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## CHIEF DEFENDERS ASSOCIATION OF NEW YORK Legislative Memo

Dated: March 13, 2015

Bill Nos.: A04821 and S3675.

Provides that possession of a gravity knife shall constitute criminal possession of a weapon in the fourth degree only if the defendant has intent to use the same unlawfully against another.

### **The CDANY SUPPORTS passage of this bill in its entirety.**

Currently, possession of a gravity knife is encompassed by Penal Law § 265.01 (1), which makes possession of a gravity knife a “strict liability” crime. Under current case law, a person may be guilty of a misdemeanor for possessing a commonly-sold utility knife, even if that knife is not meant to be opened by the force of gravity, and even though the possessor is unaware that the knife could be opened in that manner. This bill would rectify that injustice by moving possession of a gravity knife to § 265.01 (2), where (as with daggers, dirks, razors and stilettos) possession would be criminalized only if the knife were possessed with intent to use it unlawfully against another.

### **Policy Issues**

True gravity knives, banned in New York in the 1950's have been extinct for some time, sold as antiques if at all. However, various folding and utility knives commonly sold on the internet and in other states by reputable retailers such as Home Depot may be flicked open by skilled police officers by the use of centrifugal force - - even if the objects were not meant to be opened in such a fashion and regular users would not know how to do so. Indeed until 2010, such utility knives were openly sold in New York by Home Depot and other retailers to laborers and home improvement “do-it-your-selves”. In 2010, pursuant to threatened prosecution by New York County prosecutor Cyrus R. Vance, Jr., New York retailers stopped selling these items. They are still openly sold in New Jersey and on Amazon.com. In New York City, and in particular New York County, artisans and laborers caught with these knives have been prosecuted for misdemeanors and - - if they have any type of prior conviction, for felonies and sent to prison. Even possession within one’s own home is illegal. And under current case law, it is irrelevant whether the possessor is aware that the tool has

the characteristics of a gravity knife.

This bill would rectify this injustice by putting such tools in the same class as daggers, dirks, razors and stilettos - - illegal if possessed with criminal intent.

### **Conclusion**

**The Chief Defenders Association of New York** SUPPORTS this proposed legislation for the reasons stated above and urges the New York State legislature to pass it, and the Governor to sign it.