

SURVEY RESULTS 2002



Survey of Democratic & Republican Legislative Candidates' Attitudes Toward New York Judicial Reforms

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**Results of the Committee for Modern Courts
2002 Survey of Democratic & Republican Candidates' Attitudes
Toward New York Judicial Reforms**

After New York's primary elections and the release by the New York State Board of Elections of the certified list of candidates running in the general elections on September 20, 2002, the Committee for Modern Courts mailed 356 surveys to Democratic and Republican candidates (both challengers and incumbents) running for election to the New York State Legislature.

As of October 25, 2002, 99 (28%) candidates for the New York State Legislature responded to the Committee's survey. The results break down as follows:

**2002 Response from Assembly candidates
(29% of Assembly candidates responded):**

Challengers		Incumbents	
40		34	
Democrat	Republican	Democrat	Republican
16	24	23	11

**2002 Response from Senate candidates
(25% of Senate candidates responded):**

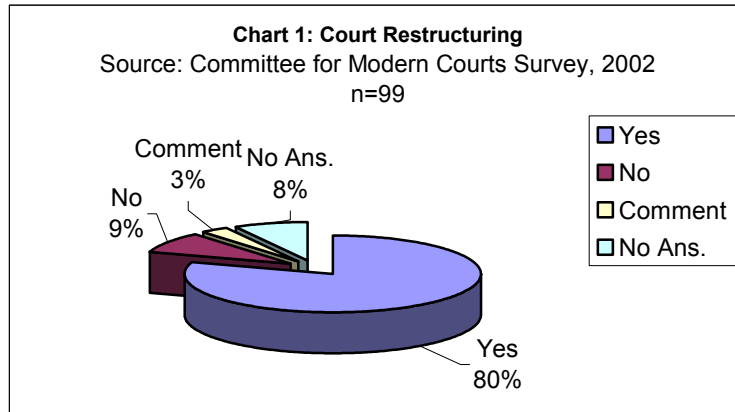
Challengers		Incumbents	
11		14	
Democrat	Republican	Democrat	Republican
6	5	4	10

This year, 52% of the candidates who responded to our survey were challengers as opposed to only 39% in 2000. Moreover, there was a dramatic increase in responses from candidates running as challengers for Assembly seats. 40% of the 124 challengers running for the New York State Assembly responded to our survey in contrast to only 21% of those candidates in 2000. 26% of assembly incumbents running for reelection to 131 seats responded in contrast to 36% running for reelection to 138 seats in 2000.

Court Restructuring

The candidates were asked the following questions:

1. Do you support court restructuring that merges County Court, Family court, and the Court of Claims into one Supreme Court?



86% of the Assembly candidates who responded answered “Yes.” (n=74)
 60% of the Senate candidates who responded answered “Yes.” (n=25)

Yes		No	
80		9	
Incumbent	Challenger	Incumbent	Challenger
38	42	3	6

Comment		No Ans.	
3		8	
Incumbent	Challenger	Incumbent	Challenger
0	3	8	0

In 2000 we asked candidates a similar question with the Surrogate’s Court included in the proposed merger. At that time, only 64% of all candidates who responded answered “Yes.”

2. Do you support court restructuring that merges NYC Criminal Court & Civil Court, NYC Housing Court, Nassau & Suffolk District Courts, and City Courts outside NYC into one District Court?

Yes		No	
64		14	
Incumbent	Challenger	Incumbent	Challenger
29	35	5	9

Comment		No Ans.	
10		11	
Incumbent	Challenger	Incumbent	Challenger
4	6	10	1

65% of all candidates responded "Yes." (n=99)

In 2000 we asked candidates the same question. At that time only 54% of all candidates responded "Yes."

3. Do you support court restructuring under questions 1 or 2 if there were a "merger in place" regarding the method by which judges are selected—that is, no change in the method by which sitting justices are selected?

a) In regards to court restructuring question number 1.

Yes		No	
66		14	
Incumbent	Challenger	Incumbent	Challenger
30	36	4	10

Comment		No Ans.	
7		12	
Incumbent	Challenger	Incumbent	Challenger
3	4	11	1

67% of the candidates responded "Yes." (n=99)

b) In regards to court restructuring question number 2.

Yes		No	
63		15	
Incumbent	Challenger	Incumbent	Challenger
28	35	5	10

Comment		No Ans.	
7		14	
Incumbent	Challenger	Incumbent	Challenger
2	5	13	1

64% of the candidates responded "Yes." (n=99)

In 2000 we asked candidates a similar question to 3(a)-(b): Are you in favor of court restructuring if there were a "merger in place" regarding the method by which judges are selected—that is, no change in the method by which sitting justices are selected? Only 56% of the candidates responded "Yes."

Yes		No	
61		17	
Incumbent	Challenger	Incumbent	Challenger
39	22	8	9

Comment		No Ans.	
13		18	
Incumbent	Challenger	Incumbent	Challenger
5	8	14	4

4. Do you support creating a 5th Judicial Department?

Yes		No	
74		7	
Incumbent	Challenger	Incumbent	Challenger
35	39	1	6

Comment		No Ans.	
7		11	
Incumbent	Challenger	Incumbent	Challenger
2	5	10	1

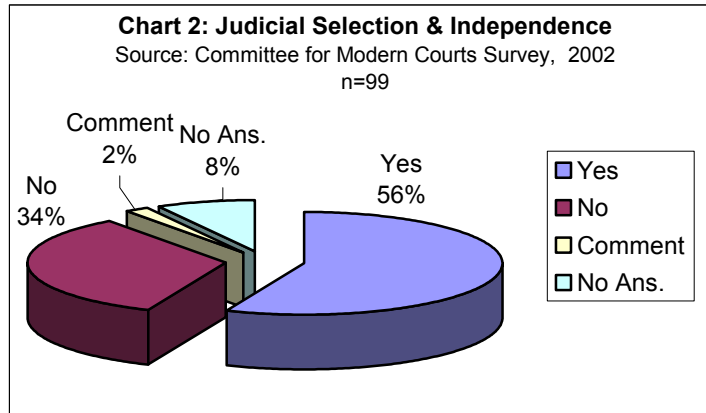
75% of the candidates responded "Yes." (n=99)

In 2000 we asked candidates the same question. At that time, only 72% of all candidates who responded answered "Yes."

Judicial Selection

The candidates were asked the following questions:

1. Do you support the appointment of judges from a list of well-qualified candidates screened by a bipartisan nominating committee, as opposed to the election of judges in partisan campaigns?

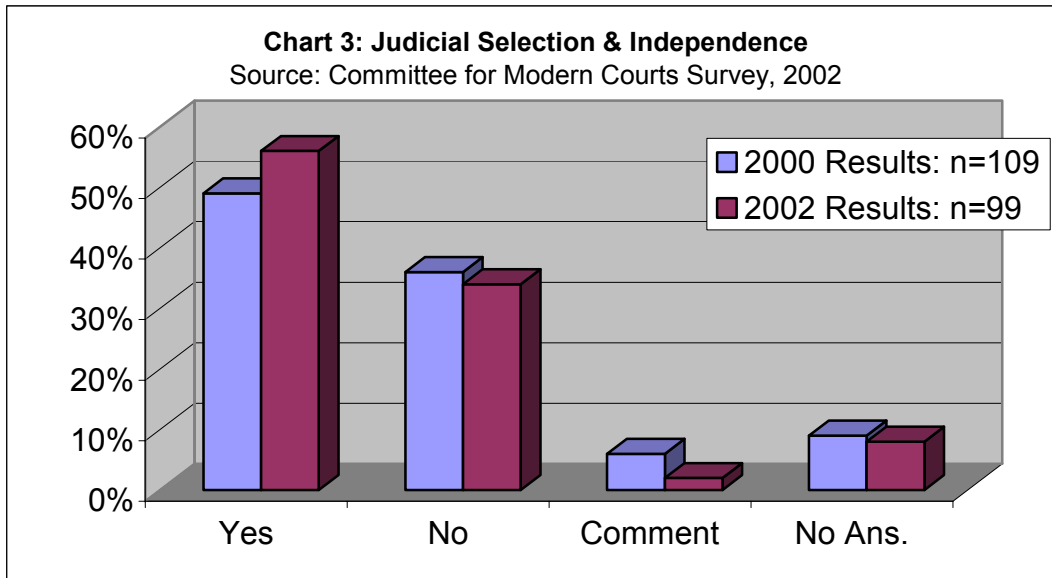


59% of the Assembly candidates who responded answered “Yes.” (n=74)
 44% of the Senate candidates who responded answered “Yes.” (n=25)

Yes		No	
57		34	
Incumbent	Challenger	Incumbent	Challenger
26	31	14	20

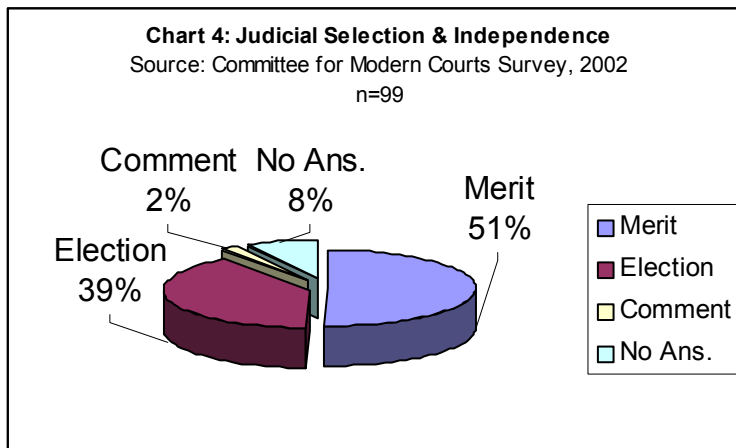
Comment		No Ans.	
2		8	
Incumbent	Challenger	Incumbent	Challenger
2	0	8	0

The same question was asked in 2000 and the results compare as follows in the chart below:



In 2002 56% of the candidates answered “Yes.” (n=99)
 In 2000 only 49% of the candidates answered “Yes.” (n=109)

2. Which method of judicial selection do you believe best preserves the independent and impartial administration of justice?

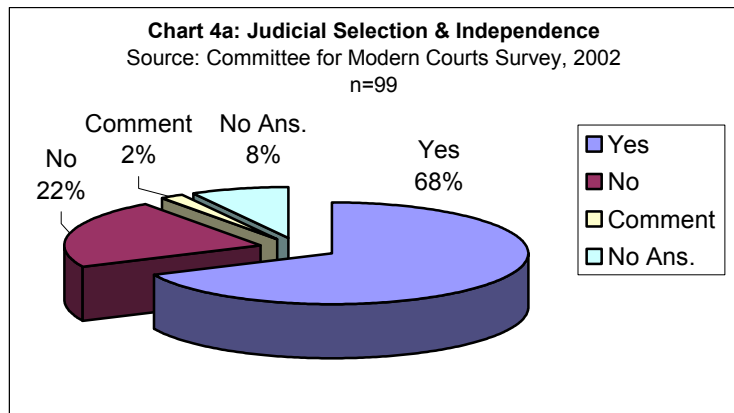


Merit		Election	
50		39	
Incumbent	Challenger	Incumbent	Challenger
23	26	15	24

Comment		No Ans.	
2		8	
Incumbent	Challenger	Incumbent	Challenger
2	1	8	0

A majority of all the candidates who responded selected “merit” (51%) vs. “elected” (39%).

- Do you believe judicial candidates should be barred from making statements that appear to commit them to cases that are likely to come before them in court?



76% of the Assembly candidates who responded answered “Yes.” (n=74)
 48% of the Senate candidates who responded answered “Yes.” (n=25)

Yes		No	
68		22	
Incumbent	Challenger	Incumbent	Challenger
29	39	10	11

Comment		No Ans.	
2		8	
Incumbent	Challenger	Incumbent	Challenger
1	1	8	0

4. Do you believe campaigning in a judicial election has any negative effects on a candidate's ability to sit as an independent and impartial administrator of justice?

Yes		No	
40		45	
Incumbent	Challenger	Incumbent	Challenger
15	25	21	24

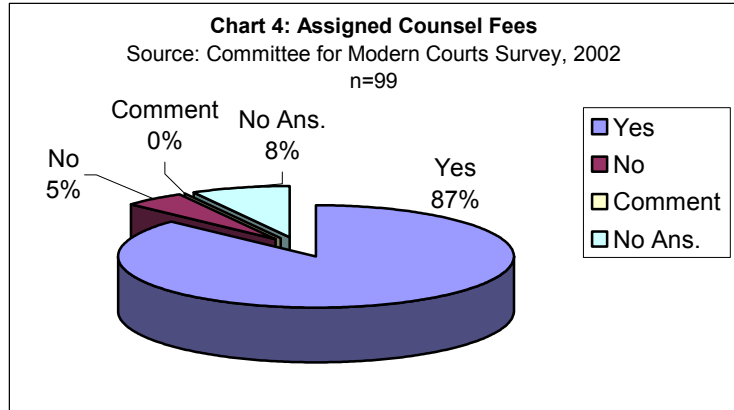
Comment		No Ans.	
5		9	
Incumbent	Challenger	Incumbent	Challenger
4	1	8	1

Results for this question split (40% "Yes" vs. 46% "No"). Candidates typically responded that there are some good elected judges.

Assigned Counsel Fees

The candidates were asked the following questions:

1. Do you support a rate increase for assigned counsel?



93% of the Assembly candidates who responded answered “Yes.” (n=74)
 68% of the Senate candidates who responded answered “Yes.” (n=25)

Yes		No	
86		5	
Incumbent	Challenger	Incumbent	Challenger
39	47	1	4

Comment		No Ans.	
0		8	
Incumbent	Challenger	Incumbent	Challenger
0	0	8	0

2. Do you believe that the current fee structure affects the quality of representation received by indigent defendants?

Yes		No	
82		9	
Incumbent	Challenger	Incumbent	Challenger
35	47	5	4

Comment		No Ans.	
0		8	
Incumbent	Challenger	Incumbent	Challenger
0	0	8	0

Rockefeller Drug Laws

The candidates were asked the following questions:

1. Do you believe the mandatory minimum sentence should be Reduced to: 10 years; 5 years; eliminated entirely; or, No change?

10 years		5 years		Eliminate entirely		No change	
11		9		34		12	
Incumbent	Challenger	Incumbent	Challenger	Incumbent	Challenger	Incumbent	Challenger
5	6	4	5	15	29	5	7

Comment		No Ans.	
13		10	
Incumbent	Challenger	Incumbent	Challenger
9	4	10	0

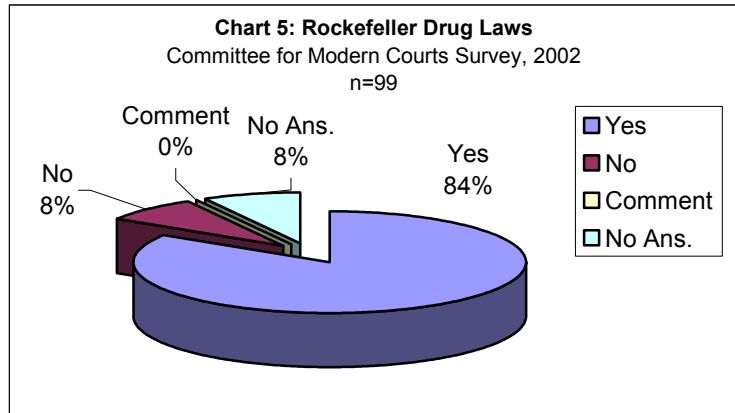
39% of the candidates who responded—a majority of responses—favored eliminating the mandatory minimum sentence, 12% favored reducing the sentence to 10 years, 10% favored reducing the sentence to 5 years, 13% favored no change and 23% either shared comments or were non responsive.

In 2000 we asked: Do you think the minimum sentence should be reduced to 10 years, 5 years or No Change? The results are as follows.

10 years		5 years		No change	
11		40		9	
Incumbent	Challenger	Incumbent	Challenger	Incumbent	Challenger
5	6	23	17	4	5

Comment		No Ans.	
30		19	
Incumbent	Challenger	Incumbent	Challenger
19	11	15	4

2. Do you support judicial discretion over the mandatory minimum 15 years to life sentence?

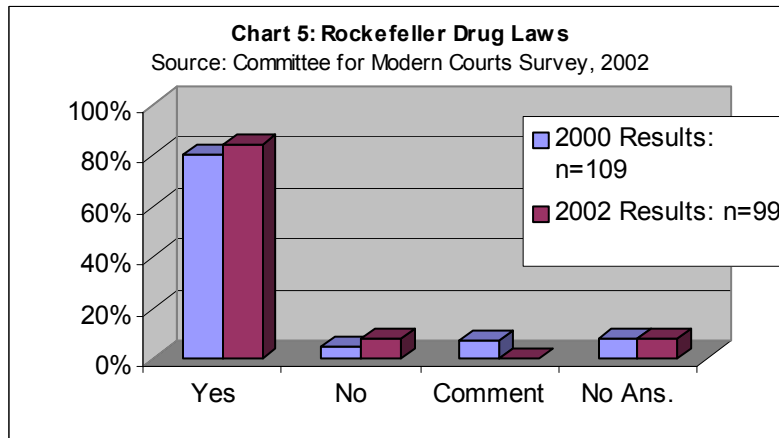


88% of the Assembly candidates who responded answered “Yes.” (n=74)
72% of the Senate candidates who responded answered “Yes.” (n=25)

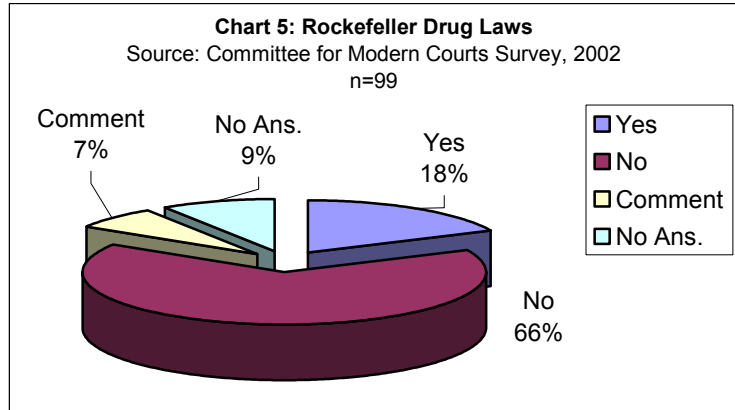
Yes		No	
83		8	
Incumbent	Challenger	Incumbent	Challenger
38	45	2	6

Comment		No Ans.	
0		8	
Incumbent	Challenger	Incumbent	Challenger
0	0	8	0

In response to the same question in our 2000 survey only 80% of the candidates favored this reform:



3. Do you believe the Rockefeller drug laws have helped in deterring drug crime?



66% of the Assembly candidates who responded answered “No.” (n=74)
 56% of the Senate candidates who responded answered “No.” (n=25)

Yes		No	
18		65	
Incumbent	Challenger	Incumbent	Challenger
7	11	25	40

Comment		No Ans.	
7		9	
Incumbent	Challenger	Incumbent	Challenger
7	0	9	0

In response to this question the results remain substantially unchanged from last year (67% in 2000 vs. 66% in 2002) with the majority of candidates responding “No.”

APPENDICES

Appendix 1 2002 SURVEY OF DEMOCRATIC & REPUBLICAN CANDIDATES'
ATTITUDES TOWARD NEW YORK JUDICIAL REFORMS



**SURVEY OF DEMOCRATIC & REPUBLICAN
CANDIDATES FOR THE NEW YORK STATE LEGISLATURE
2002**

NAME OF CANDIDATE (PLEASE PRINT): _____

SIGNATURE: _____ AD or SD _____

DATE: _____

**PLEASE RETURN THIS SURVEY NO LATER THAN OCTOBER 11, 2002. FINAL RESULTS WILL BE
RELEASED TO THE MEDIA.**

**PLEASE USE THE SELF-ADDRESSED STAMPED ENVELOPE TO RETURN YOUR COMPLETED
SURVEY. YOU MAY ALSO RETURN THIS SURVEY VIA FAX AT 212-541-7301.**

**PLEASE CONTACT CHRISTOPHER CESARANI, DIRECTOR OF ADVOCACY, AT MODERN COURTS
WITH ANY QUESTIONS 212-541-6741 EXT. 109 OR CESARANI@MODERNCOURTS.ORG).**

**The Committee for Modern Courts, 351 West 54th Street, New York, NY 10019
www.moderncourts.org**

**SURVEY OF DEMOCRATIC & REPUBLICAN
CANDIDATES FOR THE NEW YORK STATE LEGISLATURE 2002**

Court Restructuring

Court restructuring consists primarily of merging New York's nine-tiered court system into a two or three-tiered system and creating a Fifth Judicial Department. The goal of merger is to simplify the court structure to improve access for the public, better allocate resources and remove procedural and jurisdictional obstacles.

The Office of Court Administration has proposed to merge 9 trial level courts into a 3 tiered system—Supreme Court, Surrogate's Court and District Court. The Court of Claims, County Court, and Family Court merge into an expanded Supreme Court. The plan also calls for the creation of a 5th Judicial Department.

Please use extra space below questions for additional comments

<p>1. Do you support court restructuring that merges County Court, Family court, and the Court of Claims into one Supreme Court?</p>	<p style="text-align: center;">____ YES ____ NO</p>
<p>2. Do you support court restructuring that merges NYC Criminal Court & Civil Court, NYC Housing Court, Nassau & Suffolk District Courts, and City Courts outside NYC into one District Court?</p>	<p style="text-align: center;">____ YES ____ NO</p>
<p>3. Do you support court restructuring under questions 1 or 2 if there were a "merger in place" regarding the method by which judges are selected—that is, no change in the method by which sitting justices are selected?</p> <p>In regards to question 1. ____ YES ____ NO</p> <p>In regards to question 2. ____ YES ____ NO</p>	
<p>4. Do you support creating a 5th Judicial Department?</p>	<p style="text-align: center;">____ YES ____ NO</p>

Judicial Selection & Independence

New York's main method of judicial selection is elective. Judicial candidates raise campaign funds and compete for office in partisan elections. The judges of the New York Court of Appeals, the State's highest court, are appointed by the Governor from a list of candidates provided by the Commission on Judicial Nomination. The Governor also appoints the judges of the Appellate Divisions, who must come from the ranks of elected Supreme Court judges, and the judges of the State Court of Claims. The Mayor of New York City appoints judges to the Family and Criminal Court from a list of candidates given by the Mayor's Advisory Committee on the Judiciary. Both the Governor and Mayor also make interim appointments. All other judges in New York State must run in partisan political campaigns.

Please use extra space below questions for additional comments

<p>5. Do you support the appointment of judges from a list of well-qualified candidates screened by a bipartisan nominating committee, as opposed to the election of judges in partisan campaigns?</p>	<p style="text-align: right;">____ YES ____ NO</p>
<p>6. Which method of judicial selection do you believe best preserves the independent and impartial administration of justice?</p>	<p style="text-align: right;">Election ____ Merit Selection ____</p>
<p>7. Do you believe judicial candidates should be barred from making statements that appear to commit them to cases that are likely to come before them in court?</p>	<p style="text-align: right;">____ YES ____ NO</p>
<p>8. Do you believe campaigning in a judicial election has any negative effects on a candidate's ability to sit as an independent and impartial administrator of justice?</p>	<p style="text-align: right;">____ YES ____ NO</p>

New York Assigned Counsel Fees

The Sixth Amendment right to counsel and the 1963 U.S. Supreme Court decision *Gideon v. Wainwright* guarantees legal counsel to indigent persons accused of a crime. Indigent adult litigants, juveniles accused of crimes and minor children in need of law guardians in Family Court are also entitled to assigned counsel. Presently, the fee rates for assigned counsel have not been increased since 1986. Assigned counsel receive \$40/hour for in-court work and \$25/hour for out-of-court work.

Under the current structure, local governments are responsible for costs in the Criminal and Family Courts. The Office of Court Administration (“OCA”) has proposed increasing the assigned counsel rates to \$75/hour for felony cases and \$60/hour for misdemeanor cases, and removing the distinction between in-court and out-of-court work.

Recently a Federal District Court Judge ruled that New York’s current assigned counsel fee rates unconstitutional. In a separate action, the New York County Lawyers’ Association brought a class action in New York Supreme Court against the State and City of New York to raise fee rates.

Please use extra space below questions for additional comments

3. Do you support a rate increase for assigned counsel?	<input type="checkbox"/> YES <input type="checkbox"/> NO
4. Do you believe that the current fee structure affects the quality of representation received by indigent defendants?	<input type="checkbox"/> YES <input type="checkbox"/> NO

Rockefeller Drug Laws

The Rockefeller drug laws, enacted in 1973, require a minimum sentence of 15 years to life for the sale of two ounces, or the possession of four ounces, of a narcotic substance. The penalties apply without regard to the circumstances of the offense or the individual's character and background.

In the last session of the New York State Legislature, the State Assembly and the Governor's office have proposed reforms to the Rockefeller drug laws. A consensus on the specifics of reforming these laws has yet to be reached.

Please use extra space below questions for additional comments

4. Do you believe the mandatory minimum sentence should be:	<p style="text-align: center;">Reduced to _____ 10 years</p> <p style="text-align: center;">Reduced to _____ 5 years</p> <p style="text-align: center;">Eliminated _____ entirely</p> <p style="text-align: center;">or</p> <p style="text-align: center;">_____ No change</p>
5. Do you support judicial discretion over the mandatory minimum 15 years to life sentence?	<p style="text-align: center;">_____ YES</p> <p style="text-align: center;">_____ NO</p>
6. Do you believe the Rockefeller drug laws have helped in deterring drug crime?	<p style="text-align: center;">_____ YES</p> <p style="text-align: center;">_____ NO</p>

