

**DISTRICT ATTORNEY**

**COUNTY OF NEW YORK**

**ONE HOGAN PLACE**

**New York, N. Y. 10013**

**(212) 335-9000**



**CYRUS R. VANCE, JR.**  
DISTRICT ATTORNEY

October 31, 2017

**BY ECF**

Catherine O'Hagan Wolfe

Clerk of the Court

United States Court of Appeals for the Second Circuit

40 Foley Square

New York, New York 10007

Re: *Copeland v. Vance*, 17-0474-cv

Dear Ms. Wolfe:

Defendant-appellees District Attorney Vance and the City of New York respectfully submit this letter under Rule 28(j) to alert the Court to the Governor's recent veto of another amendment to the statutory definition of a gravity knife.

The Governor previously vetoed an amendment containing the same "designed [with] a bias towards closure" language that plaintiffs seek to graft onto the statute, finding the language to be "ambiguous" and overbroad in that it "would potentially legalize all folding knives" despite grave public safety concerns. DA Br. at 37; A1186-87.<sup>1</sup> On October 23, 2017, the Governor vetoed a second amendment that would have eliminated the centrifugal force clause from the statute entirely, thereby "legalizing all folding knives" and limiting enforcement to knives that open solely in response to gravity – i.e., the German paratrooper knives that plaintiffs maintain are the only knives to which the statute can constitutionally apply. Ex. A [10/23/17 veto message]; *see also* DA Br. at 8; Pls. Br. at 60-61.

The Governor's veto message, attached hereto as Exhibit A, raises two significant points. First, the core purpose of the statute is manifestly not to prohibit "relics from World War II" that open in response to gravity alone, but

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<sup>1</sup> Plaintiffs describe the folding knives implicated by this lawsuit as being "designed" with a "bias in favor of the closed position." A36.

rather to prohibit any knives, including folding knives, that open via a flick of the wrist – exactly like the knives possessed or sold by plaintiffs John Copeland, Pedro Perez, and Native Leather at the time of the challenged enforcement actions. Ex. A; *see* DA Br. at 39-40, 47-48. Second, the role of the statute in combating knife violence remains relevant today, and whether and to what extent the public safety risk is outweighed by legitimate uses of folding knives that meet the statutory definition is an issue for the elected branches of government and one that they are attempting to address. *See* DA Br. at 37-38.

Respectfully submitted,

Handwritten signature of Elizabeth N. Krasnow, consisting of the letters 'EK' in a cursive script.

Elizabeth N. Krasnow  
Assistant District Attorney

Encl. [Ex. A: 10/23/17 veto message]

Ex. A



STATE OF NEW YORK  
EXECUTIVE CHAMBER  
ALBANY 12224

VETO #171

October 23, 2017

TO THE ASSEMBLY:

I am returning herewith, without my approval, the following bill:

Assembly Bill Number 5667-A, entitled:

“AN ACT to amend the penal law, in relation to the definition of a gravity knife”

NOT APPROVED

This bill would amend the penal law definition of “gravity knife” to include only those knives with blades that release from their handle solely by the force of gravity. In so doing, this bill would legalize all folding knives, with the exception of relics from World War II.

Last year, the Legislature passed a similar bill (A.9042-A / S.6483-A) which I was constrained to veto. In my veto message (No. 299 of 2016), I explained the two fundamental reasons why the bill could not become law. First, the respected opinion of the State’s law enforcement community was uniform in its opposition to the wholesale legalization of readily deployable knives at a time when, despite a reduction in gun-involved violence, crimes involving knives was on the rise. Second, the bill’s definitional change of “gravity knife” would have resulted in greater confusion among law enforcement and knife owners, which would have amplified an already disparate level of prosecutions across the State. Unfortunately, numerous attempts to reach an agreement with the Legislature to address those concerns proved unsuccessful.

This year, the Legislature again sought to address concerns raised by the current law’s treatment of “gravity knives.” Unfortunately, while the bill did succeed in removing any ambiguity in the definition of “gravity knife,” by limiting the universe of knives to only those knives whose blade release solely by the force of gravity, it did so in a way that would essentially legalize all folding knives. In so doing, the Legislature has gone far beyond the innocent laborers carrying these knives for legitimate purposes and has grossly disregarded the concerns of law enforcement.

To address these concerns, the Executive again attempted to reach a three-way agreement with the Legislature. This agreement would have refined the definition of “gravity knife, reduced the potential criminal penalty for possession of these knives from a misdemeanor or felony to, at worst, a violation, and would have provided a legal exemption for those who carry these knives for work. In addition, to ensure workers intent only on making an honest day’s living no longer face arrest, the New York Police Department agreed to train its police officers to identify individuals falling within the new law’s exemption in a uniform manner. Unfortunately, an agreement with both houses of the Legislature could not be reached.

Based upon the continued concerns expressed by law enforcement and the Legislature’s unwillingness to adopt the modifications outlined above, I am constrained to veto this bill. The bill is disapproved.

A handwritten signature in black ink, appearing to read 'Andrew Cuomo', written in a cursive style.