released</b>
<b>Jorge Sprau</b>	Prior <hr/> Subsequent	CSCS 4 <sup>th</sup> ; CPW 4 <sup>th</sup> <hr/> Attempted CPW 3 <sup>rd</sup> ; Attempted Promoting Prison Contraband 1 <sup>st</sup>	Lifetime Supervision Eliminated  Sentence Reduction: 3 years  <b>Deported</b>

Defendant	Other Conviction	Charge	Sentenced/Released
<b>Keith Thomas</b>	Prior	CPCS 5 <sup>th</sup>	Lifetime Supervision Eliminated  Sentence Reduction: 1 1/2 years  <b>Released</b>
<b>Wesley Thomas</b>	Prior	Possession of a Controlled Dangerous Substance with Intent to Distribute (New Jersey)	Lifetime Supervision Eliminated  Sentence Reduction: 3 years
<b>Luis Torres</b>	Prior	Possession of Dangerous Drugs 6 <sup>th</sup> ; CPW 3 <sup>rd</sup> ; CPCS 4 <sup>th</sup> ; CSCS 5 <sup>th</sup>	Awaiting Decision
<b>Hector Vazquez</b>	Prior <hr/> Subsequent	Robbery 2 <sup>nd</sup> ; Possession of Dangerous Drugs 3 <sup>rd</sup> ; Sale of Dangerous Drugs; Possession of Dangerous Drugs; CSCS 1 <sup>st</sup> <hr/> Attempted CSCS 5 <sup>th</sup>	Lifetime Supervision Eliminated  Sentence Reduction: 2 years  <b>Released</b>  <i>Rearrested and Indicted for CSCS 3<sup>rd</sup></i>
<b>Nathaniel Walker</b>	Concurrent	Murder 2 <sup>nd</sup>	Awaiting decision
<b>Lashuan Withrop</b>	Prior	Distribution of a Controlled Substance (Virginia)	Lifetime Supervision Eliminated  Sentence Reduction: 2 years  <b>Released</b>

# APPENDIX 3: A-I Possession

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## Weight of Drugs Possessed

Weight	Number of Applicants	Percentage
Less than 1/2 pound	10	21 %
1/2- 1 pound	13	27 %
1 to 100 pounds	15	32 %
100 or more pounds	9	14 %

# APPENDIX 4

## A – I PRISONERS RESENTENCED TO MINIMUM TERMS

Defendant	Synopsis	Sentence/Released
<b>Leticia Muneton</b>	Coordinated delivery of 332 pounds of cocaine.	Lifetime Supervision Eliminated Sentence Reduction: 7 years <b>Released</b> <b>Deported</b>
<b>Roberto Oms</b>	Sold 4 ½ pounds of heroin for \$150,000. Recovered nearly 5 additional pounds.	Lifetime Supervision Eliminated Sentence Reduction: 7 years
<b>Miguelina Gilbert</b>	While on duty as state parole officer, sold 4 ounces of cocaine to undercover officer. Investigation uncovered narcotics dealing for two years.	Lifetime Supervision Eliminated Sentence Reduction: 7 years <b>Released</b>
<b>Curly Hernandez</b>	Possessed 2 pounds of cocaine.	Lifetime Supervision Eliminated Sentence Reduction: 7 years <b>Released</b>
<b>Alberto Perez</b>	Possessed 1½ pounds of cocaine and a gun.	Lifetime Supervision Eliminated Sentence Reduction: 7 years <b>Released</b>
<b>Jose Mundo</b>	Possessed 2 pounds of cocaine. Prior Manslaughter conviction; currently facing federal sentence for Illegal Reentry conviction.	Lifetime Supervision Eliminated Sentence Reduction: 7 years <b>Released (on state sentence)</b>
<b>Victor Perez</b>	Possessed 2 pounds of cocaine.	Lifetime Supervision Eliminated Sentence Reduction: 7 years
<b>Jeffrey Vasquez</b>	Sold 4 <sup>3</sup> / <sub>8</sub> ounces of cocaine. Observed earlier with 2 pounds of cocaine.	Lifetime Supervision Eliminated Sentence Reduction: 7 years

<b>Defendant</b>	<b>Synopsis</b>	<b>Sentence/Released</b>
<b>Dave Smith</b>	Search warrant execution recovered 1,565 vials of crack, defaced gun, and 24 pounds of marijuana.	Lifetime Supervision Eliminated Sentence Reduction: 7 years <b>Released</b> <b>Deported</b>
<b>Nino Ortiz</b>	Three sales of 2 ounces or more of cocaine.	Lifetime Supervision Eliminated Sentence Reduction: 7 years <b>Released</b> <b>Deported</b>
<b>Hingino Batista</b>	Sold 2 ounces of cocaine. Search warrant execution recovered 3 additional ounces.	Lifetime Supervision Eliminated Sentence Reduction: 7 years <b>Released</b> <b>Deported</b>
<b>Jesus Jiminez</b>	Sold 2 ounces of cocaine.	Sentence Reduction: 7 years <b>Released</b>
<b>Jose Merejildo</b>	Three sales of 2 ounces or more of cocaine.	Sentence Reduction: 7 years <b>Released</b> <b>Deported</b>
<b>Alberto Bureno</b>	Sold of 5½ ounces of cocaine.	Sentenced Reduction: 7 years <b>Released</b> <b>Deported</b>
<b>Juan Solares</b>	Sold 2 ounces of cocaine.	Sentence Reduction: 7 years <b>Released</b>
<b>Jose Luciano</b>	Taxi dispatcher, who assisted in sale of 2 ounces or more of cocaine.	Sentence Reduction: 7 years <b>Released</b> <b>Deported</b>
<b>Educado Hansen</b>	Possessed 10 ounces of cocaine in an auto.	Sentence Reduction: 7 years <b>Released</b>

Defendant	Synopsis	Sentence/Released
<b>Alan Anderson</b>	Possessed 4 ounces of cocaine at Port Authority Bus Terminal.	Sentence Reduction: 7 years <b><i>Released</i></b>

# APPENDIX 5

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## **A-I RESENTENCING**

### Summary:

**Applications Received: 84**

**Offenders Resentenced: 65**

**Offenders Released From Prison: 39**

**Resentenced Offenders Deported: 22**

**Resentenced Offenders Rearrested: 1**

**Offenders Denied Resentencing : 6**

**On Merits: 4**

**Not in Custody: 2**

**Awaiting Decision: 9**

**Withdrew: 2**

**Rejected and will Appeal: 2**

**The following are *summaries* of the 84 re-sentencing applications received based on documents filed in applications for resentencing as of June 15<sup>th</sup> 2006.**

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Cesar German .....	20	Dave Smith.....	59
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## Asain Abreu

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### 1995 indictment

After a violent struggle with the police at 463 West 166th Street in Manhattan, Abreu was found in possession of 4 3/8 ounces of cocaine as well as preparation and packaging materials (a sifter, a scale, a calculator, a note pad, a heat sealer, and hundreds of small plastic bags). Conviction by Jury. Top Count: Criminal Possession of a Controlled Substance in the First Degree.

While incarcerated on the drug offense, defendant was indicted by a New York County Grand Jury for Murder in the Second Degree in October 2002. After jury selection on that case, defendant pled guilty to Manslaughter in the Second Degree for shooting an acquaintance in the neck, and was sentenced to 3 2/3 to 11 years to run consecutively to his 15 to life drug sentence.

		Date
Original Sentence	15 years to life	January 22, 1996
Decision on Resentencing	12 years	March 21, 2005
Judge	Hon. William Wetzel	

## Ramon Alcequier

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### 1999 indictment

During a long term investigation focusing on the corner of 162<sup>nd</sup> Street and Broadway in Manhattan, Alcequier sold cocaine to an undercover officer three times in various locations, including an apartment and a restaurant, and in various amounts, up to 2 1/4 ounces of cocaine. On March 21, 2000, Alcequier failed to appear in court, and on March 23, 2000, a jury trial commenced in his absence. On March 28, 2000, a jury convicted Alcequier. He was sentenced in

absentia on May 12, 2000. Top Count: Criminal Sale of a Controlled Substance in the First Degree. On November 13, 2000, he returned to court after being apprehended. His sentence was imposed on January 23, 2001.

He was previously convicted of the felony, Attempted Criminal Sale of a Controlled Substance in the Third Degree.

		Date
Original Sentence	15 years to life	May 12, 2000
Decision on Resentencing		Awaiting Court's Decision
Judge	Hon. Bruce Allen	

## **Jose Alvarado**

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### **2000 indictment**

During a long term buy and bust operation at 547 West 142<sup>nd</sup> Street in Manhattan, Alvarado sold 2 3/8 ounces of cocaine to an undercover officer for \$1900. He had attempted to sell cocaine to the undercover officer several times during the operation. Conviction by jury. Top Count: Criminal Sale of a Controlled Substance in the First Degree.

Alvarado previously convicted of the felony, Attempted Criminal Possession of a Controlled Substance in the Third Degree.

		Date
Original Sentence	15 years to life	February 15, 2000
Decision on Resentencing	13 years	July 29, 2005
Judge	Hon. Ronald Zweibel	

## Alan Anderson

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### 1996 indictment

Anderson boarded a bus in Port Authority Bus Terminal carrying a knapsack which contained 4 ¾ ounces of cocaine and an additional small bag of cocaine and marijuana inside his shoes.

Conviction by Jury.

Top Count: Criminal Possession of a Controlled Substance in the First Degree.

Original Sentence: 15 years to Life      Date: May 14, 1997

Defendant re-sentenced by Judge Bonnie Wittner to 8 years on February 24, 2005. Defendant released from prison on March 11, 2005.

		Date
Original Sentence	15 years to life	May 14, 1997
Decision on Resentencing	8 years	February 24, 2005
Offender released from prison		March 11, 2005
Judge	Hon. Bonnie Wittner	

## George Antonetty

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### 1995 indictment

On January 31, 1996, detectives of the New York City Police Department received information that Antonetty was in possession of a large quantity of cocaine.

Based on the tip, the police responded to 1049 Fox Street in Bronx County and observed Antonetty, who fled, but in doing so, dropped to the ground a package of cocaine weighing nearly two pounds. Police recovered the cocaine and arrested Antonetty.

Conviction by jury. Top count: Criminal Possession of Controlled Substance in the First Degree.

Antonetty was previously convicted of two federal crimes: Armed Bank Robbery and Conspiracy to Commit Armed Bank Robbery.

		Date
Original Sentence	15 years to life	June 4, 1996
Decision on Resentencing		Awaiting Court's Decision
Judge	Hon. Lewis Bart Stone	

## **Ernesto Aponte**

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### **2000 indictment**

Aponte and three others were the targets of a long term investigation conducted by the Northern Manhattan Initiative. This investigation took place from September 1999 to February 2000 and centered on 517 W. 158<sup>th</sup> Street in Manhattan. Two different undercover officers infiltrated the organization, which primarily sold powdered cocaine inside two different apartments. Aponte was involved in seven different sales, totaling more than \$8000 during a five month period of time. On March 21, 2000 four defendants were arrested.

Conviction by judge. Top Count: Criminal Sale of a Controlled Substance in the First Degree.

Aponte was previously convicted of the felony, Criminal Sale of a Controlled Substance in the Third Degree.

		Date
Original Sentence	15 years to life	June 27, 2002
Decision on Resentencing		Awaiting Court's Decision
Judge	Hon. Laura Drager	

## Hingino Batista

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### 1998 indictment

In April and May 1998, the New York City Police Department Narcotics Division conducted an investigation into drug activities in the area of East 118<sup>th</sup> Street between First Avenue and Pleasant Avenue in Manhattan. On May 11, 1998, Batista sold more than a half ounce of cocaine to an undercover officer, and on May 18, 1998, he sold two ounces of cocaine. On May 27, officers recovered a loaded 9 millimeter gun, drug packaging materials and 3 7/8 ounces of cocaine from his apartment. Conviction by jury. Top Count: Criminal Sale of a Controlled Substance in the First Degree.

		Date
Original Sentence	15 years to life	October 25, 1999
Decision on Resentencing	8 years	June 15, 2005
Offender released from prison	Deported	November 30, 2005
Judge	Hon. Meggan Tallmer	

## Dashawn Brown

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### 2000 indictment

Brown was observed purchasing 4 1/2 ounces of cocaine from an apprehended seller on West 139<sup>th</sup> Street and Broadway in Manhattan. Conviction by jury. Top Count: Criminal Possession of a Controlled Substance in the First Degree.

Brown was previously convicted of two felonies in New Jersey, Possession of a Controlled Dangerous Substance with the Intent to Distribute, on two separate indictments.

		Date
Original Sentence	15 years to life	May 10, 2001
Decision on Resentencing	12 years	September 30, 2005
Judge	Hon. Bruce Allen	

## Alberto Bueno

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### 1992 indictment

On March 13, 1992, in the area of Broadway and 149<sup>th</sup> Street, Bueno was observed selling cocaine (5 1/2 ounces), which was recovered. He absconded, and was tried in absentia. Conviction by jury. Top Count: Criminal Sale of a Controlled Substance in the First Degree.

		Date
Original Sentence	15 years to life	May 18, 1993
Decision on Resentencing	8 years	April 21, 2005
Offender released from prison	Deported	June 1, 2005
Judge	Hon. Marcy Kahn	

## **Manny Cabassa**

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### **1991 indictment**

In April 1990, Cabassa bragged about his drug business to undercover detectives, stating that he "owned" the building and controlled all the drug traffic on the block. He said he was trying to obtain the empty lot next door from the city so that he could set up a heroin business. Defendant asked an undercover officer to be his partner in this new venture. Cabassa made three sales to undercover officers.

Conviction by jury. Top Count: Criminal Sale of a Controlled Substance in the First Degree.

Cabassa was previously convicted of the violent crime of Robbery in the First Degree. Subsequent to his New York conviction, On April 21, 1994, the defendant was sentenced on a federal case to 157 months in prison to run concurrent to the New York sentence. On August 11, 1995, the defendant's federal conviction was reversed upon the ground that the evidence against him had been seized in violation of his Fourth Amendment rights. In 2001, Cabassa challenged his state conviction and his sentence was reduced to seventeen years and three months to life with credit for time already served on his vacated federal conviction.

		Date
Original Sentence	20 years to life	October 4, 1993
Sentence Modified	17 ¼ years to life	2001
Decision on Resentencing	Awaiting Court's Decision	
Judge	Hon. John Cataldo	

## **Alvaro Carvajal**

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### **1994 indictment**

Carvajal was a leader in a cocaine organization that imported tons of cocaine into the United States. From June 1993 – September 1994, the Office of the Special Narcotics Prosecutor and the New York Drug Enforcement Task Force conducted a long term wiretap investigation into the organization which operated in Queens County, New York and San Francisco, California. Carvajal, and his co-defendants Freddy Lasso and Luis Grueso, acted together to transport huge shipments of cocaine from San Francisco to New York and other cities using automobiles equipped with hidden compartments within which the cocaine was stored. Alvaro Carvajal's 1994 arrest capped a two-year sting involving one of the nation's largest drug networks, a unit of the Cali Cartel that distributed up to 10,000 pounds of cocaine per month.

The investigation uncovered a complex operation that transported cocaine from San Francisco to New York via a fleet of cars with hidden compartments. The probe began with a Queens garage called W & G Auto repair, and ultimately discovered coordinated drug operations in Queens, Chicago, San Francisco and other cities.

In late September 1994, police arrested 191 members of the network, including the co-head of the ring's New York operations, Carvajal, who served as the

group's partner on the west coast. Conviction after jury trial. Top count: Criminal Possession of a Controlled Substance in the First Degree.

Original Sentence: 35 years to life (20 years to life to be served consecutively to two concurrent terms of 15 years to life and a concurrent term of 12 1/2 - 25 years)

Carvajal previously convicted of the federal felonies Conspiracy to Distribute Cocaine (1978) and Importation of Cocaine (1984). After his New York conviction, he was also convicted of the federal crime of Conspiracy to Import Cocaine for federal crimes committed in connection with his cocaine enterprise.

		Date
Original Sentence	35 years to life	April 1, 1996
Decision on Resentencing		Awaiting Court's Decision
Judge	Hon Bonnie Wittner	

## **Dario Castro**

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### **1996 indictment**

Castro was arrested after a long term investigation of narcotics trafficking at 132 Sherman Avenue in Manhattan. Castro sold cocaine to an undercover officer on three separate occasions during a three week period (3.5 ounces, 7 ounces and 16 ounces). Conviction by jury. Top Count Criminal Sale Controlled Substance First Degree. He was previously convicted in New York County of the felony, Attempted Criminal Sale of a Controlled Substance in the Third Degree.

		Date
Original Sentence	15 years to life	January 13, 1997
Decision on Resentencing	12 years	March 21, 2005
Offender released from prison	Deported	May 18, 2005
Judge	Hon. William Wetzel	

## **Mario Castro**

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### **1995 indictment**

On November 3, 1995, police arrived at the vicinity of 874 East 167th Street in the Bronx to conduct an undercover drug operation. They followed Castro in his car and recovered a plastic bag that contained over 8 5/8 ounces of heroin, valued between \$30,000 and \$ 50,000. Conviction by jury. Top Count: Criminal Possession of a Controlled Substance in the First Degree.

Defendant previously convicted in Queens County of the felony, Criminal Possession of a Controlled Substance in the Fifth Degree.

		Date
Original Sentence	15 years to life	December 19, 1996
Decision on Resentencing	12 years	April 4, 2005.
Offender released from prison	Deported	November 25, 2005
Judge	Hon. Eduardo Padro	

## Johnny Ciprian

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### 2003 indictment

On January 22, 2003 at 172 Street and Vyse Avenue in the Bronx, Ciprian sold 2 ½ ounces of cocaine to an undercover officer. While out on bail on this case, Ciprian was found in possession of a half a kilogram of cocaine inside an apartment. Conviction by plea. Top Count: Criminal Sale of a Controlled Substance in the First Degree.

Ciprian rejected court's proposed re-sentence of ten years and is appealing.

		Date
Original Sentence	15 years to life	June 13, 2003
Decision on Resentencing	10 years	Judge proposed to resentence to 10 years; prisoner rejected and is appealing
Judge	Hon. Michael Corriero	

## Cristino Contreras

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### 1997 indictment

Contreras was arrested after a long term wiretap investigation. Cristino Contreras, and his brother Jorge Contreras, were leaders of a drug organization that imported hundreds of kilograms of cocaine from Venezuela into the United States, specifically Bronx County. 113 kilograms (249 pounds) of cocaine recovered. Contreras collected and laundered millions of dollars for the narcotics organization and kept records of the organization's activity. He used two businesses, a parking garage and auto repair shop, as cover for narcotics trafficking. Conviction by jury. Top Count: Criminal Possession of a Controlled Substance in the First Degree; also convicted of Conspiracy.

		Date
Original Sentence	28 years to life*	July 13, 2000
Offender re-sentenced	20 years	September 2, 2005
Judge	Hon. Bonnie Wittner	

\* 25 years to life on the drug conviction consecutive to 3 years to 9 on the Conspiracy in the Second Degree conviction.

## **Jorge Contreras**

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### **1997 indictment**

Jorge Contreras was arrested after a long term wiretap investigation. Jorge and his brother Cristino were leaders of a drug organization that imported hundreds of kilograms of cocaine from Venezuela into the United States, specifically Bronx County. 113 kilograms (249 pounds) of cocaine recovered. Jorge Contreras ran day to day affairs of organization, collected money and transmitted money to Venezuelan suppliers. Conviction by jury. Top Count: Criminal Possession of a Controlled Substance in the First Degree and Conspiracy.

		Date
Original Sentence	25 years to life	December 20, 1999
Decision on Resentencing	15 years	August 26, 2005
Judge	Hon. Bonnie Wittner	

## **Luis Delacruz**

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### **2000 indictment**

Delacruz was the target of a long term investigation conducted by the Narcotics Division of the New York City Police Department in the area of 159th Street and Amsterdam Avenue in Manhattan. He negotiated two sales of cocaine, including the sale of 2 3/8 ounces of cocaine to an undercover officer. Conviction by jury. Top Count: Criminal Sale of a Controlled Substance in the First Degree.

Delacruz was previously convicted of two felonies, Criminal Sale of a Controlled Substance in the Third Degree and Criminal Facilitation in the Second Degree. The sales underlying each of the previous indictments also occurred on 159<sup>th</sup> Street.

		Date
Original Sentence	15 years to life	January 1, 2001
Decision on Resentencing	12 years	April 14, 2005
Judge	Hon. Ronald Zweibel	

## Rufino Desla

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### 1992 indictment

NYPD Bronx Narcotics executed a search warrant at 614 West 152 Street, apt# 58. The defendant and a co-defendant were attempting to climb out the window onto the fire escape. Police recovered 1 1/2 pounds of cocaine and three loaded guns from a trap in the bedroom. There was also a scale, dilutant, and packaging material found in the apartment. He was tried and convicted in absentia. He was previously convicted of federal narcotics crime of Conspiracy to Distribute Heroin.

Conviction by jury. Top Count: Criminal Possession of a Controlled Substance in the First Degree.

		Date
Original Sentence	17 years to life	June 17, 1993
Decision on Resentencing		Awaiting Court's Decision
Judge	Hon. Richard Carruthers	

## Frank Estevez

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### 1989 indictment

During a three month long investigation of drug dealing at 247 Audobon Avenue in Manhattan, Estevez sold 15 1/2 ounces of cocaine to an undercover officer for \$12,000. Conviction by plea. Top Count: Criminal Sale of a Controlled Substance in the First Degree

On November 1, 1990, defendant failed to appear on a scheduled court date and a bench warrant was issued. On June 11, 1993, defendant pled guilty and was released on his own recognizance. On December 7, 1993, defendant failed to

appear in court and a bench warrant was issued. On April 1, 1994 defendant was arrested on the warrant and returned to court.

		Date
Original Sentence	18 years to life	December 20, 1994
Decision on Resentencing	10 years	September 29, 2005
Offender released from prison	Deported	November 16, 2005
Judge	Hon. Charles Tejada	

## Jose Felix

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### 1994 indictment

An undercover officer drove to West 185<sup>th</sup> Street and Audobon Avenue Manhattan to buy drugs in a buy and bust operation. The area at that time was the site of many street sales of kilograms of cocaine (kilograms – 2.2 pound bricks). Defendant offered to sell the undercover officer two kilograms of cocaine (4.4 pounds), took him to an apartment, showed him the cocaine and told him the price would be \$19,600. Felix was arrested. A search of the apartment recovered 10 pounds of cocaine, including the kilograms shown to the undercover officer. Several pounds of cocaine were recovered from a trap door compartment, and a kilo press, calculator and walkie talkie radio were also recovered. Conviction by jury. Top Count: Criminal Sale of a Controlled Substance in the First Degree

Felix was previously convicted of the violent felony, Criminal Possession of a Weapon in the Third Degree, for possessing a loaded .9mm Luger semiautomatic pistol in 1993.

		Date
Original Sentence	15 years to life	April 12, 1996
Decision on Resentencing	15 years	May 24, 2005
Offender released from prison	Deported	Sept. 21, 2005
Judge	Hon. Joan Sudolnik	

## **Jose Fernandez**

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### **2000 indictment**

Police set up an observation post in an area of high narcotics activity, 134<sup>th</sup> Street between Broadway and Amsterdam in Manhattan. Fernandez was observed selling cocaine to an apprehended buyer. 2 1/2 ounces plus 20 grains of cocaine were recovered from the buyer. Fernandez absconded during his trial, was convicted in absentia by a jury. Top Count: Criminal Sale of a Controlled Substance in the First Degree. Defendant arrested on a new case and returned to court for sentencing.

Fernandez was previously convicted of the felony, Attempted Criminal Possession of a Controlled Substance in the Third Degree.

		Date
Original Sentence	15 years to life	December 21, 2000
Decision on Resentencing	12 years	March 7, 2005
Judge	Hon. Michael Corriero	

## Fernando Franco

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### 1988 indictment

Franco was an integral member of cocaine organization which distributed thousands of kilograms of cocaine in the United States. He transported and possessed the largest stash of cocaine ever seized by law enforcement in New York State, more than two tons of cocaine ( 2,041 kilograms) worth more than \$30 million dollars seized from a stash apartment in Queens, along with \$1.9 million also recovered from the apartment. He also transferred to a co-defendant 110 kilograms (220 pounds) of cocaine, worth approximately 2 million dollars. Conviction by jury. Top Count: Criminal Possession of a Controlled Substance in the First Degree.

While this case was pending, Franco was convicted by plea in Queens County of the violent felony, Robbery in the First Degree (for 1985 gun point robbery), and received a sentence of 2 1/3 years to 7 years. He had absconded on that charge when he was apprehended for the narcotics case. He has one other felony conviction, for Driving While Intoxicated and Leaving the Scene of an Accident (for 1985 incident). Franco warranted on both 1985 indictments. After his arrest on the narcotics case, he was returned to court to face sentencing.

		Date
Original Sentence	25 years to life*	June 7, 1989
Decision on Resentencing	Denied	August 11, 2005
Judge	Hon. Edward McLaughlin	

\*Consecutive to 2 1/3 years to 7 on the Robbery conviction.

## Francisco Gabriel

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### 1995 indictment

Gabriel was observed by two officers boarding a bus at the Port Authority Bus Terminal. Gabriel placed one of his bags in a compartment away from his seat and, when asked, denied that the bag which he had placed in the other compartment belonged to him. One pound and 15 ounces of cocaine recovered from the bag. Conviction by jury. Top Count: Criminal Possession of a Controlled Substance in the First Degree.

Gabriel was previously convicted in Kings County of the violent felony, Criminal Possession of a Weapon in the Third Degree.

		Date
Original Sentence	15 years to life	January 23, 1996
Decision on Resentencing	15 years	March 14, 2005
Offender released from prison	Deported	May 16, 2006 Prison release date
Judge	Hon. William Wetzel	

## Cesar German

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### 1986 indictment

Officers received a radio run of a man shot inside apartment 2W at 538 West 153rd Street in Manhattan. When officers arrived, German opened the door wearing a gun holster. On top of a table in the living room were over a 100 crack cocaine filled vials (4 ¾ ounces). The police also recovered a loaded gun inside a stereo in the living room. German was arrested but released on his own recognizance by the court. Two weeks later, officers again responded to defendant's apartment after receiving a radio run of a rape taking place at the

location. When German opened the door, he attempted to escape into a nearby room but was apprehended. ¾ ounces and 28 grains of cocaine and a loaded inoperable gun were recovered inside the apartment. Conviction by judge. Top Count: Criminal Possession of a Controlled Substance in the First Degree.

German, in separate indictment, was convicted in connection with shooting and paralyzing a male victim. He pled guilty to the violent felony, Criminal Possession of a Weapon in the Third Degree and received 2 to 4 years concurrent to the drug sentence. German previously convicted in Puerto Rico of the felony, Possession of a Weapon. German has a lengthy prison disciplinary record, which prevented his earlier release.

		Date
Original Sentence	15 years to life	March 24, 1987
Decision on Resentencing	22 years	January 18, 2006
Offender released from prison	Deported	April 19, 2006
Judge	Hon. Michael Corriero	

## **Miguelina Gilbert**

### **1994 indictment**

Gilbert, a New York State Parole Officer assigned to Bronx County, sold 4.5 ounces of cocaine to an undercover officer. Long term investigation revealed that while a parole officer, she was involved in narcotics trafficking for at least two years. Conviction by Jury. Top Count: Criminal Sale of a Controlled Substance in the First Degree.

		Date
Original Sentence	15 years to life	September 24, 1996
Decision on Resentencing	8 years	February 18, 2005
Offender released from prison		February 22, 2005
Judge	Hon. Bruce Allen	

## **Timothy Glass**

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### **1993 indictment**

Glass was arrested with 2 kilograms of cocaine (4.4 pounds) inside a car. He told arresting officers that he and an accomplice stole the cocaine at gunpoint from Washington Heights cocaine dealers. Conviction by plea. Top Count: Criminal Possession of a Controlled Substance in the First Degree.

While out on bail, Glass along with other men, tried to kick in the apartment door of someone the group believed to be cooperating with police (based on information provided to the group by Glass). Another member of the group fired a gun through the door, shooting two innocent occupants, and paralyzing one. Glass was indicted by a Queens County Grand Jury for Attempted Murder in the Second Degree and pled guilty to Attempted Conspiracy in the Second Degree. He received a sentence of 4 to 8 years to run concurrent with the drug sentence.

Defendant previously convicted in Queens County of the felony, Reckless Endangerment in the First Degree and the felony, Grand Larceny in the Second Degree.

		Date
Original Sentence	15 years to life	June 21, 1996
Decision on Resentencing	15 years	August 24, 2005
Judge	Hon. Roger Hayes	

## Charles Green

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### 1990 indictment

Green was a leader of a crack organization operating on West 111<sup>th</sup> Street and West 150<sup>th</sup> Street in Manhattan, selling popular brand of crack cocaine to people standing in lines, sometimes fifty people deep at two locations on 111<sup>th</sup> Street. Green maintained the keys to locations. At time of arrest, he was found inside of organization's stash apartment with \$62,000, 11,000 vials of crack-cocaine, three loaded guns (including an assault rifle), a police scanner and several bullet proof vests. Conviction by plea. Top Count: Criminal Possession of a Controlled Substance in the First Degree. Green was also convicted of Criminal Possession of a Weapon in the Third Degree.

		Date
Original Sentence	18 years to life	November 22, 1991
Decision on Resentencing	16 years	June 7, 2005
Offender released from prison		July 18, 2005
Judge	Hon. Arlene Silverman	

## Luis Grueso

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### 1994 indictment

Grueso was a leader in a cocaine organization that imported hundreds of kilograms into the United States. From June 1993 – September 1994, the Office

of the Special Narcotics Prosecutor and the New York Drug Enforcement Task Force conducted a long term wiretap investigation into the organization which operated in Queens County, New York and San Francisco, California. Grueso, and his co-defendants Freddy Lasso and Alavaro Carvajal, acted together to transport multiple kilogram shipments of cocaine from San Francisco to New York and other cities using automobiles equipped with hidden compartments within which the cocaine was stored. The automobiles were fitted with hidden compartment in New York and cocaine was concealed in the compartments in loads of 40 to 70 pounds for transport from California. The cocaine organization, at the urging of Grueso, employed an enforcer to beat an individual suspected of stealing a load of cocaine during a taped interrogation.

The investigation further revealed that Grueso headed a second, separate organization which transported cocaine along a cross country circuit that included New York, New Orleans, Chicago, Atlanta and Houston. Grueso arranged the laundering of narcotics proceeds for this organization. Conviction by jury. Top Count: Criminal Possession of a Controlled Substance in the First Degree.

		Date
Original Sentence	35 years to life*	April 1, 1996
Decision on Resentencing		Judge proposed resentence of 28 years; prisoner rejected and is appealing.
Judge	Hon. Bonnie Wittner	

\* 20 years to life to be served consecutively to two concurrent terms of 15 years to life and a concurrent term of 8 1/3 to 25 years.

## **Eduardo Hansen**

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### **2002 indictment**

High Intensity Drug Trafficking Area Task Force of the Organized Crime Investigation Division of the New York City Police Department developed information regarding a pending cocaine transfer. They observed a car recognized as transporting cocaine, and followed it. Police stopped the car, found Hansen inside, searched it and recovered 10 ounces of cocaine concealed within a spare tire inside the car. Conviction by Jury. Top Count: Criminal Possession of a Controlled Substance in the First Degree.

		Date
Original Sentence	15 years to life	January 20, 2004
Decision on Resentencing	8 years	March 8, 2005
Judge	Hon. Renee White	

## **Oliver Hediaam**

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### **1994 indictment**

Hediaam found in apartment with 10 7/8 ounces of cocaine and 2 loaded firearms. Officers entered 548 West 164th Street, Manhattan as part of a routine patrol requested by landlord or tenants. When the officers descended to the third floor hallway, one of the officers observed Hediaam leaving an apartment with the white butt handle of a firearm tucked into his waist. He then turned and fled back into the apartment. Hediaam attempted to slam the apartment door behind him, but the officers stopped the door before it closed fully.

The officers caught up with the Hediaam in the living room, where another male was sitting on a sofa. In the bedroom at the foot of the bed, the gun seen earlier

on Hedia's waistband was recovered. A .32 caliber firearm from a slightly-opened top dresser drawer, a scale, two sifters, a pestle, a calculator, a box of aluminum foil, and a box of clear plastic baggies on the dresser were recovered. In addition, police recovered two large bags, one small white bag and one small jar, all containing cocaine, as well as a small clear plastic bag containing crack-cocaine. Conviction by jury. Top Count: Criminal Possession of a Controlled Substance in the First Degree (Acquitted of gun possession).

		Date
Original Sentence	15 years to life	April 18, 1996
Decision on Resentencing	10 years	April 28, 2005
Offender released from prison		June 6, 2005
Judge	Hon. Daniel Fitzgerald	

## **Curly Hernandez**

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### **1992 indictment**

Police officer observed Hernandez on 140<sup>th</sup> Street and Amsterdam Avenue in Manhattan drop a large yellow package containing a kilogram (2.2 pounds) of cocaine into a garbage can. Conviction by Jury. Top Count: Criminal Possession of a Controlled Substance in the First Degree.

Defendant failed to appear for trial and was tried and sentenced in absentia. Defendant was re-arrested for possession of marijuana in March 1996 and committed to state prison on April 23, 1996.

		Date
Original Sentence	15 years to life	October 19, 1992
Decision on Resentencing	8 years	March 28, 2005
Offender released from prison		May 13, 2005
Judge	Hon. William Wetzel	

## Linwood Hine

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### 1995 indictment

Hine had a briefcase containing more than a pound of cocaine in a bus in the Port Authority Terminal. Officers observed Hine in Port Authority Bus Terminal approach another male carrying a briefcase and hand him a bus ticket. The male boarded a bus carrying the briefcase. Officers then saw Hine board the same bus, place the briefcase that the male had carried in an overhead compartment three seats in front of where the other male was sitting, and sit down in a seat underneath the briefcase. Hine and the male both denied ownership of the briefcase which contained 1 pound and 3/8 ounces of cocaine. Conviction by jury. Top Count: Criminal Possession of a Controlled Substance in the First Degree.

		Date
Original Sentence	15 years to life	November 16, 1995
Decision on Resentencing	10 years	March 29, 2005
Offender released from prison		April 15, 2005
Judge	Hon. Marcy Kahn	

## Terrance Hunter (AKA Jimmie Cohen)

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### 1994 indictment

Officers, responding to a complaint about a man selling guns out of a black Honda on 139<sup>th</sup> Street and Hamilton Place, arrived at the location and saw defendant entering a black Honda. Upon seeing the officers, Hunter fled, holding his hands in front of his body as he ran. He ran through an outdoor gathering of church goers and as he did so dropped a large white package. Hunter was stopped and the package ultimately recovered. The package contained a kilogram (2.2 pounds) of cocaine. Conviction by jury.

Top Count: Criminal Possession of a Controlled Substance in the First Degree.

Hunter was previously convicted of the violent felonies, Burglary in the Second Degree and Attempted Burglary in the First Degree (he was on parole when he committed the narcotics offense).

While imprisoned on the burglary convictions, Hunter was found concealing a razor blade in his mouth and was convicted of another felony, Attempt to Promoting Prison Contraband in the First Degree.

		Date
Original Sentence	15 years to life	May 15, 1995
Decision on Resentencing	15 years	April 1, 2005
Judge	Hon. Lewis Stone	

## Severiana Jacquez

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### 1989 indictment

Jacquez rented an apartment where police conducted a search warrant and found her four year old daughter alone in a room with 11 5/8 ounces of cocaine sitting out in the open on a nightstand. A medical examination revealed that the daughter had cocaine in her system. Two days later, Jacquez went to police precinct to find her daughter, who had been placed in foster care. Jacquez was identified as occupant of search warrant apartment and arrested. Conviction by jury. Top Count: Criminal Possession of a Controlled Substance in the First Degree; also convicted: Endangering Welfare of a Child.

Jacquez failed to appear for trial and was tried and sentenced in absentia. She was returned on warrant in 2001 when she attempted to reclaim her bail money. She was committed to prison on May 16, 2001.

		Date
Original Sentence (in absentia)	17 years to life	February 15, 1991
Returned on warrant and began serving sentence		May 4, 2001
Decision on Resentencing	9 years	June 28, 2005
Judge	Hon. Charles Tejada	

## Euverse Jiminez

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### 1998 indictment

Jiminez was arrested after a long term investigation of drug sales at a pool hall. Jiminez sold cocaine to an undercover officer on 2 separate occasions (1/2 ounce and 2 ounces).

Conviction by jury. Top Count: Criminal Sale of a Controlled Substance in the First Degree.

		Date
Original Sentence	15 years to life	August 30, 1999
Decision on Resentencing	9 years	May 20, 2005
Offender released from prison	Deported	July 27, 2005
Judge	Hon. Richard Carruthers	

## **Jesus Jiminez**

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### **1996 indictment**

On April 15, 1996, Jiminez sold 4 1/8 ounces of cocaine to an undercover officer inside an apartment located at 507 West 139<sup>th</sup> Street in Manhattan. On May 7, 1996, Jiminez sold 1/8 ounces of cocaine to the same undercover officer at the same location.

Conviction by plea. Top Count: Criminal Sale of a Controlled Substance in the First Degree.

		Date
Original Sentence	15 years to life	September 26, 1997
Decision on Resentencing	8 years	June 16, 2005
Offender released from prison	Deported	August 23, 2005
Judge	Hon. Laura Drager	

## **Carlos Jose**

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### **1994 indictment**

Bronx detectives received information that suspects wanted for a police homicide were inside an apartment located at 559 West 164th Street in Manhattan. Jose and two others were inside of the apartment. A loaded 9 millimeter gun was recovered from between the cushions on the couch where Jose was seated. Also recovered inside the apartment were 8 ounces of cocaine, rounds of ammunition, a cross bow and scope, a bullet proof vest and a triple beam scale. Jose and the other males were not implicated in the police homicide. Conviction by Jury.

Top Count: Criminal Possession of a Controlled Substance First Degree, also convicted of Criminal Possession of a Weapon in the Third degree.

		Date
Original Sentence	15 years to life	May 12, 1995
Decision on Resentencing	10 years	February 18, 2005
Offender released from prison	Deported	April 5, 2005
Judge	Hon. Charles Tejada	

## Sergio LaFontaine

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### 1988 indictment

LaFontaine was arrested after a long term wiretap investigation. LaFontaine, owner of a hair salon at the time of his crime, was the leader of a thirteen member heroin and cocaine selling operation run for at least two years out of his home and business in Queens. He was a major dealer of kilogram weight heroin and cocaine. Defendant also operated a gambling policy business (“numbers running”) from another apartment in the building. Conviction by jury. Top Count: Criminal Sale of a Controlled Substance in the First Degree.

Defendant previously convicted of 2 felony offenses, Sale of a Controlled Substance in 1971 (for possession of three pounds of heroin and a loaded pistol) and a 1978 federal crime of conspiracy to distribute and possess with intent to distribute heroin and cocaine.

		Date
Original Sentence	35 years to life*	May 24, 1989
Decision on Resentencing	Denied	July 19, 2005
Judge	Hon. Edward McLaughlin	

\*25 years to life consecutive to 10 to 20 years on the Conspiracy in the Second Degree conviction concurrent 12 1/2 to 25 years on the Third Degree Possession with Intent to Sell conviction.

## Alejandro Lopez

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### 1987 indictment

Lopez was the leader of a large scale violent drug organization that sold cocaine bearing the brand name "Rock" from an apartment building at 507 East 11th Street located in Manhattan's Lower East Side for many years. The "Rock" cocaine organization was the subject of a two year long police investigation. Weekly sales of cocaine totaled approximately \$150,000. Homicides and shootings were linked to organization, including the death of a nine year old girl caught in gunfire. Lopez's organization bribed and threatened police officers. 9 millimeter submachine guns, an electronic stun gun, a loaded .38 caliber Beretta pistol modified to fit a silencer, an operable long barrel pistol, a loaded and operable .38 caliber revolver, a bulletproof vest, ammunition and a case for an Uzi submachine gun were recovered from defendant's residences and stash locations. Lopez was arrested at seaside estate in Puerto Rico. Conviction by Jury. Top Count: Criminal Possession of a Controlled Substance in the First Degree; also convicted of Conspiracy in the Second Degree. Lopez was also fined \$3 million dollars, but no portion of fine ever paid.

At resentencing hearing, evidence demonstrated that, while in state prison, Lopez set up several corporations, obtained a Merrill Lynch investment account, bought and sold stocks, and bought and sold real estate in Florida, Puerto Rico and Colorado totaling more than \$1.5 million.

		Date
Original Sentence	33 1/3 years to life*	December 13, 1988
Decision on Resentencing	17 years **	November 4, 2005
Judge	Hon. Bruce Allen	

\* 25 years to life consecutive to 8 1/3 years to 25 years on the Conspiracy in the Second Degree conviction, and a \$3 million fine.

\*\* Consecutive to 8 1/3 years to 25 on the Conspiracy conviction.

## **Genaro Lozano**

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### **1997 indictment**

Police responded to a 911 of a dispute between 2 men at an apartment located at 610 West 145<sup>th</sup> Street, Manhattan. When police arrived at the apartment they heard scurrying sounds and observed one male drop cocaine out of the window onto the fire escape. Lozano was found inside the apartment. Police recovered from the apartment: 4 1/8 ounces of crack cocaine, cocaine residue in toilet bowl, on window sill and fire escape and cocaine packaging materials.

Conviction by jury. Top Count: Criminal Possession of a Controlled Substance in the First Degree.

Lozano was previously convicted of the felony, Attempted Criminal Possession of a Controlled Substance in the Third Degree. That case arose out of search warrant executed in same apartment building.

		Date
Original Sentence	15 years to life	March 10, 1998
Decision on Resentencing	12 years	October 14, 2005
Judge	Hon. Marcy Kahn	

## Jose Luciano

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### 1997 indictment

Luciano was arrested after a ten month long investigation of narcotics trafficking in a livery car service business. Luciano was a taxi dispatcher and was involved in three sales of 2 or more ounces of cocaine to an undercover officer.

Conviction by jury. Top Count: Criminal Sale of a Controlled Substance in the First Degree.

		Date
Original Sentence	15 years to life	April 30, 1999
Decision on Resentencing	8 years	April 12, 2005
Offender released from prison	Deported	August 24, 2005
Judge	Hon. Ruth Sussman	

## Bernardo Mejia

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### 1999 indictment

Mejia's arrest was the result of a long term wiretap investigation. Mejia was a manager of major cocaine trafficking organization, intercepted repeatedly in wiretapped phone calls making arrangements for distribution of large amounts of

cocaine and arranging for collection of narcotics proceeds. When arrested, Mejia had a van fully loaded with 300 kilograms (660 pounds) of cocaine. Conviction by jury. Top Count: Criminal Possession of a Controlled Substance in the First Degree also convicted of Conspiracy.

		Date
Original Sentence	25 years to life	May 25, 2000
Decision on Resentencing	15 years	June 6, 2005
Judge	Hon. Jeffrey Atlas	

## Jose Merejildo

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### 1998 indictment

Merejildo's arrest stemmed from a large-scale investigation targeting a drug operation on West 162nd Street in Manhattan. On January 9, 1998, an undercover officer went to the area to buy drugs from a member named "Jose." After the officer failed to locate that person, Merejildo approached the officer and told him he was a "Jose too" and asked what the officer was looking for. Merejildo took the officer to his apartment on the block and sold one ounce of cocaine. The officer made two more purchases of cocaine from him, including one of more than two ounces. Conviction by jury. Top Count: Criminal Sale of a Controlled Substance in the First Degree.

		Date
Original Sentence	15 years to life	May 11, 1999
Decision on Resentencing	8 years	April 18, 2005
Offender released from prison	Deported	August 24, 2005
Judge	Hon. Roger Hayes	

## Lisandro Montes De Oca

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### 1996 indictment

Montes De Oca was arrested pursuant to a long term wiretap investigation into an international conspiracy to import hundreds of kilograms of cocaine and launder approximately \$20 million dollars in narcotics proceeds. Montes De Oca, co-defendant of Tirso Salcedo, was a high level member of cocaine organization who helped store cocaine, delivered it to local distributors, collected proceeds, paid debts to suppliers and kept records of transactions. Intercepted conversation recorded Montes De Oca supervising the storage of approximately 400 pounds of cocaine in the Bronx. He was observed delivering a bag containing approximately twenty pounds of cocaine to a Bronx customer of the organization. In his home, police recovered money counting machine and narcotics records. Conviction by jury. Top Count: Criminal Possession of a Controlled Substance in the First Degree.

Defendant previously convicted in Bronx County in 1992 of the A- II felony, Criminal Possession of a Controlled Substance in the Second Degree. In 1997 he was convicted of the federal felony, Conspiracy to Commit Money Laundering for money laundering on behalf of this criminal organization.

		Date
Original Sentence	35 years to life*	September 2, 1998
Decision on Resentencing	24 years	August 12, 2005
Judge	Hon. Bonnie Wittner	

\* 15 years to life on one Possession count to run consecutive to two concurrent terms of 20 years to life on two Possession counts and a concurrent term of 12½ years to 25 years on the Conspiracy count

## **Jose Mundo**

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### **1997 indictment**

Two officers in an unmarked police car on Broadway in Manhattan, observed a car with Florida license plates make a right turn through a steady red light onto West 156th Street. Mundo was in the rear seat passenger. The officers attempted to pull the car over and caution the driver that it was illegal to turn right on red in New York City. At first, the car slowed to a stop, but when the officers got out of their car and began to approach it, the car sped off. As the car continued to flee, it swerved around an ice-cream truck which was parked along the side of the street, and almost struck a woman who was crossing in front of the truck. When the car finally stopped, all three occupants were removed. One of the officers spotted an access in the middle of the rear seat and pulled it down, revealing a hole that led directly into the trunk of the car. Through the hole, the officer saw a package in the trunk and smelled a strong chemical odor, which he recognized as a chemical used to prepare cocaine for sale. The officers opened up the trunk and removed the package, which contained almost a kilogram (2.2 pounds) of cocaine. Conviction by jury. Top Count: Criminal Possession of a Controlled Substance in the First Degree.

Mundo was convicted in 1974 of the violent felony, Manslaughter in the First Degree, for calling a man out of a taxicab, slapping him in the face, shooting him, then standing over his fallen body and shooting him again in the head. His plea also covered an open indictment for selling narcotics to an undercover, and he was deported. He re-entered the United States illegally in 1989, and in 1990 pled guilty to the federal charge of false claim to United States citizenship. He was deported a second time, returned illegally a second time, and was charged with the federal offense of illegal entry to which he pled guilty in 2000.

		Date
Original Sentence	15 years to life	November 1, 1999
Decision on Resentencing	8 years	May 11, 2005
Offender released from prison	To federal custody	April 13, 2006
Judge	Hon. Bruce Allen	

## **Leticia Muneton**

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### **1997 indictment**

On October 14, 1997, the Memphis, Tennessee Police Department recovered 151 kilograms (about 332 pounds) of cocaine from the bed of a pick-up truck. The cocaine had a street value of \$43,775,000. The police learned that the cocaine was being transported from Dallas, Texas to New York City and that Muneton was in charge of coordinating the delivery of the cocaine into New York City. Muneton arrested on 34<sup>th</sup> Street and Sixth Avenue in Manhattan after she was observed overseeing delivery of drugs.

Conviction by jury. Top Count: Criminal Possession of a Controlled a Substance in the First Degree.

		Date
Original Sentence	15 years to life	March 26, 1999
Decision on Resentencing	8 years	May 19, 2005
Offender released from prison	Deported	July 12, 2005
Judge	Hon. Bruce Allen	

## **Roberto Oms**

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### **1999 indictment**

From January 1999 to April 1999, the Drug Enforcement Administration and the Brooklyn North Narcotics Division Task Force of the New York City Police Department conducted an investigation into heroin trafficking between Florida and New York City. As part of the investigation, in April 1999, Oms was observed in a hotel room with 4 kilograms (8.8 pounds) of heroin, worth several hundred thousand dollars. He weighed and sold 2 kilograms to an undercover officer. Investigators arrested other members of the trafficking organization, but Oms fled. He was arrested in Florida in July 2000 on theft and forgery charges and extradited to New York. Conviction by jury. Top Count: Criminal Sale of a Controlled Substance in the First Degree.

While Oms was awaiting sentence, he was convicted in Bronx County of Promoting Prison Contraband in the First Degree, for passing heroin in Rikers Island Correctional Facility. On February 13, 2003, he was sentenced on that case to 1 to 3 years to run concurrent with the drug sentence.

		Date
Original Sentence	15 years to life	October 20, 2002
Decision on Resentencing	8 years	March 10, 2005
Judge	Hon. Rosalyn Richter	

## **Nino Ortiz**

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### **1999 indictment**

During a long term investigation into drug dealing at 511 West 160th Street in Manhattan, Ortiz sold cocaine to an undercover officer on 3 separate occasions (2¼ ounces, ½ ounce, and 2 ounces). Conviction by plea. Top Count: Criminal Sale of a Controlled Substance in the First Degree.

		Date
Original Sentence	15 years to life	August 8, 2000
Decision on Resentencing	8 years	August 18, 2005
Offender released from prison	Deported	November 16, 2005
Judge	Hon. Daniel P. FitzGerald	

## **Emanuel Pacheco**

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### **1990 indictment**

Pacheco was the target in a long term investigation conducted by the Bureau of Alcohol, Tobacco, and Firearms at 290 Troutman Street in Brooklyn. He sold 2 ounces of crack-cocaine to an undercover officer and possessed an additional 653 vials containing crack-cocaine (2 ounces) inside a car where he was arrested. Conviction by Jury. Top Count: Criminal Sale of a Controlled Substance in the First Degree.

After his arrest, Pacheco was released on his own recognizance and failed to appear for his scheduled court date on October 15, 1990. Two years later he was arrested in Ulster County and returned to New York County.

While a fugitive, defendant was indicted by a Kings County Grand Jury for Murder in the Second Degree and Criminal Possession of a Weapon in the Second and Third Degrees for a drive-by shooting in Brooklyn. In connection with that, Pacheco pled guilty to the violent felony, Criminal Possession of a Weapon in the Third Degree and received 1 to 3 years to run concurrent to the drug sentence. Pacheco was subsequently indicted and convicted of the felony, Bail Jumping in the Second Degree, which was consolidated with the drug indictment.

Pacheco had a lengthy prison disciplinary record, including a conviction for being a prison gang leader who ordered an assault on another prisoner.

		Date
Original Sentence	15 years to life	December 22, 1993
Decision on Resentencing	12 1/2 years	April 8, 2005
Offender released from prison		August 23, 2005
Judge	Hon. Arlene Silverman	

## **Alberto Perez**

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### **1995 indictment**

On April 26, 1995, police officers drove to an apartment building located at 34 Bogardus Place in Manhattan, in response to an anonymous telephone call. When they arrived, they knocked on the door of Apartment 5C. Hearing sounds of rapid movement from within the apartment, the officers knocked louder and identified

themselves. After approximately two minutes, Perez opened the door. Through the doorway, the officers observed a gun lying on top of a dresser. The gun, a Torres 9-millimeter semi-automatic pistol loaded with fifteen bullets was recovered. A search of the apartment yielded three plastic bags containing approximately 1 pound and 6 3/4 ounces cocaine, a triple beam scale, and aluminum foil, all found on a kitchen counter, as well as \$ 1,634 in United States currency and a set of keys which fit the locks on the front door of the apartment.

Conviction by jury. Top Count: Criminal Possession of a Controlled in the First Degree, also convicted of Criminal Possession of a Weapon.

		Date
Original Sentence	15 years to life	September 24, 1996
Offender re-sentenced	8 years	May 2, 2005
Offender released from prison	Deported	June 29, 2005
Judge	Hon. Charles Tejada	

## **Victor Perez**

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### **2000 indictment**

On August 11, 2000, officers were conducting surveillance of a known drug location located at 601 West 141<sup>st</sup> Street in Manhattan. They initially observed Perez being chased, and asked if he needed help. He declined assistance and later they saw him again, observed him carrying a package and called to him. Perez fled when the officers identified themselves. He threw a brick size package of cocaine to the ground and was stopped by the officers. The package containing 2 pounds of cocaine was recovered. Conviction by jury. Top Count: Criminal Possession of a Controlled Substance in the First Degree.

Perez has a prior Pennsylvania conviction for possessing marijuana with intent to deliver.

		Date
Original Sentence	15 years to life	June 1, 2001
Decision on Resentencing	8 years	June 24, 2005
Judge	Hon. Bruce Allen	

## **Alexis Perry**

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### **1985 indictment**

Perry was a member of a violent drug gang (“The Vigilantes”) that trafficked heroin in Harlem in the 1980’s. He was indicted for 16 counts of sale and possession of heroin. He also participated in the execution of a trial witness seven hours after the witness’s name was revealed during the Vigilantes leader’s (Nathaniel Sweeper) trial for murder. Perry was carrying a loaded .38 caliber pistol when he was arrested. Conviction by plea. Top Count: Criminal Sale of a Controlled Substance in the First Degree.

Perry also pled guilty to Murder in the Second Degree for the killing of the trial witness.

		Date
Original Sentence	25 years to life*	June 23, 1986
Decision on Resentencing	20 years	July 7, 2005
Judge	Hon. Arlene Silverman	

\*concurrent to 25 years to life for the murder indictment.

## **Theodore Persico**

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### **1987 indictment**

Arrest was result of a long term investigation of organized crime activities in Brooklyn. Persico was a major supplier of cocaine in a large scale cocaine trafficking organization. He sold cocaine to an undercover officer on 4 separate occasions, including one sale of 13 ounces. Conviction by jury. Top Count: Criminal Sale of a Controlled Substance in the First Degree.

Persico filed an application for resentencing when he was no longer in custody, and withdrew it after he was indicted by the United States Attorney's Office for the Eastern District of New York.

He subsequently pled guilty in the United States District Court, Eastern District of New York, on federal racketeering charges. He was sentenced on March 14, 2006 to 42 months imprisonment.

		Date
Original Sentence	20 years to life	June 29, 1988
Decision on Resentencing	Application withdrawn because already released	May 2005
Offender released from prison		April 28, 2004
Judge	Hon. Michael Corriero	
Rearrest	Federal Racketeering and Extortion	May 5, 2005

## Joseph Petito

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### 1986 indictment

Petito, target of a long term investigation, sold heroin (in large quantities) on 5 separate dates. On one occasion, he sold 13 ounces of heroin to an undercover officer. Top Count: Criminal Sale of a Controlled Substance in the First Degree.

When convicted on narcotics case, Pettito was on parole for a prior violent felony conviction, Manslaughter in the First Degree. In that case, Petito was in a Brooklyn bar and objected to the way the deceased was looking at his wife. He hit the deceased with a bar stool, then followed him outside after he left the bar, shooting and killing the deceased and injuring one of his friends.

		Date
Original Sentence	20 years to life	March 3, 1987
Decision on Resentencing	17 1/2 years	March 21, 2005
Offender released from prison		May 9, 2005
Judge	Hon. Edward J. McLaughlin	

## Daniel Quinones

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### 1991 indictment

Officers responded to a radio run of “shots fired” at 520 West 151<sup>st</sup> Street apartment 53 in Manhattan. Quinones and another male were observed in apartment 51. Quinones threw 3 bags of cocaine to the other male. That male threw the cocaine out of the window. The bags were recovered and the total weight was 4 1/8 ounces. Conviction by jury. Top Count: Criminal Possession of a Controlled Substance in the First Degree.

After his conviction, Quinones filed numerous motions and appeals and was released on bail in 1996. While out on bail, he was arrested and charged with Grand Larceny in the Third Degree for stealing an automobile on January 24, 1996. Defendant was released on bail on that case. Quinones did not return to Court and a bench warrant was issued for his arrest on July 11, 1996. On January 1, 2001, he was arrested for driving without a license and returned to Court on January 3, 2001. Quinones was sentenced to 15 years to life on the drug conviction concurrent with a sentence of from 1 to 3 years on the Grand Larceny case.

He was previously convicted in Bronx County of the felony, Burglary in the Third Degree.

		Date
Original Sentence	15 years to life	February 14, 2002
Decision on Resentencing	12 years	April 29, 2005
Judge	Hon. Bruce Allen	

## **Jose Quinones**

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### **1996 indictment**

Quinones was the target of a long term investigation into narcotics trafficking at a beeper store located at West 160<sup>th</sup> Street and Broadway in Manhattan. During the investigation, he sold 2 7/8 ounces of cocaine to an undercover police officer. Conviction by jury. Top Count: Criminal Sale of a Controlled Substance in the First Degree.

Quinones was previously convicted of the violent felony, Criminal Possession of Weapon in the Third Degree.

		Date
Original Sentence	15 years to life	April 3, 1998
Decision on Resentencing	Withdrawn	January 6, 2006
Judge	Hon. Edward McLaughlin	

## **Javier Ramirez**

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### **1997 indictment**

Ramirez was intercepted in a long term wiretap investigation. Ramirez, a garage owner, allowed his Queens County garage to be used as storage facility for shipments of cocaine. Ramirez was arrested after he received 137 kilograms (about 300 pounds) of cocaine. Conviction by jury.

Top Count: Criminal Possession of a Controlled Substance in the First Degree.

		Date
Original Sentence	15 years to life	March 31, 1999
Decision on Resentencing	11 years	March 28, 2005
Offender released from prison		June 29, 2005
Judge	Hon. Bonnie Wittner	

## **Alberto Ramos**

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### **2002 indictment**

Ramos, a target of an investigation conducted by the New York Drug Enforcement Task Force was observed leaving a car carrying a gym bag and entering another car. Agents had information that Ramos was involved in sale of kilogram of cocaine. One kilogram of cocaine was recovered from inside the bag. Agents subsequently learned that he obtained the cocaine from a social club located at 131 Dumont Avenue in Brooklyn. Upon execution of a search warrant at that location 250 grams of cocaine and various drug paraphernalia, including a scale, sifter and calculator were recovered.

Conviction by jury. Top Count: Criminal Possession of a Controlled Substance in the First Degree.

Defendant was previously convicted in Queens County of the felony, Criminal Contempt in the First Degree, for disobeying an order of protection, forcing his way into an ex-girlfriend's apartment, assaulting her, threatening to shoot her father and threatening to kill her.

		Date
Original Sentence	15 years to life	March 31, 2003
Decision on Resentencing	12 years	March 29, 2005
Judge	Hon. Charles Tejada	

## **Anthony Rampino**

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### **1987 indictment**

Detectives developed long term investigation during which Rampino sold 1/8 of a kilo of heroin to an undercover officer in the vicinity of 58<sup>th</sup> Street and First Avenue in Manhattan. Rampino admitted in tape recorded conversations that he was dealing drugs and earning three to five thousand dollars “a package”. He continued to deal drugs while incarcerated and awaiting trial on this case. In December 1987, Rampino arranged to smuggle heroin into prison while awaiting trial. Rampino worked for organized crime boss John Gotti and participated in the 1985 murder of Paul Castellano and Thomas Billotti. Rampino was not prosecuted for the murder because he had been sentenced on the drug case to a term of 25 years to life. Conviction by jury. Top Count: Criminal Sale of a Controlled Substance in the First Degree.

Prior to his arrest and incarceration on this case, Rampino had trafficked in heroin for most of his adult life. His earliest arrest occurred in 1962, and in 1966 was part of a major heroin distribution ring and sold heroin to an undercover officer. He was convicted in 1967 of the federal felony charge of Sale of Heroin, and in 1972 in Bronx County, the felony, Criminal Possession of a Dangerous Drug in the Fifth Degree.

		Date
Original Sentence	25 years to life	November 3, 1988
Decision on Resentencing	Denied	March 8, 2006
Judge	Hon. Edward McLaughlin	

## **Jose Reyes**

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### **1995 indictment**

Reyes was the sole occupant of an apartment that was the subject of a search warrant execution. The apartment was located at 601 West 140<sup>th</sup> Street in Manhattan. A loaded .357 revolver was recovered from underneath the carpet in the front hall, 3 bags containing cocaine were recovered in a hidden compartment, or “trap,” in the hall behind the door, drug records and drug paraphernalia from the bedroom, and 3 more bags containing cocaine from the bathroom. The combined weight of the 6 bags of cocaine was 4 pounds. Police also recovered drug records, a scale, a heat sealer, plastic bags and rubber bands. Conviction by jury. Top Count: Criminal Possession of a Controlled Substance in the First Degree, also convicted of Criminal Possession of a Weapon in the Fourth Degree.

		Date
Original Sentence	17½ years to life	December 9, 1996
Decision on Resentencing	10½ years	July 15, 2005
Offender released from prison	Deported	Sept. 21, 2005
Judge	Hon. Richard Carruthers	

## **Barrington Reynolds**

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### **1988 indictment**

Reynolds was a member of a large scale cocaine operation which proposed to sell multiple kilograms of cocaine per week to an undercover officer. Defendant was a lieutenant and bodyguard in a violent gang and a member of another gang previously that had put out a contract on the undercover officer's life. Defendant sold a ½ kilogram of cocaine to the undercover officer on one occasion for \$10,000, attempting to intimidate the undercover by showing him that he was armed with a gun during the sale. Conviction by jury. Top Count: Criminal Sale of a Controlled Substance in the First Degree.

Defendant previously convicted of the violent felony, Criminal Possession of a Weapon in the Third Degree for the 1984 possession of a concealed, loaded .44 caliber handgun.

Extensive prison disciplinary record including drug possession.

		Date
Original Sentence	25 years to life	June 14, 1989
Decision on Resentencing	22 years	May 27, 2005
Judge	Hon. Robert Strauss	

## Luis Rivera

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### 1990 indictment

Rivera was a member of a drug organization that distributed huge amounts of heroin and cocaine in Manhattan's Lower East Side in the late 1980's. He was one of the leaders of the organization which employed up to 30 managers and some days, sold more than 10,000 glassine envelopes of heroin a day. His apartment located at 159 Essex Street was used as a place where heroin and cocaine were packaged and stored before being distributed to storefront locations. Rivera, his co-defendant Luis Torres and others were responsible for the sale of pre-packaged "Black" brand name of heroin sold out of storefront businesses at 127 Stanton Street and 16 Clinton Street. When Rivera's apartment was searched, 2 pounds of cocaine, several guns, \$70,000, as well as drug paraphernalia were recovered. Conviction by jury. Top Count: Criminal Possession of a Controlled Substance in the First Degree; also convicted of Conspiracy and Criminal Possession of a Weapon in the Fourth Degree.

		Date
Original Sentence	25 years to life	December 3, 1990
Decision on Resentencing	15 years	July 7, 2005
Offender released from prison		February 27, 2006
Judge	Hon. Bruce Allen	

## Jose Rodriguez

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### 1997 indictment

Rodriguez was arrested after a long term investigation into narcotics dealing on West 139<sup>th</sup> Street between Broadway and Riverside Drive initiated in response to high volume of community complaints about cocaine and crack dealing in neighborhood. On May 21, 1997 defendant and his brother-in-law sold 20 grams of crack-cocaine (more than a 1/2 ounce) to an undercover officer. On May 29, 1997, defendant sold 70 grams of crack-cocaine (more than 2 ounces) to the same undercover officer. The sales occurred in front of 624 W. 139<sup>th</sup> Street. Conviction by jury. Top Count: Criminal Sale of a Controlled Substance in the First Degree also convicted of Conspiracy.

Rodriguez was previously convicted of the felony, Attempted Criminal Sale of a Controlled Substance in the Third Degree, for selling crack in the same building, 624 W. 139<sup>th</sup> Street.

		Date
Original Sentence	15 years to life	April 9, 1998
Decision on Resentencing	12 years	May 20, 2005
Judge	Hon. Michael Corriero	

## Orlando Rodriguez

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### 2003 indictment

After 2 weeks of surveillance in Elizabeth, New Jersey, officers observed Rodriguez take delivery of 100 kilograms (220 pounds) of cocaine, valued at more than \$2 million, which he intended to distribute. The drugs were worth many times that on the street. Rodriguez was stopped after driving a minivan across the George Washington Bridge into Manhattan. 100 kilograms of cocaine were recovered from 4 large duffel bags from the rear of a minivan. Conviction

by jury. Top Count: Criminal Possession of a Controlled Substance in the First Degree.

Defendant previously convicted of the felony, Criminal Possession of a Controlled Substance in the Fifth Degree.

		Date
Original Sentence	20 years to life	October 26, 2004
Decision on Resentencing	18 years Offender to decide to accept or appeal decision	February 17, 2006
Judge	Hon. Marcy Kahn	

## **Emilio Roque**

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### **1996 indictment**

Officers in vicinity of 525 West 158<sup>th</sup> Street in Manhattan observed Roque leave apartment from which they recovered: a strainer, tin foil, a key to the apartment, a book containing drug records and 4 1/4 ounces of cocaine (in five bags under kitchen sink). Roque had \$1,354 on his person. Conviction by jury. Top Count: Criminal Possession of a Controlled Substance in the First Degree.

		Date
Original Sentence	15 years to life	March 26, 1997
Decision on Resentencing	9 years	March 23, 2005
Offender released from prison	Deported	May 18, 2005
Judge	Hon. Robert Strauss	

## **Tirso Salcedo**

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### **1996 indictment**

Tirso Salcedo was arrested pursuant to a long term wiretap investigation conducted by the Drug Enforcement Task Force into an international conspiracy to import hundreds of kilograms of cocaine and launder approximately \$20 million dollars in narcotics proceeds. Salcedo, the head of the organization, was responsible for arranging for the importation and storage of hundreds of kilograms of cocaine, overseeing managers who distributed the cocaine to customers, collecting proceeds of transactions, and ensuring that payments were made to Colombian suppliers. Salcedo maintained a ledger showing more than \$20 million dollars in payments to Colombian suppliers over the course of four months. At close of investigation, more than \$360,000 seized, along with records showing recent payments to Colombian suppliers of \$14 million dollars.

Conviction by jury. Top Count: Criminal Possession of a Controlled Substance in the First Degree.

		Date
Original Sentence	40 years to life*	February 23, 2000
Decision on Resentencing	Denied	December 19, 2005
Judge	Hon. William Wetzel	

\*20 years to life for each Possession count to run consecutively to each other but concurrent to 8 1/3 years to 25 on the Conspiracy in the Second Degree charge.

## **Wilfredo Schery**

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### **1994 indictment**

Schery was arrested after a long term wiretap investigation conducted by the Drug Enforcement Task Force. He was a cell-head of a major Colombian cocaine importation and distribution organization. He took delivery of shipments of hundreds of kilograms of cocaine, storing it primarily in a stash house in Westchester County. He was also responsible for overseeing the distribution of the cocaine in the New York City area, and for collecting, storing, and ultimately transmitting millions of dollars of narcotics proceeds back to Colombia. Schery employed between five and ten managers. During the investigation, more than \$1 million in cash was seized and about 300 kilograms of cocaine (660 pounds) were recovered. Conviction by plea. Top Count: Criminal Possession of a Controlled Substance in the First Degree.

After New York conviction, Schery was convicted on additional charges of Conspiracy to Possess with Intent to Distribute Cocaine for federal crimes committed during his involvement in narcotics importation organization, including laundering more than \$5 million in narcotics proceeds.

		Date
Original Sentence	20 years to life	May 15, 1996
Decision on Resentencing	17 years	May 9, 2006
Judge	Hon. Arlene Goldberg	

## **Michael Singleton**

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### **1989 indictment**

During an attempt by an undercover officer to purchase drugs from Singleton, he pointed a loaded gun at the undercover and demanded that the undercover officer take him to the person who sent him there to buy drugs. The undercover walked a distance with Singleton before he and his back up team wrestled the gun away from Singleton, who fled. Later, during the execution of a search warrant, Singleton was found in an apartment where 19 ounces of cocaine, one ounce of heroin, \$13,000, drug paraphernalia and the ammunition for the gun he pointed at the undercover officer were recovered. Conviction by jury. Top Count: Criminal Possession of a Controlled Substance in the First Degree; also convicted of Criminal Possession of a Weapon.

Singleton was previously convicted of 2 violent felony weapon offenses, Criminal Possession of a Weapon in the Third Degree in Westchester County, Unlawful Possession of a Weapon in the Third Degree in New Jersey. Defendant was also previously convicted of the felony, Criminal Sale of a Controlled Substance in the Third Degree in New York County.

		Date
Original Sentence	18 years to life	January 4, 1991
Decision on Resentencing	18 years	June 17, 2005
Offender released from prison		August 16, 2005
Judge	Hon. Lewis Bart Stone	

## Dave Smith

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### 1987 indictment

Officers observed a man who matched a description of a robbery suspect flee into apartment 16 located at 161 Edgecombe Avenue in Manhattan. The individuals inside the apartment were attempting to hold the front door shut when the officers arrived. Dave Smith was observed fleeing to a rear bedroom. He fled downstairs to another apartment below where he was arrested. In apartment 16, the police recovered 1565 vials of crack-cocaine, a large bag containing powder cocaine, 24 pounds of marijuana, 300 crack vials and 6 loaded guns (1 was inoperable). Only a portion of the crack was tested, in accordance with existing police protocols intended to conserve time and expense. The police laboratory only tested cocaine necessary to meet aggregate threshold weight of 4 ounces. The aggregate weight of the 300 vials tested was cocaine was 4 3/8 ounces. The remaining cocaine was destroyed. Smith absconded before trial and a jury trial was conducted in his absence. Nine years later, Smith was apprehended and returned to begin serving his sentence.

Conviction by jury. Top Count: Criminal Possession of a Controlled Substance in the First Degree. Also convicted: Criminal Possession of a Weapon.

During the pendency of this case, Smith was arrested pursuant to a search warrant at another location where cocaine, crack and marijuana were recovered.

He pled guilty to Attempted Criminal Possession of a Controlled Substance in the Fifth Degree before warranted on that case as well.

Smith was sentenced in absentia to 25 years to life. He was returned on a warrant on September 21, 1998. At that time his sentence was modified to 22 years to life. On July 8, 2003, as part of a negotiated settlement of an appellate issue, Smith's sentence was further reduced to 15 years to life.

		Date
Original Sentence	25 years to life	April 11, 1989
Sentence Modified	22 years to life	September 21, 1998
Sentence Reduced	15 years to life	July 8, 2003
Decision on Resentencing	8 years	June 24, 2005
Offender released from prison	Deported	December 22, 2005
Judge	Hon. Robert Strauss	

## **Juan Solares**

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### **2000 indictment**

Solares was the focus of a long term investigation conducted by the New York City Police Department during the summer of 2000 in the vicinity of 144th Street and Broadway in Manhattan. On July 21st, July 28th and again on August 11th, 2000, he negotiated and delivered a quantity of 2 3/8 ounces of cocaine for \$2,000.00 to an undercover police officer.

Conviction by jury. Top Count: Criminal Sale of a Controlled Substance in the First Degree.

		Date
Original Sentence	15 years to life	October 9, 2001
Decision on Resentencing	8 years	April 14, 2005
Judge	Hon. Edward McLaughlin	

## **Luis Solis**

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### **1992 indictment**

Officers on patrol received a radio run of a burglary in progress at 565 West 145<sup>th</sup> Street in Manhattan. As they entered the lobby, they immediately saw Solis standing next to 2 other males. One of the males had a cocaine test kit, commonly used by police officers, in his hand, and the other male was holding a calculator. Solis and the others were standing next to a box which contained one pound and 1/8 ounces of cocaine.

Conviction by jury. Top count: Criminal Possession of a Controlled Substance in the First Degree.

Solis failed to appear for trial and was tried and sentenced in absentia. Solis was arrested in March 2001 for attempting to illegally enter the United States through Miami using a false passport. He was committed to state prison in 2001.

		Date
Original Sentence (In absentia)	18 years to life	March 19, 1993
Decision on Resentencing	10 years	June 24, 2005
Judge	Hon. Richard Carruthers	

## **Jorge Sprau**

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### **1986 indictment**

Sprau and another male were seated in the back of a livery cab on West 99<sup>th</sup> Street and Amsterdam Avenue in Manhattan, and were stopped because they fit the description of homicide suspects. Two bags of cocaine were recovered from Sprau himself and five from the floor of the taxi for a total of 6 3/8 ounces of cocaine. Conviction by Jury. Top Count: Criminal Possession of a Controlled Substance in the First Degree.

Prior to the crime for which he is currently imprisoned, Sprau was convicted of Criminal Sale of a Controlled Substance in the Fourth Degree in February of 1985, and for Criminal Possession of a Weapon in the Fourth Degree, for possessing a loaded pistol in October of 1985.

While incarcerated on the drug conviction, defendant has committed and been convicted of 2 felonies. In 1989, defendant was convicted of Attempted Criminal Possession of a Weapon in the Third Degree for possessing a sharpened piece of metal approximately ten inches long. He was sentenced to 1½ to 3 years to run consecutively to his drug conviction sentence. In 2002, defendant was convicted of Attempted Promoting Prison Contraband in the First Degree for possessing a razor blade melted into a toothbrush handle; he was sentenced to 1½ to 3 years to run consecutively to the drug sentence. He has been disciplined in prison repeatedly for incidents where he stabbed and assaulted other inmates.

		Date
Original Sentence	15 years to life	October 8, 1986
Decision on Resentencing	12 years	November 4, 2005
Offender released from prison	Deported	March 15, 2006
Judge	Hon. Edward McLaughlin	

## Ryan Thai

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### 1988 indictment

Thai was the target of a long term wiretap investigation. Defendant sold a pound and a half of heroin to an undercover officer. Conviction by jury. Top Count: Criminal Sale of a Controlled Substance in the First Degree. Thai was denied resentencing because he was not in custody at the time of his application.

		Date
Original Sentence	25 years to life	November 14, 1989
Decision on Resentencing	Denied*	July 19, 2005
Offender released from prison		June 27, 2005
Judge	Hon. Robert Stoltz	

\* Offender was no longer in the custody of the New York State Department of Correctional Services.

## **Keith Thomas**

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### **1986 indictment**

Thomas was the subject of a long term investigation. Defendant and his brother, Kevin Thomas, sold heroin and cocaine to an undercover officer on numerous occasions, totaling more than \$30,000 in sales. Conviction by jury. Top Count: Criminal Sale of a Controlled Substance in the First Degree.

Thomas previously convicted of the felony, Criminal Possession of a Controlled Substance in the Fifth Degree. Thomas had an extensive prison disciplinary record.

		Date
Original Sentence	20 years to life	June 5, 1987
Decision on Resentencing	18.5 years	May 25, 2005
Offender released from prison		August 31, 2005
Judge	Hon. Roger Hayes	

## **Kevin Thomas**

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### **1986 indictment**

Kevin was the subject of a long term investigation. Thomas and his brother, Keith Thomas, sold heroin to an undercover officer on several occasions in the Bronx and 66 West 120<sup>th</sup> Street in Manhattan. Kevin Thomas sold heroin totaling 10 ounces to an undercover officer on 3 separate occasions. Conviction by jury. Top Count: Criminal Sale of a Controlled Substance in the First Degree.

		Date
Original Sentence	20 years to life	June 5, 1987
Decision on Resentencing	18 years	August 29, 2005
Offender released from prison		August 31, 2005
Judge	Hon. Roger Hayes	

## **Wesley Thomas**

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### **2002 indictment**

Police were conducting surveillance in an area known as a place where relatively large amounts of cocaine were sold to purchasers from outside the city. Thomas was observed in the area of West 139<sup>th</sup> Street and Hamilton Place purchasing a bag containing cocaine from an un-apprehended individual, and then he and a female entered a car. The car was stopped by observing police officers and upon their approach Thomas attempted to shove the bag under the passenger seat which he occupied. The bag contained 6 7/8 ounces plus 47.8 grains of cocaine. Conviction by jury. Top Count: Criminal Possession of a Controlled Substance in the First Degree.

Defendant previously convicted in New Jersey of the felony, Possession of a Controlled Dangerous Substance with Intent to Distribute for 1998 possession of vials of crack-cocaine, a “rock” of crack cocaine, and drug packaging materials.

		Date
Original Sentence	15 years to life	November 15, 2004
Decision on Resentencing	12 years	May 23, 2005
Judge	Hon. William Wetzel	

## **Luis Torres**

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### **1990 indictment**

Torres, known as “King”, was one of the leaders of a drug organization that distributed large amounts of heroin and cocaine on the lower east side in the late 1980’s. Along with co-defendant Luis Rivera and others, Torres was responsible for the sale of pre-packaged “Black” brand name of heroin sold out of storefront businesses at 127 Stanton Street and 16 Clinton Street. Torres, along with other leaders of the organization, employed at least thirty managers to sell heroin throughout the area and sold approximately 10,000 glassines of heroin a day. He supplied Black brand heroin, prepackaged, on consignment to dozens of managers, who then sold it on the streets in return for a share of the profits. The organization was disrupted in February 1989, when police made a number of arrests of managers, but Torres remained at large. Torres then began distributing two new brands of heroin on the lower east side, in place of the Black brand. On June 1, 1989, Torres was arrested and a search warrant executed at his apartment where police recovered a revolver and semiautomatic pistol with ammunition for each, large amounts of heroin and cocaine, drug paraphernalia, and prestamped packages with the new brands stamped on them, and \$ 75,000 in cash. They also recovered gold jewelry, including a ring with a “King” inscription and a crown shape on the top. Conviction by jury. Top Count: Criminal Possession of a Controlled Substance in the First Degree. A \$1 million fine was imposed, and no portion has ever been paid.

Prior convictions: The current conviction is Torres’s fifth felony conviction. He was first convicted in 1970 for Possession of Dangerous Drugs in the Sixth Degree. He pled guilty to Possession of a Weapon in the Third Degree and Criminal Possession of a Controlled Substance in the Fourth Degree in 1981, for a case involving hundreds of glassines of heroin on the lower east side and a separate arrest for possession of cocaine, heroin, drug paraphernalia and various pistols, and the district attorney’s papers in both cases note that Torres was known by the name “King”. In 1984, he pled guilty to Criminal Sale of a Controlled Substance in the Fifth Degree to cover two separate indictments involving selling drugs on the lower east side.

		Date
Original Sentence	50 years to life*	December 13, 1990
Offender re-sentenced		Awaiting Court’s Decision
Judge	Hon. Bruce Allen	

\*12 1/2 to 25 years on the second-degree conspiracy and third-degree possession convictions, 7 1/2 to 15 years on the fourth-degree possession convictions, and 25 years to life on the first-degree possession conviction with the sentences imposed on the first-degree possession conviction and on two of the third-degree possession convictions to run consecutively, and all other sentences to run concurrently with each other.

## **Jeffrey Vasquez**

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### **2001 indictment**

Beginning in March 2001, the New York Drug Enforcement Task Force began an investigation into narcotics activities at 518 East 136<sup>th</sup> Street in Manhattan. Vasquez sold 4 3/8 ounces cocaine to an undercover officer on April 16, 2001. Vasquez’s role in the narcotics organization was to transport large amounts of

cocaine, use a building owned by his parents to sell drugs, and work with another member of the drug organization to force other building tenants out of the building. He was observed on one occasion with 5 kilograms of cocaine which were never recovered.

Conviction by jury. Top Count: Criminal Sale of a Controlled Substance in the First Degree.

		Date
Original Sentence	15 years to life	July 14, 2003
Decision on Resentencing	8 years	April 13, 2005
Judge	Hon. Bernard Fried	

## **Hector Vasquez**

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### **1980 indictment**

Vasquez sold cocaine and heroin to an undercover officer on 3 separate occasions (12 ounces of cocaine for \$21,500, 7/8 ounces of heroin for \$12,500 and 4 ounces of heroin for \$48,500). Each sale took place in Vasquez's apartment on East 3<sup>rd</sup> Street in Manhattan. Conviction by jury. Top Count: Criminal Sale of a Controlled Substance in the First Degree.

Defendant was released on parole on this case in 2000. Defendant was re-committed for parole violation after he was re-arrested and pled guilty to the felony, Attempted Sale of a Controlled Substance in the Fifth Degree in 2003. Defendant was previously convicted of the violent felony, Robbery in the Second Degree in 1958, Possession of Dangerous Drugs in the Third Degree in 1968, Sale of Dangerous Drugs in 1970, Possession of Dangerous Drugs in 1970, Criminal Sale of a Controlled Substance as a class A felony in 1975.

Nine months after resentencing and release, the defendant was arrested and indicted for Sale of a Controlled Substance in the Third Degree (sale on or near school grounds). On June 20, 2006, defendant pled guilty to the felony, Criminal Sale of a Controlled Substance in the Fourth Degree.

		Date
Original Sentence	20 years to life	August 7, 1981
Decision on Resentencing	18 years	May 2, 2005
Offender released from prison		April 21, 2005
Rearrested	Sale of narcotics – School Grounds	January 26, 2006
Judge	Hon. Ruth Sussman	

## **Nathaniel Walker**

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### **1985 indictment**

Walker was a member of a violent drug gang (“The Vigilantes”) that trafficked heroin in Harlem in the 1980’s. He was indicted for 42 counts of sale and possession of heroin. He also also participated in the execution of a trial witness seven hours after the witness’s name was revealed during the Vigilantes leader’s (Nathaniel Sweeper) trial for murder. Walker shot the victim in the head and was carrying a loaded .38 caliber pistol when he was arrested. Conviction by plea.

Top Count: Criminal Sale of a Controlled Substance in the First Degree.

Defendant also pled guilty to Murder in the Second Degree for the killing of the trial witness.

		Date
Original Sentence	25 years to life	June 23, 1986
Decision on Resentencing		Awaiting Court's Decision
Defendant released from prison		
Judge	Hon. Arlene Silverman	

\* Concurrent to 25 years to life for the murder indictment.

## **George Williamson**

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### **1988 indictment**

Williamson was a member of the violent crack-cocaine dealing gang the "Spangler Posse." On December 1, 1988, in the basement of 208 Edgecombe Avenue, near the corner of 145th Street in Manhattan, Williamson, together with another male, sold one-quarter of a kilogram of cocaine to an undercover police officer for \$5,000. Conviction by jury. Top Count: Criminal Sale of a Controlled Substance in the First Degree.

		Date
Original Sentence	18 years to life	June 4, 1990
Decision on Resentencing	Denied because in Immigration custody	March 31, 2005
Offender released from prison	Deported	March 24, 2005.
Judge	Hon. Edward McLaughlin	

## Lashuan Withrop

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### 1993 indictment

Officers in the area of West 151<sup>st</sup> Street and Riverside Drive in Manhattan, observed Winthrop examining a softball sized package of cocaine which he purchased for \$8000. Winthrop fled when he saw the officers. He had just arrived from Virginia that morning and was planning to fly back later that day. The officers recovered one pound and 7 ounces of cocaine from Winthrop's jacket pockets. Conviction by jury. Top Count: Criminal Possession of a Controlled Substance in the First Degree.

Winthrop previously convicted in Virginia of the felony, Distribution of a Controlled Substance (selling cocaine). Winthrop had an extensive prison disciplinary record.

		Date
Original Sentence	15 years to life	June 16, 1994
Decision on Resentencing	13 years	June 3, 2005
Offender released from prison		September 21, 2005
Judge	Hon. Michael Obus	

## Nathaniel Worthy

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### 1997 indictment

On March 25, 1997, West 138<sup>th</sup> Street and Amsterdam Avenue in Manhattan, police stopped the car in which defendant and 2 others were seated. Under the front seat a pound of cocaine, with a street value of between \$15,000 and \$19,000, was recovered. Worthy absconded before trial and was re-arrested in

possession of 4 ounces of cocaine. Conviction by jury. Top Count: Criminal Possession of a Controlled Substance in the First Degree.

		Date
Original Sentence	15 years to life	February 11, 1998
Decision on Resentencing	9 years	September 16, 2005
Offender released from prison		December 28, 2005
Judge	Hon. Lewis Stone	

## **Yoke Yew Tan**

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### **1994 indictment**

As part of a long term investigation, on March 1, 1994, an undercover officer met with Tan and negotiated a future purchase of 2 ounces of heroin for \$11,000. On March 18, 1994, the two met again and the detective gave Tan \$11,000. The two of them walked to the front of 202 Elizabeth Street in Manhattan, where Tan gave the money to an un-apprehended male. That male gave Tan a bag, which he gave to the undercover officer. The bag contained more than 1 7/8 ounces of heroin. On April 26, 1994, the detective met with Tan again and negotiated a future purchase of 3 ounces of heroin for \$15,000. On April 28, 1994, the undercover officer gave Tan and the un-apprehended male \$15,000 in exchange for what was ultimately determined to be over 2 7/8 ounces of heroin. Conviction by jury. Top Count: Criminal Sale of a Controlled Substance in the First Degree.

		Date
Original Sentence	15 years to life	June 20, 1995
Decision on Resentencing	10 years	July 13, 2005
Offender released from prison	Deported	April 1, 2006
Judge	Hon. Robert Strauss	

# APPENDIX 6

## RESENTENCING APPLICATIONS FOR A-I OFFENDERS CONVICTED OR IMPLICATED IN HOMICIDES AND SERIOUS ASSAULTS

Defendant	Synopsis	Sentenced/Released
<b>Alexis Perry</b>	Concurrent conviction for Murder 2 <sup>nd</sup> .	Lifetime Supervision Eliminated Sentence Reduction: 5 years
<b>Nathaniel Walker</b>	Concurrent conviction for Murder 2 <sup>nd</sup> .	Awaiting Decision
<b>Joseph Petito</b>	Previous Kings County conviction for Manslaughter 1 <sup>st</sup> (shot man in bar).	Lifetime Supervision Eliminated Sentence Reduction: 5 years <b>Released</b>
<b>Jose Mundo</b>	Previous New York County conviction for Manslaughter 1 <sup>st</sup> (pulled man out of cab, and shot him). Previous federal conviction for Illegal Reentry.	Lifetime Supervision Eliminated Sentence Reduction: 7 years <b>Released (on state sentence)</b>
<b>Asain Abreu</b>	While imprisoned on narcotics offense, pled guilty to Manslaughter 2 <sup>nd</sup> .	Lifetime Supervision Eliminated Sentence Reduction: 3 years
<b>Emanuel Pacheco</b>	Convicted of CPW 3 <sup>rd</sup> (weapon used to commit homicide in Brooklyn).	Lifetime Supervision Eliminated Sentence Reduction: 2½ years <b>Released</b>
<b>Anthony Rampino</b>	Previously convicted of federal felony sale of heroin and Bronx County drug felony. Participated in 1985 murder of mob boss Paul Castellano.	Resentencing Denied
<b>Timothy Glass</b>	While out on bail in narcotics case, shot two people, paralyzing one. Pled guilty to Attempted Conspiracy to Commit Murder in Queens County. Previously convicted of Reckless Endangerment 1 <sup>st</sup> and Grand Larceny.	Lifetime Supervision Eliminated Converted to Determinate Term of 15 years

<b>Cesar German</b>	CPW 3 <sup>rd</sup> for shooting and paralyzing man prior to narcotics offense.	Lifetime Supervision Eliminated Converted to Determinate Term of 22 years <b><i>Released</i></b>
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# APPENDIX 7

## GUNS RECOVERED DURING ARREST

Defendant	Circumstances of Crime	Weapons Seized	Sentenced/Released
<b>Hingino Batista</b>	2 sales totaling 2½ ounces of cocaine. 37/8 ounces of cocaine seized.	Loaded 9 mm gun	Lifetime Supervision Eliminated  Sentence Reduction: 2 years
<b>Cesar German</b>	Defendant wore a gun holster when police arrived responding to a radio run. Re-arrested two weeks later. More than 4¾ ounces of cocaine confiscated.	2 loaded weapons, one inoperable	Lifetime Supervision Eliminated  Sentence Reduction: Converted to Determinate Term of 22 years  <b>Released</b>  <b>Deported</b>
<b>Charles Green</b>	Leader of a crack organization. Arrested inside stash apartment.	3 loaded weapons, including assault rifle; 11,000 vials of crack cocaine	Lifetime Supervision Eliminated  Sentence Reduction: 2 years  <b>Released</b>
<b>Carlos Jose</b>	Defendant was arrested with two others. 8 ounces of cocaine recovered.	Loaded 9 mm gun; ammunition; cross bow	Lifetime Supervision Eliminated  Sentence Reduction: 5 years  <b>Released</b>  <b>Deported</b>
<b>Alejandro Lopez</b>	Leader of a violent cocaine organization linked to homicides and shootings.	9 mm submachine guns; loaded .38 Beretta; long barrel pistol; loaded .38 revolver	Lifetime Supervision Eliminated  Sentence Reduction: 8 years

Defendant	Circumstances of Crime	Weapons Seized	Sentenced/Released
<b>Alberto Perez</b>	Search warrant execution led to recovery of 1 pound 6¾ ounces of cocaine.	Loaded 9 mm semi-automatic pistol	Lifetime Supervision Eliminated Sentenced Reduction: 7 years <b>Released</b> <b>Deported</b>
<b>Alexis Perry</b>	Member of “Vigilantes” violent drug gang. 16 counts of sale/possession of heroin. Took part in execution of trial witness.	Loaded .38 caliber pistol	Lifetime Supervision Eliminated Sentenced Reduction: 5 years
<b>Jose Reyes</b>	Search warrant execution led to seizure of 4 bags containing 4 pounds of cocaine.	Loaded .357 revolver	Lifetime Supervision Eliminated Sentence Reduction: 7 years <b>Released</b>
<b>Luis Rivera</b>	Ranking member of large heroin and cocaine group. 2 pounds of cocaine recovered.	Several weapons recovered	Lifetime Supervision Eliminated Sentence Reduction: 10 years <b>Released</b>
<b>Michael Singleton</b>	Pointed loaded gun at undercover officer, gun wrestled away from defendant. Search led to recovery of 19 ounces of cocaine and 1 ounce of heroin.	Loaded weapon; ammunition	Lifetime Supervision Eliminated Sentence Reduction: Converted to Determinate Term of 18 years <b>Released</b>
<b>David Smith</b>	Police recovered 1,565 vials of crack, a bag of powder cocaine, 24 pounds of marijuana, and 300 crack vials.	6 loaded weapons	Lifetime Supervision Eliminated Sentence Reduction: 7 years <b>Deported</b>
<b>Luis Torres</b>	Leader of large heroin and cocaine group that sold 10,000 glassines a day. Large amounts of heroin and cocaine recovered.	Revolver, semi-automatic pistol; ammunition for each weapon	Lifetime Supervision Eliminated Awaiting Decision

Defendant	Circumstances of Crime	Weapons Seized	Sentenced/Released
<b>Nathaniel Walker</b>	Member of "Vigilantes" heroin gang. 42 counts of sale/possession of heroin. Shot trial witness.	.38 caliber pistol	Lifetime Supervision Eliminated Awaiting Decision
<b>Rufino Desla</b>	Search warrant execution led to recovery of 1½ pounds of cocaine.	2 loaded weapons	Lifetime Supervision Eliminated Awaiting Decision

# APPENDIX 8: PROPOSED KINGPIN LEGISLATION

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## **Penal Law §220.00**

16. “Controlled substance organization” means four or more persons sharing a common purpose to engage in conduct that constitutes or advances the commission of an offense under this article.

17. “Supervisory position” means and includes the principal administrator, organizer, or leader of a controlled substance organization or one of several principal administrators, organizers, or leaders of a controlled substance organization.

## **Penal Law §220.75 Operating as a major trafficker**

A person is guilty of operating as a major trafficker when:

1. As a member of a controlled substance organization, such person occupies a supervisory position within such organization and, within any period of twelve months or less:

(a) such controlled substance organization sells or possesses with intent to sell, one or more preparations, compounds, mixtures or substances containing a narcotic drug, and such preparations, compounds, mixtures or substances have a total aggregate weight of two pounds or more; or

(b) such controlled substance organization sells one or more controlled substances, and the proceeds collected or due from such sale or sales have a total aggregate value of fifty thousand dollars or more; or

2. Such person knowingly and unlawfully:

(a) sells one or more preparations, compounds, mixtures or substances containing a narcotic drug, and the preparations, compounds, mixtures or substances are of an aggregate weight of eight ounces or more; or

(b) possesses one or more preparations, compounds, mixtures or substances containing a narcotic drug, and the preparations, compounds, mixtures or substances are of an aggregate weight of two pounds or more.

Operating as a major trafficker is a class A-I felony.

## **Penal Law §70.55 Sentence of imprisonment for a class A drug felony.**

### 6. Sentence of imprisonment for operating as a major trafficker.

(a) Applicability. This subdivision shall apply to a person convicted of the class A-I felony of operating as a major narcotics trafficker as defined in section 220.75 of this chapter.

(b) Authorized sentence. Except as provided in paragraph (c) of this subdivision, the court shall impose an indeterminate term of imprisonment for an A-1 felony, in accordance with the provisions of section 70.00 of this chapter.

(c) Alternative determinate sentence. If a defendant stands convicted of violating subdivision 2 of section 220.75 of this chapter, and if the court, having regard to the nature and circumstances of the crime and the history and character of the defendant, is of the opinion that a sentence of imprisonment is necessary but that it would be unduly harsh to impose the indeterminate sentence for a class A-1 felony specified under section 70.00 of this chapter, the court may impose the determinate sentence of imprisonment authorized by section 70.55 of this chapter for a class A drug felony; in any such event, the reasons for the court's opinion shall be set forth on the record.