



**The City of New York**  
Department of Investigation

ROSE GILL HEARN  
COMMISSIONER

NYC BOARD OF CORRECTION

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May 8, 2007

Richard T. Wolf  
Executive Director  
New York City Board of Correction  
Room 923  
51 Chambers Street  
New York, NY 10007

Dear Mr. Wolf:

It is my pleasure to submit comments in support of proposed changes to the New York City Board of Correction's Minimum Standards which would permit the monitoring of inmate telephone calls and correspondence and would place limits on an inmate's ability to receive certain packages. These changes, if enacted, will be invaluable investigative resources and will greatly enhance the Department of Investigation's (DOI) ability to gather evidence of criminal activity that directly affects the safety and efficiency of the operation of New York City jails.

Section 1-10(h) ("Telephone Calls")

We strongly support the 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 large municipal prison systems monitor calls, including Chicago, Phoenix and Philadelphia, but the New York State Department of Correction and several New York State counties do as well. The federal detention centers also monitor calls and speaking from my own experience as a former federal prosecutor in the Southern District of New York for ten years, inmate call-monitoring was *invaluable* to capturing conspiratorial calls, calls about the destruction of evidence, suborning of perjury and/or the intimidation of witnesses. In the federal system with call-monitoring officials could also thwart illegal activity in the jails that was being discussed on the monitored telephones, such as the smuggling of contraband. Inmates on occasion

were even intercepted discussing plans of retaliation, obstruction by physical violence and physical violence against members of the criminal justice system. The telephones inside the jails, the sole telephones available to inmates, are a necessary instrumentality of these types of illegal activities and, therefore, used liberally even when inmates know they are recorded.

Thus, call-monitoring could be as valuable in the City jail system. The proposed amendment to Section 1-10(h) of the Minimum Standards would allow DOI to listen to and monitor potential similar inmate telephone calls. Under the current system, DOI can track telephone numbers called by an inmate, but is not privy to the content of the call. The ability to listen to and monitor actual conversations would provide DOI with vital intelligence and evidence critical to solving open investigations and preventing serious crimes in and outside of the jails. In fact, DOI, through its intelligence and case work, is specifically aware of instances in which inmates have used City jail telephones to intimidate witnesses, engage in conspiracies, coordinate the smuggling of contraband into City jails and to pursue unduly familiar relationships with Department of Correction staff. Additionally, our experience investigating brutality and sexual abuse cases has shown that inmates provide more candid and immediate descriptions of brutality and sexual abuse to friends and family members via the telephone, and a tape-recording of these outcry conversations can be critical to prosecuting these notoriously difficult to prove crimes.

As important as its investigative value, conversely, call-monitoring may have some deterrent effect on use of the phones for these sorts of illegal purposes. That is, the mere possibility that conversations can be overheard by law enforcement may stop some portion of the inmate population from utilizing the telephones to commit crimes.

Sections 1-11 (“Correspondence”) and 1-12(e) (2) (“Correspondence enclosed in packages”)

Proposed amendments to Sections 1-11 and 1-12 (e) (2) would allow DOI to review outgoing and incoming non-privileged inmate correspondence. Currently, DOI cannot review the content of any inmate correspondence absent a court order. Once again, several other jurisdictions and New York State allow correction authorities to read non-privileged prisoner correspondence. So for example, and ironically, the New York State Department of Correction, which has the ability to review inmate correspondence, routinely forwards to DOI state inmate correspondence because it contains critical information regarding contraband smuggling into Rikers Island and unduly familiar relationships between inmates and New York City Department of Correction staff. In a majority of these cases, it is the state inmate correspondence that enables DOI to launch and successfully substantiate an investigation. Based on our history of success with state inmate correspondence, DOI strongly believes the ability to review New York City inmate correspondence would significantly increase our ability to curb criminal activity which directly affects the safety and security of New York City jails.

May 8, 2007

Section 1-12(a) ("Limitation on receipt of packages")

With respect to Section 1-12(a), limiting inmate receipt of packages "when there is reasonable belief that limitation is necessary to protect public safety or maintain facility order and security," we believe that the Department of Correction 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. It is our mutual goal to take steps to increase security in the City jails, limit the introduction of contraband, and generally promote to the maximum extent possible a safe and lawful environment therein. We think this and the other proposed changes to the Minimum Standards do just that.

Thank you very much for the opportunity to provide the Board of Corrections with DOI's perspective on these important and groundbreaking proposed amendments to the Minimum Standards. I believe these changes will contribute to our continued progress in reducing crime and keeping New York City as America's safest large city.

Sincerely,



Rose Gill Hearn  
Commissioner  
Department of Investigation

cc: Commissioner Martin F. Horn  
New York City Dept. of Corrections

Florence Hutner  
General Counsel  
New York City Dept. of Corrections

Meera J. Cattafesta  
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