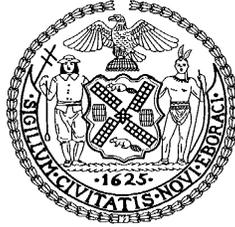


# ASSEMBLY COMMITTEE AGENDA



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## MEMORANDUM IN OPPOSITION

**LEGISLATIVE REFERENCE**      A.7333-B – by M. of A. Lentol – Rules Committee  
   S.4928-B – by Senator Nozzolio – Passed

**TITLE**                    **AN ACT** to amend the criminal procedure law, in relation to providing jurisdiction to Queens County for cases arising from Rikers Island facilities

### SUMMARY OF PROVISIONS

This bill would amend the Criminal Procedure Law to add a new subsection (n), which would change the jurisdiction over offenses occurring at Rikers Island facilities, the New York City Department of Correction's primary jail complex, from Bronx County to Queens County. The bill would take effect the 1<sup>st</sup> of January, 2016.

### REASONS FOR OPPOSITION

The City of New York opposes this legislation because it is technically flawed, raises constitutional questions with respect to the jurisdiction of district attorneys, and would confine the prosecution of crimes committed on Rikers Island to Queens County in instances where it would be more appropriate to prosecute such crimes elsewhere as permitted under current law. While the City appreciates the intent of the proponents of this legislation in ensuring that crimes committed against uniformed and civilian staff on Rikers Island are prosecuted to the fullest extent of the law, it is constrained to oppose this legislation for the reasons described herein.

This legislation would be unique in the Criminal Procedure Law by prohibiting a county from exercising jurisdiction over crimes committed within its own geographical borders. Bronx County geographically encompasses Rikers Island, and Criminal Procedure Law § 20.40 provides that a county's Supreme Court and local criminal court have jurisdiction over offenses occurring within that county. Most crimes committed on Rikers Island are prosecuted in Bronx County courts by the Office of the Bronx County District Attorney. The permanent reduction in the geographical jurisdiction of a county district attorney may raise constitutional questions with respect to the jurisdiction of district attorneys under Article XIII, §13 of the State Constitution. The Constitution provides that each county will elect one District Attorney to prosecute crimes that occur in that county. The proposed law would deprive the Bronx County District Attorney of his ability to prosecute a group of crimes committed in the county he was elected to represent.

This legislation would disrupt current criminal practice by superseding existing provisions of Criminal Procedure Law § 20.40. Under current law, if a particular crime should be tried in

another county, because, for example, the offense had an effect on that county or a portion of the crime or conspiracy occurred in that county, then section 20.40 provides jurisdiction to the other county. The mandatory nature of the proposed law, which requires that offenses committed at Rikers Island facilities “shall” be prosecuted in Queens County, would not permit prosecutions of appropriate Rikers Island cases in other counties. This is particularly concerning for domestic violence offenses. When an inmate at Rikers Island violates his or her order of protection by contacting his or her victim, the case is typically prosecuted by the district attorney’s office that is prosecuting the underlying case. This bill would strip jurisdiction from those counties and leave Queens County as the only county that could prosecute the offense. This would actually create inefficiencies, as the Queens County District Attorney’s Office would need to obtain files from the other four district attorney’s offices in order to prosecute violations of orders of protection. The victims in these cases would be burdened by having to establish a relationship with a new assistant district attorney and would be forced to travel to Queens if the need to testify arises. The bill would also remove the Office of the Attorney General’s ability to prosecute crimes on Rikers Island that fall within their purview, such as official corruption cases.

Moreover, although the bill justification states that this legislation would “provide cost savings and management efficiencies for New York City,” the City does not anticipate that it would realize any savings from the proposed law. Every day, the Department of Correction transports inmates charged with offenses on Rikers Island to and from their court appearances in Bronx County alongside other inmates due to appear in the Bronx courts. There is no separate transport for these inmates, and no incremental or standalone expense for the Department of Correction that would be saved if they were instead taken to court in Queens. Furthermore, the City has no reason to conclude that it would be any less costly to fund the prosecution or public defense of Rikers Island cases in Queens County than it currently is in Bronx County.

Finally, the proposed law is vague in its current form. The bill provides that Queens County would have jurisdiction over offenses occurring “at Rikers Island facilities,” but this phrase could be read to exclude from Queens County’s jurisdiction any offenses occurring outside of the physical structures located on Rikers Island. This ambiguity could lead to unnecessary litigation in the courts of Queens and Bronx Counties.

Accordingly, it is urged that this bill be disapproved.

Respectfully submitted,

SHERIF SOLIMAN  
Director

AC: 6/11/14