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NYC BOARD OF CORRECTION

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Richard A. Brown
District Attorney

April 3, 2007

Richard T. Wolf
Executive Director
NYC Board of Correction
51 Chambers Street
New York, New York 10007

Dear Mr. Wolf:

Thank you for allowing me to submit the following comments with respect to the proposed changes that the New York City Board of Correction has published with regard to the minimum standards governing the New York City Department of Correction facilities. I particularly want to address the Board's proposals concerning inmate telephone monitoring and correspondence review since the proposed changes would give prosecutors a greatly enhanced ability to prosecute defendants accused of domestic violence, criminal contempt of court, stalking, harassment and sex offenses, as well as other crimes. The proposed standards will go a long way toward better ensuring public safety.

Section 1-10(h) authorizing the monitoring of telephone calls

I strongly support the Board's proposal to give the Department of Correction the authority to monitor, record and listen to telephone calls made by inmates in New York City jails. Not only do many of the nation's largest municipal jail and prison systems monitor calls, including Chicago, Phoenix and Philadelphia, but other New York State counties, the New York State Department of Correctional Services and the local federal detention centers do likewise. Experience has shown that selectively monitoring calls provides law enforcement agencies outside the jails with intelligence that has been critical to both solving open cases and preventing serious crimes in and outside of the jails. It is well established that inmates have and do use jail-provided telephones for illegal activities.

This office is specifically aware of cases in which City jail inmates have used inmate jail telephones (indeed, even telephones in courthouse pre-arraignment pens) to threaten, intimidate and harass victims and witnesses and to pursue their dangerous and illegal activities. We have introduced evidence in court documenting that certain inmates have made hundreds of calls to their victims in direct contravention of orders of protection. Our domestic violence cases are especially susceptible to illegal telephone calls by incarcerated defendants since the defendants know the telephone

numbers of our witnesses. We have found that the majority of incarcerated defendants on our domestic violence cases have contacted or attempted to contact their victims despite orders of protection that were in effect. In fact, we are currently prosecuting a case involving a street gang leader incarcerated on Riker's Island for a homicide who was intercepted on a wiretap giving orders to other gang members on how to conduct the gang's narcotic activities. We considered writing a wiretap for this inmate's calls, but found that it would be a logistical nightmare given the Department of Correction's current system. In other words, we would have to find out which telephones were located on the cell block, tap them all and then only monitor the calls for that particular book and case number. Because using a wiretap in this manner was technically too difficult, we lost a valuable piece of evidence in this case. In addition, there have been a number of cases in Queens County where incarcerated defendants use the Department of Correction's telephone system to contact an assassin for hire to kill our witness or witnesses. Fortunately, and only due to the fact that we had cooperating inmates, we were able to intercept the plan and have one of our own detectives play the hit man in the conversation. Attached is a copy of a transcript entered into evidence; the only way that we are able to have a transcript is due to our own recording of the conversation. In almost every case, defendants who are incarcerated on domestic violence charges try to contact our complainants from Riker's Island. We have lost the support of numerous complainants due to this illegal contact in which the defendants harass, intimidate, threaten and frighten our complainants. If we had the ability to record these conversations and to play them to presiding judges on our cases, we would be well-equipped to protect our witnesses, to successfully prosecute our cases and to hold defendants accountable for their behavior.

Law enforcement in the City of New York is at a severe disadvantage because of the current restriction, unique to this City, with respect to the monitoring inmate telephone calls. There is no doubt that the authority to monitor telephone conversations involving inmates will be an important tool that has already proven its use in other jurisdictions.

Section 1-11 limiting prisoners' right to correspond with anyone "except when there is reasonable belief that limitation is necessary to protect public safety or maintain facility order and security."

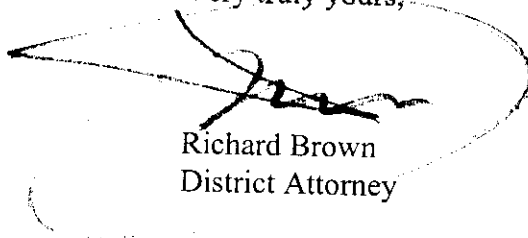
As with telephone monitoring, several other jurisdictions both in and beyond New York State already allow correction authorities to read non-privileged prisoner correspondence. We agree that correction systems, on behalf of the broader law enforcement community, must have the authority to read inmate correspondence in order to ensure that criminal activities could not be accomplished through the mail between inmates and persons outside the jails. And we agree, as well, with the Board of Correction perspective that the current requirement for a court order could cause undue delay and interfere with prevention of or timely dealing with imminent security threats.

Section 1-12 allowing jail officials to limit inmate receipt of packages "when there is reasonable belief that limitation is necessary to protect public safety or maintain facility order and security."

Contemporary technologies continue to make it even easier for individuals to plan and carry out illegal activities. Jail and prison administrations must have the authority to limit packages to inmates who have shown themselves to be threats to jail security or public safety by, for example, seeking to introduce contraband into the jails.

Once again, thank you for the opportunity to provide the Board of Correction with our office's perspective on these important standards revisions. I hope that these changes will provide the residents of Queens County with the same safeguards and protections that are provided by other jurisdictions in the State of New York. I believe that the changes proposed will contribute to our continued progress in reducing crime and help to keep New York safe.

Very truly yours,

A handwritten signature in black ink, appearing to read "Richard Brown", is written over a faint, circular dotted line. The signature is stylized and somewhat cursive.

Richard Brown
District Attorney