

An Unforgettable Mistake
William G. Milliken and Michigan's Mandatory Minimum Sentencing
Program

By Ashlea Surles

On the morning of January 3, 1973, Governor Nelson A. Rockefeller strode to the podium at the front of the Capitol Assembly Chamber in Albany, New York. He was scheduled to make his annual State of the State address. Rockefeller was approaching the end of his fourth term in office and this would be his fourteenth address; no one expected any big surprises.¹

But after speaking about education, welfare, and several other topics, nearing the middle of his speech, Rockefeller turned to the subject of narcotics and took on a sobering tone. He explained that drug addiction was growing and that “the crime, the muggings, the robberies, [and] the murders associated with addiction” were rising across the state. “This has to stop,” Rockefeller said, “This ... is ... going ... to ... stop.” The governor went on to detail his plan to win New York’s war against drugs by instituting a series of mandatory life sentencing policies for drug-related crimes.²

Michigan takes up arms

Just five days after Governor Rockefeller’s powerful speech, a transcript of the last half of Rockefeller’s speech had made its way to the desk of Michigan Governor

¹ Jennifer Gonnerman. *Life on the Outside: The Prison Odyssey for Elaine Bartlett*. (New York: Picador, 2004), pp. 49.

² Pat Babcock. Memorandum to Governor Milliken, “Governor Rockefeller’s message on drug law violation.” Lansing: January 8, 1973, folder: “Drugs 1971-1973 (2 of 3),” Box 1222, William G. Milliken Papers, Bentley Historical Library.

William G. Milliken. Less than two years later, debate over a bill proposing mandatory minimum sentencing policies opened in the Michigan House of Representative and, in May 1978, Milliken followed Rockefeller's lead and signed it into law.

Twenty years later, the former governor publicly announced that passing the law was the biggest mistake of his life and went on to become one of the laws' most outspoken critics and a fixture in the successful campaign for its revision.³ The laws were eventually repealed a two and a half decades after their initial passage.

Milliken recalled in a 2003 interview that in 1978 neither he, nor anyone on his staff, had serious doubts about whether he should sign the bill. In a survey of Michigan households taken that year, a significant number of respondents stated that they viewed the drug problem as an increasing threat. Additionally, the federal government was largely subsidizing a pilot program in the state that aimed to quell the War on Drugs, diluting the costliness of the strongly punitive laws and thus making the legislation less risky for the state to adopt.

But while these were the key factors driving Milliken to pass the laws, they pale when compared to the myriad number of existing reasons for him not sign the radically strict laws: In 1978 state prisons were already extremely overcrowded, Michigan was facing an economic recession, crime rates were actually declining for the first time in a decade, and Milliken was winning some of the highest approval ratings of his governorship. Furthermore, in the five years since the passage of the mandatory

³ The Drug Reform Coordination Network. "Michigan Legislature Repeals Mandatory Minimum Drug Laws." <http://stopthedrugwar.org/chronicle-old/268/Michigan.shtml> (accessed November 7, 2007)

sentencing laws in New York, the harsh policies had proved to be both damaging and ineffective.

Failure in New York

The policies that Governor Rockefeller went on to detail in the latter half of his 1973 address were the harshest drug laws in the country at the time. When Rockefeller signed them into law five months later, he essentially condemned drug pushers in New York to harsher sentences than murderers. The boldly punitive move was in stark contrast to the governor's previous rehabilitation-based drug control strategies, and came as a surprise to much of the public, and even to those in the Rockefeller administration.⁴

The new laws, promptly tagged the "Rockefeller drug laws," were controversial from the outset and incited debate over the issue of mandatory sentencing across the country. While the law received strong support from conservatives and suburban residents throughout the nation, it was met with fierce opposition from the working classes, and specifically minorities and urban poor. The impoverished worried that their communities would be the only ones affected by the new legislation, while people of color feared that Rockefeller's laws were a conspiracy aimed at destroying them.⁵

But some of the most vehement disapproval came from Rockefeller's own staff, who balked at the bill, and from intellectuals who argued that the laws were too strong and – citing the declines in arrests for drug crimes in the state over the previous two years – unnecessary. At the time of their passage, virtually "every expert in New York State" opposed the new laws, arguing that they would cause incarceration rates to skyrocket and

⁴ Gonnerman, pp. 49-50.

⁵ Gonnerman, 50.

the budget to swell.⁶ By the time that the mandatory minimum sentencing laws were presented to Michigan's governor Milliken to sign five years later, these predictions had proven accurate. New York was already feeling the noxious effects of the laws as drug use rates continued to rise, incarceration rates soared, and the state budget was encumbered with growing legal fees and the costs of prison expansion.⁷

Unheeded warnings

Rockefeller pioneered mandatory minimum sentencing in America and his institution of the laws in New York provided a case study for Milliken to consider when deciding whether to sign the policies into Michigan law. But when it became apparent that the Rockefeller laws were failing miserably, Milliken ignored the ominous warning.

Similarly, the Michigan governor disregarded explicit warnings issued from inside his own administration – the first of which came stapled to the front of the copy of Rockefeller's speech that landed on Milliken's desk in 1973. The warning came from the director of Michigan's Office of Drug Abuse and Alcoholism, Patrick Babcock, in the form of a critique of Rockefeller's mandatory sentencing proposal. In it, Babcock admonished against adopting Rockefeller's policy, noting among his primary criticisms that the proposed laws were problematic in that they did not distinguish between drug addicts and drug traffickers; a factor that could lead to overly harsh punishments for relatively minor crimes. The director also raised questions about the policies reliance on the theory that traffickers would be deterred by harsh sentences, despite a lack of

⁶ Gonnerman, 51.

⁷ Dave Dempsey. *William G. Milliken: Michigan's Passionate Moderate*. (Ann Arbor, MI: The University of Michigan Press, 2006), 240; Partnership for Responsible Drug Information. "Rockefeller Drug Laws Information Sheet." <http://www.prdi.org/rocklawfact.html>, (accessed November 9, 2007).

evidence from criminology studies proving deterrence tactics to be effective. Babcock closed his critique by expressly advising Milliken to continue the then-current Michigan policy of allowing courts to use their own discretion in sentencing individuals convicted of drug-related crimes.⁸

But despite these warnings, in 1975 a conversation opened in the Michigan Congress over a six-bill package that included clauses regarding the implementation of mandatory minimum sentencing, and aimed at sending large-scale drug dealers to prison.⁹ Ferocious debate ensued as doctors, judges, prosecutors, local citizens, law enforcement officials, and representatives from substance abuse prevention programs testified before Congress. Those opposed to the bill argued the same issues that were at the front of debate over the Rockefeller laws less than two years earlier. They contended that the laws failed to distinguish mere “street dealers” from the more threatening “weight dealers,” would boost incarceration rates to inordinate levels, and prove extremely costly – just as the laws had in New York.¹⁰

Nevertheless, on Friday, May 12, 1978, Milliken signed House Bill 4190 into law, making Michigan the second state in the nation to impose mandatory minimum sentences for drug-related crimes.¹¹ The law instituted inflexible punishments for a host of drug-related crimes, and quickly became known as the 650 Lifer Law after its most notorious

⁸ Pat Babcock. Memorandum to Governor Milliken, “Governor Rockefeller’s message on drug law violation.” Lansing: January 8, 1973, folder: “Drugs 1971-1973 (2 of 3),” Box 1222, William G. Milliken Papers, Bentley Historical Library.

⁹ Allen B. Rice. “Debate Begins On Bills Aimed At Heroin Dealers.” Michigan Capitol Report 14 (12). December 10, 1975.

¹⁰ Rice, 1.

¹¹ William G. Milliken. “Michigan must reform harsh drug sentences,” September 20, 2002, *Detroit News*.

clause, which mandated life-without-parole sentences for anyone convicted of possession of 650 grams or more of cocaine or heroine.¹²

Milliken's instatement of the laws made clear that he had not heeded the lessons apparent in the failing New York test case, or the warnings issued from his own staffers. By doing this, Milliken essentially ignored the fact that the economic, social, and political environments in the state were ill-prepared to handle the inevitable effects of mandatory minimum sentencing.

Michigan pays the price

In the spring of 1978, Michigan's economic positioning was dismal as the state faced rising unemployment, an accruing budget deficit, and the beginnings of the deterioration of its biggest industry. Detroit – the renowned “Motor City” – was facing the decline of the automobile industry due to rising oil prices and the subsequent turn to fuel-efficient, foreign-made vehicles.¹³ These factors were direct results of globalization and technological innovation – two categorically irreversible trends – thus making it clear that Michigan was entering into a recession and unlikely to return to its former prosperity in the near future. To make matters worse, the state's unemployment rate – already nearly two percent above the national average – was rapidly rising at the same time that Milliken was struggling to contain a ballooning state budget deficit.¹⁴ In 1975 alone the budget had mushroomed from \$115 million to roughly \$180 million and officials'

¹² Michigan. Executive Office Press Release. Lansing: May 12, 1978, folder: “Drugs 1974-1979 (3 of 3),” Box 1222, William G. Milliken Papers, Bentley Historical Library.

¹³ Dempsey, 206.

¹⁴ Public Sector Consultants, Inc., “Appendix B: Economic Base of Michigan” in Michigan in Brief 7th Edition, ed. Public Sector Consultants, Inc. 263. (Lansing, MI: Public Sector Consultants, 2003).

attempts at countering the recession by tightening the state's economic belt were largely ineffective.¹⁵ Thus Milliken was forced to make massive, across-the-board cuts in state spending. The fact that Michigan was already in dire economic straits made 1978 a particularly terrible year to pass legislation that would prove to be extraordinarily costly.¹⁶

In addition, in the five years since their enactment, the Rockefeller laws had proven extremely expensive in New York, and it was predicted that the same would be true for Milliken's laws, which were nearly identical. Michigan corrections officials were estimating that the new laws would generate approximately \$8 million in court costs if even a mere 10 percent of heroin arrest cases demanded jury trials – and it was highly likely that far more than that would demand jury trial; in New York, following the passage of the Rockefeller Laws, the percentage of defendants demanding trial in the state jumped from 6 to 15 percent.¹⁷

Moreover, the number of prisoners within the Michigan state penal system would undoubtedly rise significantly – as had happened in New York – and thus necessitate the expansion of an already overcrowded prison system. Perry Johnson, the Director of State Corrections, testified to the state Congress that “all prison facilities in Michigan [were] filled to overflowing” and strapped for funds. Just two years after the passage of the laws, Johnson wrote a recently declassified letter to the attorney general stating that “serious prison overcrowding ... has existed for more than five years, as you know,” and

¹⁵ Dempsey, 206.

¹⁶ Charles Press and Bernard Klein, "The Political Response in Michigan to Reaganomics and the New Federalism," *Annual Review of American Federalism: 1981, Vol. 12*. (Oxford University Press: 1983), 139-149.

¹⁷ Robert J. MacCoun and Peter Reuter. *Drug War Heresies*. (Cambridge: Cambridge University Press: 2001), 80.

stressing that “it is a problem that must be solved.”¹⁸ The corrections department had even been exempt from the sweeping budget cuts of early 1978 in light of its precarious circumstances¹⁹

But with the passage of mandatory sentencing policies, the expansion of the prison system was considered inevitable; the new laws would not only elicit arrests of more people, but would also mandate that prisoners be held behind bars for longer periods of time. Around the time the 650 Lifer Law was passed in Michigan, analysts were estimating that prison construction would cost the state roughly \$50,000 per bed, while an additional \$5,000 charge would be required to maintain each prisoner annually.²⁰ By signing the law, the government essentially mandated that millions of dollars be funneled into the corrections system while funds for public education, veterans’ benefits, state employee retirement, and drug rehabilitation programs were cut.

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Crime rates as a catalyst

It could be argued that the governor signed the laws to take an aggressive approach to reducing state crime levels, which he linked directly to drug use. This was reflected in a press release in which, in addressing the issue of crime in the state, Milliken included the fact that “nearly half of all prisoners had at some point abused drugs.”²²

¹⁸ Letter from Director of Department of Corrections Perry M. Johnson to Attorney General Frank Kelly. July 10, 1980.,

¹⁹ Rice, 2.

²⁰ Rice, 2.

²¹ Press and Klein, 143.

²² Memorandum from the Executive Office, Governor William G. Milliken. February 26, 1976, folder: “Drugs 1974-1979 (3 of 3),” Box 1222, William G. Milliken Papers, Bentley Historical Library.

Like Milliken, Michigan citizens in the mid-seventies also connected crime to drugs. In a survey of Michigan households taken between 1975 and 1977, one quarter of families considered drug use the second largest cause of crime in the state, ranking it higher than both poor parenting and the general decline in moral values, and behind only unemployment.²³

Milliken had been begun hinting at the necessity for a tougher crime control strategy that specifically targeted narcotics control early in the decade. The governor stated that Michigan must acknowledge that the “police, judicial, and correctional agencies have been unsuccessful” in dealing with the drug problem and asserted that stronger measures must be taken. Milliken further argued that, “serious consideration should be given to making law enforcement a more mobile and effective weapon in curtailing the flow of illicit substances within our state.”²⁴ Upon their passage in 1978, Milliken stated that he hoped the drug laws would mark the beginning of “Michigan’s long-range approach to crime” through its comprehensive reform of felony punishments.²⁵

But state crime levels had peaked in 1975, and the crime rate was still on the decline when Milliken passed the fiercely punitive laws in 1978.²⁶ Furthermore, crime rates in New York had continued to rise even after the implementation of the Rockefeller

²³ “*Crime in Michigan: A report from residents and employers,*” conducted by Market Opinion Research Co. on behalf of Gov. Milliken and the Michigan Commission on Criminal Justice. (Lansing: Office of Criminal Justice: 1978), 30.

²⁴ Remarks by Gov. William G. Milliken to the Drug Abuse & Alcoholism Workshop, East Lansing, MI. September 19, 1972, folder: “Drugs 1971-1973 (2 of 3),” Box 1222, William G. Milliken Papers, Bentley Historical Library.

²⁵ Executive Office Press Release, May 12, 1978

²⁶ State of Michigan: 1978 Uniform Crime Report. Department of State Police, 12, 13; Reported Crime in Michigan: 1970 – 1980. U.S. Department of Justice, Bureau of Justice Statistics.

Laws, indicating that the laws would likely do little to combat crime in Michigan.

Considering these facts, it seems unlikely that an attempt to reduce high crime rates played a significant role in Milliken's decision to pass the controversial 650 Lifer Law.

Controversial policies to curry favor from constituencies

1978 was an election year, and it could be argued that in passing the 650 Lifer Law, Milliken was seeking to bolster voter support for his reelection campaign. Author Jennifer Gonnerman points out that while Rockefeller's 1973 policies were controversial, the message politicians took from the case study in New York was clear: passing harsh anti-drug laws was an effective way to make one appear tough on crime and, in doing so, curry favor with voters.²⁷ It is reasonable to consider that Milliken may have subscribed to this theory, and endeavored to win support through the new legislation. However, Milliken had maintained a solid support base by governing the state as a moderate; his approval ratings had been steady throughout his time in office and his winning margin increased with each term.²⁸

Moreover, the governor prided himself in his ability to appeal to conservatives as well as marginalized groups and minorities, and specifically to African-Americans; the Governor even won an endorsement from Detroit mayor and ardent Democrat, Coleman Young in the 1978 election.²⁹ Throughout his time in office, Milliken worked hard to garner support from these populations and maintain strong associations with his minority constituencies. But by passing the strikingly punitive mandatory sentencing laws, which had already been proven in New York to incite intense opposition from --and which

²⁷ Gonnerman, 53.

²⁸ Dempsey, 192.

²⁹ Dempsey, 205.

would indubitably have negative affects on-- the poor and minority communities, Milliken was jeopardizing an formerly steady support base.³⁰ The instatement of the new laws could even be seen as a particularly risky campaign move, as it could alienate moderate voters who had proven to be the governor's most loyal supporters in recent years.

Furthermore, as political scientists Shanto Iyengar and Jennifer A. McGrady assert, front-runner candidates generally resort to risk aversion campaign tactics so as not to risk slipping in the polls by making a wrong move.³¹ Throughout his 1978 campaign for reelection Milliken led in the polls.³² He won the election with 56.8 percent of the votes – a commanding 13.64 percent lead over the second-place candidate.³³ This majority win, along with his consistently high approval ratings, suggest that the governor likely had a strong support base before the passage of the laws seven months before. Considering this, it seems that while making a bold move such as the passage of strong anti-drug law may be beneficial to certain politicians seeking to win support from primarily conservative constituents, for Milliken in 1978 it was not only risky, but largely unnecessary.

The Ultimate Factors

Governor Milliken himself said in an opinion editorial to the *Detroit News* that he signed the 650 Lifer Law in response to “an insidious and growing drug problem” that

³⁰ Dempsey, 192.

³¹ Shanto Iyengar and Jennifer A. McGrady. *Media Politics: A Citizen's Guide*. (New York: W.W. Norton and Company, 2007), pp. 134.

³² Dempsey, 198.

³³ Our Campaigns. “Profile of William G. Milliken,” <http://ourcampaigns.com/CandidateDetail.html?CandidateID=39196>, (accessed November 20, 2007).

was spreading across Michigan. Speaking in the early seventies, the governor asserted that the drug crisis had grown to “historic and frightening dimensions,” and that he was “deeply concerned over the social and physical damage” that drug abuse was inflicting on the state.³⁴ By 1973 Milliken’s rhetoric had become more insistent. In a speech to the Michigan Alcoholism and Addiction Association the governor said that, “the present levels of abuse simply cannot be tolerated” and demanded that the prevalence of drug use be reduced to “the bare minimum.”³⁵ Nonetheless, despite his impassioned rhetoric, Michigan’s rate of narcotic offenses continued to rise through the decade to peak in 1978.³⁶

Although Michigan’s drug use rates were slowly rising, the state’s crime rate was decreasing. When considering that the national drug use and crime rates were already higher and steadily climbing, Michigan was faring comparatively well. Officials’ assess the seriousness of a problem in their state – to some degree – by comparing their states’ statistics to national numbers, it seems that Michigan’s relative drug use rates were not particularly alarming. More specifically, it appears unlikely that, after comparative analysis, Michigan’s lower but slightly rising drug use rates could have been enough to

³⁴ Public Service Announcement by Governor Milliken on WILX-TV. Detroit, MI, Recorded November 30, 1971, folder: “Drugs 1971-1973 (2 of 3),” Box 1222, William G. Milliken Papers, Bentley Historical Library; Remarks by Gov. William G. Milliken to the Michigan Alcoholism and Addiction Association. Lansing, MI, April 30, 1973, folder: “Drugs 1971-1973 (2 of 3),” Box 1222, William G. Milliken Papers, Bentley Historical Library, pp. 1.

³⁵ Remarks by Gov. William G. Milliken to the Michigan Alcoholism and Addiction, 2.

³⁶ State of Michigan: 1979 Uniform Crime Report. Department of State Police.

pressure the governor into passing such strong anti-drug laws – especially in the face of many other seriously opposing factors.³⁷

Despite the assertion that state officials were probably not particularly concerned about the drug use rate in Michigan, a series of surveys assessing the feelings and experiences of Michigan residents between 1973 and 1978 reveals that citizens were. The “*Crime in Michigan*” survey, conducted at the request of the governor, revealed that a growing portion of the population closely related drug use to crime. Those citizens also felt that the Michigan justice system could – and should – reduce crime by imposing stricter penalties on drug users.

The results showed that a growing number of households felt that state courts were too lenient on people charged with crimes. Between 1976 and 1977, the percentage of households that stated that they believed that the state judicial system were too lax on punishment of criminals increased by 20 percent. Furthermore, when households were asked what they thought was the best way for courts to sentence criminals, nearly 50 percent said that serious crimes “should have mandatory minimum prison sentences” set by law. The second most popular response – given by 24 percent of households -- was to assign a specific standard sentence to each crime, but allow the judge to raise or lower the penalty using their discretion.³⁸

However, while ever more surveyed respondents said they felt the justice system was too lenient on crime, an increasing number of households said they felt safe, hence

³⁷ L.D. Johnston, P.M. O’Malley, J.G. Bachman, and J.E. Schulenberg. Chapter 5, “Trends In Drug Use,” *Monitoring the Future national survey results on drug use, 1975-2003: Volume 1*. National Institute of Drug Abuse. (Bethesda, MD: 2003)

³⁸ “*Crime in Michigan: A report from residents and employers,*” 43, 60.

suggesting that crime was not in fact a pressing issue.³⁹ Judging from these statistics, it seems that regardless of the fact that the crime rate was decreasing in the late seventies and that households were feeling increasingly safer, Michigan citizens were anxious for a crackdown on criminals.

Upon the passage of the laws, the Detroit Free Press released an opinion editorial endorsing the mandatory sentencing laws, and argued “in favor of the effort to strike at large-scale narcotics dealers,” noting that the Editorial Board members “would like to see stiff new penalties.”⁴⁰ Despite the fact that there seems to have been fairly widespread support for the 650 Lifer Law, upon closer analysis, it appears that the legislation was not in Milliken’s – nor Michigan’s – best interest. Given the capriciously declining fiscal situation, the extremely overcrowded prisons, the decreasing crime rates, and the governor’s high approval ratings, it seems highly unlikely that Milliken would risk pouring the necessary resources into the expansion of Michigan’s War on Drugs solely to cater to a largely unfounded public demand for a crackdown. It seems apparent that the benefits of passing mandatory minimum sentencing statutes would simply not outweigh the costs.

Federal funding

The fact that Milliken was offered an opportunity to share the fiscal burdens that would accompany strict anti-drug policies with the federal government – decidedly lessening the costs of instating them – seems to have played the most significant role in the governor’s decision to pass them. Milliken accepted the deal and as early as 1972

³⁹ “*Crime in Michigan: A report from residents and employers,*” 20.

⁴⁰ Op-ed, “Tightening Up on Crime: Hard Choices Lie Ahead,” *Detroit Free Press*, January 24, 1978.

began receiving money from the national government –specifically the notoriously hard-on-drugs Nixon administration – to help subsidize the war against drugs in Michigan.⁴¹ The sizeable federal contributions were allocated to finance certain pilot projects in the state that could potentially aid in the national war against drugs, which Nixon dauntingly named “Public Enemy Number One.”⁴² In a 1972 speech, the governor stated that while “the role of law enforcement in areas of chemical abuse [is] a highly emotional and controversial issue,” Michigan must respond to the fact that the “police, judicial, and correctional agencies have been unsuccessful.” Later in the speech, Milliken announced that Michigan was being used as a “pilot federal project to determine the potential for drastically reducing the quantity of . . . illicit substances” and stated that the administration would begin the “utilization of significantly enlarged federal funding.”⁴³

In a testimony before state representatives less than a year before Milliken signed the 650 Lifer Law, the administrator of the Michigan Office of Criminal Justice, Noel C. Bufe stated that law enforcement agencies had made significant progress in the drug war that year – largely due to the use of federal funds. He stated that crime levels across the state had decreased and that there had been “significant recent successes in the Detroit area” in disrupting “the drug delivery chain which ends in Michigan.” Bufe proceeded to give a series of statistics revealing the success of the crackdown on drugs and crime and concluded by explaining that he believed “the material presented . . . tells a story of

⁴¹ “Nixon’s Hard Line,” *Time Magazine*, March. 26, 1973, pp. 1; Remarks by Gov. William G. Milliken to the Drug Abuse & Alcoholism Workshop, 2.

⁴² David E. Musto M.D. and Pamela Korsmeyer, *The Quest for Drug Control: Politics and Federal Policy in a Period of Increasing Substance Abuse, 1963-1981*. (New Haven: Yale University Press, 2002), 113; Remarks by Gov. William G. Milliken to the Drug Abuse & Alcoholism Workshop, 2.

⁴³ Remarks by Gov. William G. Milliken to the Drug Abuse & Alcoholism Workshop, 2.

effective state planning and local programs, using federal aid, to impact the drug problem.”⁴⁴ Not only does Bufe’s testimony reflect the scale of the federal funds that Michigan was receiving, but the positive tone of his statements as well as the facts revealing the pervasive success of the law enforcement agencies, suggest that the drug problem was relatively under control.

Federal influence

Although Milliken has explicitly stated that his passage of the 1978 mandatory minimum laws was a response to “an insidious and growing drug problem,” Bufe’s testimony, coupled with the actual crime and drug statistics of the day, hint that this was in fact not the only factor – and perhaps not even the main factor – compelling Milliken’s decision.⁴⁵ Another supplementary factor that likely played a considerable role in Milliken’s choice to pass the strict legislation was the fact that Milliken was receiving pressure to instate the laws from the federal government.

As Milliken was pouring millions of federal dollars into Michigan’s anti-drug arsenal, the national government was carving a foothold in Milliken’s administration. In accepting the money to fight the War on Drugs, the governor was tacitly consenting to a certain level of federal control in his administration.

This influence was apparent in the issuance of presidential directives to Milliken stipulating how to conduct the drug war. In a release announcing the allotment of federal funds to fight the drug war in Michigan’s Wayne County, Dr. Jerome H. Jaffe, the

⁴⁴ Memorandum from the Executive Office, Governor William G. Milliken. June 1, 1977 folder: “Drugs 1974-1979 (3 of 3),” Box 1222, William G. Milliken Papers, Bentley Historical Library.

⁴⁵ William G. Milliken. “Michigan must reform harsh drug sentences,” September 20, 2002, *Detroit News*.

director of the White House Special Action Office for Drug Abuse Prevention, was quoted saying that “President Nixon has directed us to expand drug abuse treatment ... and has given us the dollars to do the job.”⁴⁶ These specific and purposeful orders from the President reveal his striking attentiveness to the drug war in Michigan. In the same release, the governor euphemistically stated that his administration was “working closely with the Nixon administration to see to it that the entire range of drug prevention efforts,” including law enforcement, would get under way wherever they were needed.⁴⁷

The federal influence was also apparent in the increasingly common presence of Dr. Jerome Jaffe, a presidential staffer. Jaffe seemed to have become a fixture in the Michigan drug war and attended political events in the state throughout the seventies, including a presentation at a Michigan State University Honors College where he spoke about the importance of strong anti-narcotic legislation in the state.⁴⁸ Throughout the decade leading up to the passage of the mandatory sentencing laws, Milliken spoke of the coordination of narcotic control efforts between his administration and the nation’s executive office. This evidences the growing agency of the White House – which rose in tandem with the federal monetary allotments – to affect affairs and decisions within the Milliken administration.⁴⁹

⁴⁶ Memorandum from the Executive Office, Governor William G. Milliken. November 1, 1972, folder: “Drugs 1974-1979 (3 of 3),” Box 1222, William G. Milliken Papers, Bentley Historical Library.

⁴⁷ Memorandum from the Executive Office, Governor William G. Milliken. November 1, 1972.

⁴⁸ Remarks by Dr. Jerome Jaffe at the Michigan State University Honor’s Piton on Drug Legislation. 1973, folder: “Drugs 1971-1973 (2 of 3),” Box 1222, William G. Milliken Papers, Bentley Historical Library.

⁴⁹ Memorandum from the Executive Office, Governor William G. Milliken. March 20, 1974, folder: “Drugs 1974-1979 (3 of 3),” Box 1222, William G. Milliken Papers, Bentley Historical Library.

More proof of this federal influence within the Michigan government is seen in the parallel shifts in state and federal drug policies. When Nixon's presidency ended and Gerald Ford entered the White House, there was a shift in the drug war strategies endorsed by the federal government, and this was reflected in Michigan's policies. In the Ford administration's 1975 *White Paper on Drug Abuse*, the Domestic Council Drug Abuse Task Force asserted that federal agencies should concentrate their efforts primarily on the top of the illegal distribution network. Nixon had been staunchly averse to the strategy of focusing law enforcement on large-volume domestic traffickers, and the tactic was not reflected in Michigan policy until the President Ford entered the White House.⁵⁰ Ford came into office in 1974, and in December of 1975 Michigan lawmakers opened debate on Michigan's 650 Lifer Law; a policy that aimed at rooting out high level drug traffickers, essentially mimicking the strategy articulated in the federal government's *White Paper*.

The national administration's actual monetary subsidization of Michigan anti-drug policies likely played a large role in Milliken's decision to sign the 650 Lifer Law by providing fiscal support – and hence making the laws far less financially dangerous for the economically imperiled state. But it seems that the federal influence that ineluctably followed the money allotments also steered the governor's drug war decisions towards policies that fell in line with the goals of the national government -- such as 1978's mandatory minimums statutes.

Post-passage peril

⁵⁰ David E. Musto M.D. and Pamela Korsmeyer, 165.

By 1998 the retired former governor was campaigning vigorously for the repeal of the 650 Lifer Law. In an interview with author Dave Dempsey, the governor passionately termed his passage of the mandatory minimum sentencing laws “a chief regret” of his career and a mistake that he said that he was trying, in every way that he could, to undo.⁵¹ In the interview, the former governor openly admitted his mistake in judgment and said that he has since come to realize that the provisions of the mandatory sentencing laws led to terrible injustices, which indeed they had.

In 1980, less than two years after Milliken passed the strict sentencing laws, the Human Rights Party filed a lawsuit against the Michigan Corrections Commission, calling attention to the extreme overcrowding in Michigan prisons. According to a memorandum to the governor, the state corrections system was holding over 800 more inmates than the federally mandated capacity.⁵² A settlement was reached in which the state agreed to expand the corrections system.

In 1994 it was estimated that it cost \$13 million annually to house drug offenders alone, and about \$1 million to house a prisoner for life. In that year, “Michigan had the fourth-highest incarceration rate in the nation, yet ranked only 21st in the number of violent offenders behind bars.”⁵³ Today there are four times the number of people

⁵¹ Dempsey, 240.

⁵² Memorandum to the Attorney General from attorney Zolton Ferency, March 6, 1980, folder: “Corrections: Prison Overcrowding,” Box 673, The William G. Milliken Papers, The Bentley Historical Library.

⁵³ Patrick Affholter and Bethany Wicksall, “Eliminating Mandatory Minimum Sentences for Drug Offenses,” State Notes: Topics of Legislative Interest, November-December 2002, 4.

incarcerated in Michigan than twenty-five years ago, giving it roughly 40 percent more inmates than surrounding states.⁵⁴

Furthermore, “a disproportionate percentage of prisoners convicted under the law [were] given life sentences despite it being their first offense.”⁵⁵ Eighty-six percent of those incarcerated under the 650 Lifer Law had no prior felonies, while 70 percent were classified as poor.⁵⁶ And, while the law was intended to capture major drug traffickers, Milliken admitted to a reporter in 2004 that the majority of those netted were in fact “the younger 19 and 20-year old people who had been runners or maybe were addicts and were feeding their own habits.” Barbara Dodd, a Republican state representative involved in the reform effort, argued that, “a lot of them were young people who made very stupid mistakes but shouldn’t have to pay for the rest of their lives.”⁵⁷

A Fateful End

Republican governor John Engler repealed Michigan’s mandatory sentencing laws in 2002, significantly reducing the penalties and restoring sentencing responsibilities to individual judges. But after 24 years, the laws had come to symbolize gross social class and racial disparities within prisons, an expanding corrections system, and the state-mandated policy of incarceration rather than rehabilitation.

While Milliken now openly regrets his passage of the 650 Lifer Law in 1978 and says that it was the biggest mistake of his life, it must be noted that when the governor

⁵⁴ Jack Lessenberry’s *Essays and Interviews*, “Essay: What Prison Costs,” <http://jackshow.com>, (accessed November 7, 2007).

⁵⁵ *The Michigan Daily*, “650 to life: Law creates disproportionate punishment,” May 28, 1997.

⁵⁶ John Cloud, “A Get-Tough Policy That Failed,” *Time Magazine*, February 1, 1999. Mi

⁵⁷ Dempsey, 241.

signed the laws, there were many powerful of deterrents and a number of clear warnings cautioning against the passage of the law in the first place.⁵⁸ Milliken disregarded these signals and instead fatefully opted to cater to public alarm over a slowly creeping drug problem, and bend to federal pressures to ramp up the state's anti-narcotics policies; a move that he would live to regret.

⁵⁸ "Michigan Legislature Repeals Mandatory Minimum Drug Laws," December 12, 2002. <http://stopthedrugwar.org/chronicle-old/268/michigan.shtml>, (accessed November 7, 2007)