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PRESIDENT
FRANK A. SEDITA, III
ERIE COUNTY

July 16, 2014

The Honorable Andrew M. Cuomo
New York State Capitol Building
Albany, New York 12224

RE: Opposition to S4928-B, A7333-B (Nozzolio, Lentol)

Dear Governor Cuomo:

I am writing on behalf of the District Attorneys Association of the State of New York ("DAASNY") to oppose the above-referenced legislation, which would require all prosecutions arising out of offenses committed at Rikers Island facilities to be handled by the Queens County District Attorney instead of the Bronx County District Attorney.

DAASNY opposes this legislation because it is constitutionally flawed; it denies jurisdiction to prosecutors who are otherwise empowered to bring cases that impact their counties; it disrupts well-established criminal procedures; and it fails to achieve its purported goal of providing cost savings. For these, as well as the following reasons, the proposed legislation should be vetoed.

Section 13 of Article XIII of the State Constitution requires that every county elect a district attorney to prosecute crimes within that county. Indeed, it goes so far as to provide that the governor can remove a district attorney who fails to faithfully prosecute persons within his or her jurisdiction.ⁱ Furthermore, New York State County Law dictates that, with certain exceptions, cases are to be prosecuted in the courts of the county in which the district attorney was elected or appointed.ⁱⁱ Bronx County geographically encompasses Rikers Island facilities. Bronx County has an elected district attorney who has constitutional and statutory authority – and responsibility – to prosecute crimes committed within said facilities.

There are already allowances for prosecutorial agencies to pursue cases that originate in Rikers Island facilities but primarily impact other jurisdictions. Unfortunately, this proposed legislation not only strips the Bronx County District Attorney of jurisdiction, it also strips all other prosecuting agencies of jurisdiction. Because of the way this proposal is worded, *only* Queens County would have the authority to prosecute cases that occur at Rikers Island facilities, meaning that the Attorney General or local prosecutor whose jurisdictions is profoundly implicated by an offense committed at Rikers Island facilities would be statutorily barred from prosecuting that case.

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Threats against a witness in Kings County; violations of an order of protection taken out in Richmond County; orders to deliver drugs and firearms in New York County; or running an organized criminal enterprise that impacts the entire surrounding community would be the sole purview of the Queens County District Attorney. **S4928-B, A7333-B** is an unfunded mandate on that office and an inappropriate revocation of the existing authority of the other prosecutorial agencies.

Moving all of these cases to Queens County would also have a deleterious impact on victims and witnesses. These individuals would no longer go to the courts located in their own counties, but would need to travel to Queens County for interviews and for court proceedings. By that same token, defendants would not be tried in front of a jury pool comprised of individuals from the county most impacted by the crime.

Finally, the only stated goal of this legislation is to provide cost savings. The sponsor's memo states that, "Bronx is considerably farther from Rikers [than Queens]." This simply is not true. The Bronx County Courthouse is approximately an 8.3 mile drive from Rikers Island, while the Queens County Courthouse is approximately an 8.4 mile drive. Absent some compelling evidence to the contrary, this is a not a justification for depriving jurisdiction from an elected district attorney and mandating action on the part of another elected district attorney.

For these reasons, DAASNY opposes **S4928-B, A7333-B** (Nozzolio, Lentol) and strongly urges the veto of this legislation.

Sincerely,



Frank A. Sedita, III
President, DAASNY
District Attorney, Erie County

ⁱ New York State Constitution Article XII §13(b) "Any district attorney who shall fail faithfully to prosecute a person charged with the violation in his or her county of any provision of this article which may come to his or her knowledge, shall be removed from office by the governor."

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ⁱⁱ New York State County Law §700(1) “It shall be the duty of every district attorney to conduct all prosecutions for crimes and offenses cognizable by the courts of the county for which he or she shall have been elected or appointed; except when the place of trial of an indictment is changed from one county to another, it shall be the duty of the district attorney of the county where the indictment is found to conduct the trial of the indictment so removed, and it shall be the duty of the district attorney of the county to which such trial is changed to assist in such trial upon the request of the district attorney of the county where the indictment was found.

