

MEMORANDUM

TO: Chairman/Commissioner Croce

FROM: Brian M. Callahan

RE: Inmate release on public holidays, Saturdays and Sundays

DATE: December 12, 2005

Section 500-1 of the Correction Law provides that when an inmate's sentence or civil commitment is to end on a Saturday or Sunday, the inmate must be released the preceding Friday. Similarly, when the release date falls on a public holiday, the inmate must be released on the preceding day, unless such holiday falls on a Monday, whereby release must occur on the preceding Friday.

The term "public holiday" is defined in section 24 of the General Construction Law, and includes "the first day of January, known as New Year's day ... and the twenty-fifth day of December, known as Christmas day, and if any of such days except Flag day is Sunday, the next day thereafter." This provision has long been held to decree the following Monday a public holiday where Christmas, New Year's day, or any other day set forth in General Construction Law section 24, other than Flag day, falls on a Sunday. Jones v. Fuchs, 106 A.D. 260 (2d Dept. 1905); Doheny v. Worden, 75 A.D. 47 (4th Dept. 1902).

The above-referenced passages of Correction Law section 500-1 and General Construction Law section 24 are particularly relevant in the upcoming weeks as both Christmas and New Year's day fall on a Sunday, thus making December 26, 2005 and January 2, 2006 public holidays. Therefore, any county jail inmate scheduled to be released on the 24th, 25th or 26th of December, 2005, must be released on December 23, 2005 and any such inmate scheduled to be released on the 31st of December, 2005 or the 1st or 2nd of January, 2006, must be released on the 30th of December, 2005.

Lastly, it should be noted that the early release provisions of Correction Law section 500-1 do not apply to inmates serving an intermittent sentence of imprisonment imposed pursuant to Article 85 or section 60.01(2)(d) of the Penal Law.