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ALBANY

RAYMOND W. WALTER
Assemblyman 146th District

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April 24, 2013

Ms. Catherine Leahy Scott
Acting Inspector General
Office of the State Inspector General
Empire State Plaza
Agency Building 2, 16th Floor
Albany, New York 12223

Re: Implementation of the NY SAFE Act

Dear Acting Inspector General Scott:

We the undersigned members of the New York State Assembly request that you please accept this letter as a formal complaint against the Division of Criminal Justice Services (DCJS) and the administration of the New York State Police regarding the implementation of the NY SAFE Act ("the Act"), Chapter 1 of the Laws of 2013. Specifically, we are looking for a review of the policy and procedures associated with the implementation of Section 20 of the Act, which amends the Mental Hygiene Law by adding Section 9.46.

Recent media reports in the Buffalo area brought to light a situation where a Town of Amherst man named David Lewis had his firearm license revoked purportedly in accordance with the above referenced provisions of the Act. It was subsequently determined that the man was improperly identified and that the revocation occurred in error. On April 11, 2013, New York State Police Superintendent Joseph D'Amico issued a press release stating that "the notification forwarded to the Erie County Clerk's Office required additional follow up before a positive identification of a person at risk to themselves or others became final."

On Monday, April 15, 2013, Superintendent D'Amico traveled to the Buffalo area and made numerous statements to various media outlets repeating the claim that the burden is on the County Clerk's Office to make a positive identification in these instances. These statements and the apparent policies and procedures of DCJS and the State Police administration are in conflict with the actual wording of the Act.

"Information transmitted to the division of criminal justice services shall be limited to names and other non-clinical identifying information, which may only be used for determining whether a license issued pursuant to section 400.00 of the penal law should be suspended or revoked . . ."
MHL Section 9.46(b)

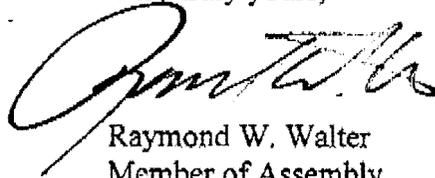
It should be noted that even though the above quoted language from the Act is already in effect, the amendments to Penal Law § 400.00(11) (a) and (b), requiring DCJS to have the county licensing official revoke an individual's firearm license does not take effect until January 2014.

There is a failure on behalf of DCJS and the Superintendent to understand the provisions of the Act, which negatively affects their ability to properly implement its provisions. The Act makes no reference to the County Clerk's Office conducting an investigation and such an investigation would be outside of the powers and duties of the Clerk. This failure has had severe consequences in the well-documented case of Mr. Lewis, whose property was erroneously seized. We have heard similar stories throughout the state and are concerned that our citizens are being deprived of their civil rights.

In addition, there have been reports that improper searches of individuals' medical records have been taking place, including Mr. Lewis'. These accusations represent a serious breach of our residents' constitutional rights and deserve a thorough investigation.

The demonstrated failures of DCJS and the Superintendent to understand and properly implement the mental health provisions of the SAFE Act should be of major concern to the Inspector General's office and, in our opinion, warrant a formal investigation of the actions taken so far and an examination of the procedures that they anticipate will be utilized going forward. For your reference we have included media reports surrounding the David Lewis incident, and the April 11 press release from Superintendent D'Amico.

Very truly yours,



Raymond W. Walter
Member of Assembly
146th District

Bill Nojny

BILL NOJNY

Andrew Goodell

ANDREW GOODSELL

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MICHAEL J. FITZPATRICK

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