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**REPORT ON LEGISLATION BY THE  
CORRECTIONS AND COMMUNITY REENTRY COMMITTEE**

**A.6838  
S.5337**

**M. of A. Weprin  
Sen. Hannon**

AN ACT to amend the public health law, in relation to body imaging scanning equipment; and providing for the repeal of such provisions upon expiration thereof

**THIS BILL IS APPROVED**

The Corrections and Community Reentry Committee of the New York City Bar Association<sup>1</sup> supports for the enactment of A.6838/S.5337, which would allow local correction departments across the State of New York to use full-body scanning equipment to detect dangerous contraband, such as ceramic blades, that cannot be found by metal detectors. This legislation is needed in the effort to reduce slashings and stabbings in jail complexes such as Rikers Island.

It is well established that correctional officials must take reasonable measures to ensure the safety of people who are incarcerated in their facilities. The leaders of the New York City Department of Correction (DOC) are attempting to fulfill this duty, in part, with the use of full-body, ionizing radiation scanners to detect non-metal weapons and deter smuggling. Although these scanners were used in DOC jails from March 2012 to March 2014—and have been used in federal jails in New York for many years—the DOC has been prevented from using them by a provision in the public health law, which the proposed legislation seeks to amend. According to DOC data, stabbings and slashings in city jails rose sharply in the absence of the scanners. In 2013, the last full calendar year when scanners were in use, there were 73 such incidents reported; in 2016 there were 155. Even with a steadily falling jail population, 2017 saw 132 stabbings and slashings, an average of 11 per month.

Our concern, of course, is not just for those held in jails, but also for correction officers and employees, as well as people who enter jails to provide vital programs and services. While DOC has worked to expand programming for detainees, organizations that provide programming report that their clients are reluctant to attend voluntary congregate programs because they are wary of other participants, especially those they are not housed with. Furthermore, stabbings and

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<sup>1</sup> The Corrections and Community Reentry Committee addresses issues affecting people in jails, prisons and other detention facilities, as well as people on probation and parole and with conviction histories. Members of the Committee include prosecutors, public defenders, attorneys in private practice, and public policy professionals who analyze laws and policies that affect the criminal justice system in New York.

slashings too often make scheduled programs impossible to attend. If there is a stabbing or slashing, the area where it occurred must be locked down so that officers can conduct an investigation and search. The lockdown can prevent many people who had nothing to do with the incident from getting to their scheduled programs.

Before issuing our initial report on this legislation in June 2017, we took part in several meetings with former Commissioner Joseph Ponte and his senior team, we reviewed expert opinion on ionizing radiation from scanners;<sup>2</sup> and made several visits to Rikers Island. Since then, we have taken part in meetings with Commissioner Cynthia Brann and her senior team, reviewed the four-page health and safety information sheet provided by DOC and the Department of Health and Mental Hygiene (DOHMH),<sup>3</sup> and made another visit to Rikers Island. We are persuaded that the health effects of scanner use will be negligible under the plan proposed by DOC and DOHMH. The risk of injury from concealed weapons is far greater and must be addressed urgently. Again, we believe that the use of full-body ionizing radiation scanners is in everyone's best interest.

Since correction officers and staff are responsible for some percentage of weapons and contraband found in jails, in order to tackle this problem in a comprehensive way, officers and staff also should be subjected to full body scanning.<sup>4</sup> We therefore recommend revisiting this legislation earlier than the sunset date currently proposed, in order to ensure that the use of body scanners solely on incarcerated people is expeditiously reducing slashings and stabbings. If the empirical evidence does not demonstrate a significant decline in slashings and stabbings, then we recommend that the law be amended to include correction officers and staff.

Corrections & Community Reentry Committee  
Alex Lesman, Chair

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<sup>2</sup> Declaration of P. Andrew Karam, PhD, CHP, In re Radpro Securpass Scanner Cases, 13-CV-3095, 14-CV-3197 (S.D.N.Y. Aug. 29, 2014) (stating that the scanners in use on Rikers Island in 2014 did not emit harmful levels of radiation to those scanned).

<sup>3</sup> New York City Department of Correction and New York City Department of Health and Mental Hygiene, *Body Scanners: Health and Safety Information* (on file at the New York City Bar Association).

<sup>4</sup> See, e.g., William K. Rashbaum, Michael Schwartz, Rikers Tumult Rises: Prison Official Accused of Spying on Investigator, NEW YORK TIMES (May 8, 2017), available at <http://nyti.ms/2prjAqt>; Bronx District Attorney Press Release, Correction Officer, Inmates and Civilians Indicted in Schemes to Smuggle Scalpels Commonly Used in Slashings into Rikers Island (May 19, 2016), available at <http://on.nyc.gov/2t0p3Gd>; Michael Schwartz, Rikers Island Guard Is Arrested on Charges of Smuggling, NEW YORK TIMES (Nov. 25, 2015), available at <https://nyti.ms/1NtY0vj>.