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July 9, 2014

Hon. Andrew M. Cuomo
Executive Chamber
Albany, NY 12224

Re: S.4928-B; A.7333-B

Dear Governor Cuomo:

The Legal Aid Society strongly opposes the above referenced legislation, entitled “An act to provide Queens County with jurisdiction for cases arising from Rikers Island facilities.” This Bill would amend §20.40(4) of the Criminal Procedure Law to eliminate Bronx County jurisdiction over criminal offenses that occur on Rikers Island and make all prosecutions on Rikers Island triable in Queens County.

The purported justification for the legislation is “cost savings and management efficiencies” for the New York City Department of Correction. The cost savings in transporting the inmates is questionable and no data is offered by the bill’s proponents to support the claim. Rikers Island is roughly nine miles by bus from both the Kew Gardens Court House and the Bronx Hall of Justice, and the traffic volume for both destinations is comparable. In its opposition letter to the legislation New York City denies that any cost saving will result from the transfer.

Rikers Island is a part of the Bronx and Bronx County has decades of experience in prosecuting crimes that occur on the Island. Special legislation that transfers large numbers of criminal trials from one Supreme Court district to another raises a substantial constitutional issue. The Sixth Amendment guarantees the accused in all criminal prosecutions . . . “the right to a trial by an impartial jury of the State and the district wherein the crime shall have been committed, which district shall have been previously ascertained by law” U.S. Const. Amend VI. The only recognized basis for removing a trial from the district where it occurred is the unavailability of an “impartial jury” within that district. No such claim is raised with respect to the ability of Bronx County juries to adjudicate crimes that occur on Rikers Island.

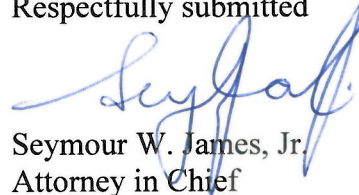
County or district lines matter in criminal cases. Wholesale transfer of prosecutions across district lines affects both jury composition and the allocation of resources between District Attorneys elected to serve their respective districts. As both the Queens and Bronx District Attorneys have pointed out, wholesale inter-district transfer would also contravene another important constitutional norm: That local prosecutors are elected by the pool of jurors who decide the cases they prosecute.

We are particularly concerned about the message that enactment of this bill will send to prosecutors throughout the City. At the present time a new Commissioner of the New York City Department of Correction is taking the initial steps to reduce the violence at Rikers Island. The removal of jurisdiction from the Bronx County District Attorney to prosecute crimes that occur in Bronx county that he was elected by the residents of the Bronx to prosecute will hamper the effort to reduce violence by transferring jurisdiction to a District Attorney's office that has little or no experience in prosecuting the type of crimes that occur on Rikers Island. Many pending investigations will be disrupted. Of particular concern is the chilling effect such a transfer will also have on any District Attorney's exercise of discretion to prosecute difficult or controversial cases.

This legislation is terribly flawed. It serves no useful purpose and it undermines the legitimate law enforcement efforts that have been conducted by the Office of the Bronx District Attorney. It will also raise a host of constitutional questions that would have to be litigated in any criminal prosecution arising out of Rikers Island.

We urge you to veto this legislation.

Respectfully submitted

A handwritten signature in blue ink, appearing to read "Seymour W. James, Jr.", is written over the typed name and title.

Seymour W. James, Jr.
Attorney in Chief