



State of New York
MAR 06 2007
Department of State
Secretary of State

State of New York
Executive Chamber

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED

MAR 06 2007

MISCELLANEOUS
& STATE RECORDS

No. 9

E X E C U T I V E O R D E R

**ORDERING THE COMMISSIONER OF THE DEPARTMENT OF
CORRECTIONAL SERVICES TO BAR CERTAIN OFFENDERS FROM PARTICIPATING IN
TEMPORARY RELEASE PROGRAMS**

WHEREAS, temporary release programs provide an important opportunity for inmates committed to state prison to transition back into their home communities under supervision, and to assume responsibilities that will facilitate their ability to lead law-abiding lives; and

WHEREAS, temporary release programs should be focused on those inmates who are most likely to live and work within the local community in a law-abiding manner; and

WHEREAS, the positive acceptance of temporary release programs within the surrounding community is vital for the overall success of such programs; and

WHEREAS, there are certain classes of inmates who have committed crimes of particular violence, depravity or victimization, and who are less likely to succeed in temporary release programs; and

WHEREAS, the temporary release of such inmates likely would cause alarm and concern in the surrounding community, and thereby would diminish the acceptance of temporary release programs generally; and

WHEREAS, Correction Law § 851(2) grants the Governor the power to exclude or limit the participation of any class of otherwise eligible inmates from participation in a temporary release program;

NOW, THEREFORE, I, Eliot Spitzer, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and the Laws of the State of New York, do hereby order the Commissioner of the Department of Correctional Services to promulgate, modify, adopt, or rescind any rules, regulations, directives, policies or procedures as may be necessary to prevent the future transfer of any inmate to any program of temporary release, when the inmate is convicted of any of the following crimes, or is convicted of an attempt or a conspiracy to commit any of the following crimes:

- (1) an act of terrorism as defined in Article 490 of the Penal Law;

- (2) a homicide offense as defined in Article 125 of the Penal Law;
- (3) a sex offense as defined in Article 130 of the Penal Law;
- (4) an offense involving the sexual performance of a child as defined in Article 263 of the Penal Law;
- (5) incest as defined in Article 255 of the Penal Law; or
- (6) a violent felony offense that includes as an element: (i) being armed with, the use of, the threatened use of, or the possession with the intent to use unlawfully against another of, a deadly weapon or a dangerous instrument; or (ii) the infliction of serious physical injury.



G I V E N under my hand and the
Privy Seal of the State
in the City of Albany
this fifth day of March
in the year two
thousand seven.

BY THE GOVERNOR

A handwritten signature in blue ink, appearing to read "Richard B. ...".

Secretary to the Governor

A handwritten signature in blue ink, appearing to read "Chris ...".

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED

MAR 06 2007

MISCELLANEOUS
& STATE RECORDS