

March 30, 2022

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**\*\*\*FOR IMMEDIATE RELEASE\*\*\***

## ***Defender Groups and Criminal Lawyers Associations Release Comprehensive Survey Detailing the Widespread Successes of Discovery Reform***

**(NEW YORK, NY) - The Chief Defenders Association of New York (CDANY), New York State Defenders Association (NYSDA), New York State Association of Criminal Defense Lawyers (NYSACDL), and others released a [comprehensive statewide survey](#) today detailing the widespread successes of discovery reform, which was signed into law in 2019.**

The survey results revealed that the vast majority of criminal defense attorneys across New York State believe that discovery reform has achieved the desired results and has positively impacted not only their ability to provide competent representation, but also the fairness of New York's criminal justice system. Furthermore, these reforms were needed because New York's previous criminal law discovery scheme, embodied in CPL Article 240, was considered by many to be one of the most regressive in the nation, one which deprived accused people of access to critical evidence required to make informed decisions during the pendency of a case.

On February 25, 2022, CDANY, NYSDA, and NYSACDL distributed the survey to their respective memberships, which include attorneys who engage in criminal defense representation for public defender offices or legal aid societies, attorneys who engage in criminal defense representation as part of an assigned counsel program (ACP), and attorneys who engage in criminal defense representation as a privately retained attorney, and received 509 unique completed survey responses.

According to the survey:

- **93 percent of respondents** confirmed that their ability to evaluate cases and develop case strategies improved;
- **92 percent of respondents** confirmed that, because of the early sharing of evidence and other critical information, their ability to investigate cases improved;
- **93 percent of respondents** confirmed that discovery reform improved their ability to advise clients about the charges, the case against them, and whether to accept a plea offer;
- **79 percent of respondents** confirmed that their ability to effectively communicate with clients, an essential part of developing the defense strategy, improved;
- **81 percent of respondents** confirmed that their ability to negotiate with prosecutors improved;
- **77 percent of respondents** confirmed that receiving discovery before preparing written motions improved their motion practice;
- **90 percent of respondents** confirmed that their ability to prepare for evidentiary hearings and/or trial greatly improved; and
- **80 percent of respondents** confirmed that discovery reform made criminal case proceedings more fair.

Some anecdotes from the survey that underscore the improvements resulting from discovery reform and the progress made towards fair representation include:

- “I used to work as a defender in NJ which has open file discovery, and the Superior Court prosecutors there had no issue collecting discovery from dozens of municipal police departments and handing it over to the defense within 5 days of arrest.”
- “I am a former prosecutor and have been doing defense work for over 20 years since. This discovery change has been monumental in basic fundamental fairness. In the past, discovery was withheld until the last minute on criminal cases where a client’s liberty or freedom was a risk, yet in civil cases - disputes over money - discovery was provided well in advance of trial. Thank you for eliminating the antiquated unfair discovery procedures of the past.”
- “Having worked for several years in a jurisdiction with open discovery (FL) prior to working in NY State, I was shocked, appalled, and horrified that discovery was not available to criminal defendants. It is impossible to have a fair proceeding, effectively negotiate, or advise clients without open and available discovery. It boggles my mind that it was allowed to go on for so long in NY..... Clients don’t have to make decisions that will impact their lives significantly with zero information or go into a hearing or trial blindfolded. It is much better for judicial efficiency if everyone has the same information so appropriate pleas can be negotiated and appropriate cases taken to trial.”
- “Seeing the evidence early on against my client has allowed me to effectively advise my client as to whether to testify before the Grand Jury, waive time to negotiate a pre-indictment plea, or whether to file motions or try to resolve a case...The amount of information we now can access, especially pre-indictment, is staggering compared to before discovery reform. I am now much more able to formulate defenses and better advise clients in plea negotiations.”

Leaders of CDANY, NYSDA, AND NYSACDL emphasized the importance of hearing from defense attorneys in every county in the state about the implementation and impact of the landmark discovery reform laws.

“This report offers an important reminder of why New York enacted comprehensive discovery reforms in 2019. Our old laws kept people in the dark about the evidence against them and resulted in wrongful convictions, pretrial delays, and unfairness. The new discovery laws have had a positive impact on the lives of New Yorkers around the state. Defense attorneys are able to provide meaningful advice to their clients, conduct informed investigations, file more specific and informed motions, and engage in meaningful negotiations. Current proposals couched as ‘tweaks’ to CPL article 245 will undermine the fundamental principles of discovery reform and will impede the strides made towards greater transparency and fairness in our criminal legal system. New York has taken the blindfold off and this report makes clear that we must never put it back on,” said **Susan Bryant, Executive Director, New York State Defenders Association.**

“For years, New Yorkers faced a system wherein the evidence against them largely remained in the hands of prosecutors until the time of trial, when it was too late to prepare a defense and the time for plea bargaining had passed. Discovery reform righted this inequity and brought balance to the system. The Report on the Impact of Discovery Implementation demonstrates the extent to which the representation of accused New Yorkers has transformed in just a short period of time. This came about because of the measured, thoughtful work of the New York Legislature in enacting these long overdue reforms. To now hastily upend them during the budget process under the guide of “minor adjustments” is untenable; it will reverse improvements that prevent wrongful convictions and promote fairness and confidence in the judicial system,” said **Leanne Lapp, President, Chief Defenders Association of New York.**

“The newly released ‘Report on the Impact of Discovery Implementation’ gives voice to the defense, often ignored by policymakers, about the benefits of early and complete discovery in criminal cases. By leveling the playing field, these reforms have mandated transparency and will guard against wrongful convictions. These reforms brought New York up to par with the rest of the country. These reforms have been landmark in their effect and amending them to any degree whatsoever would be a substantial miscarriage of justice,” said **Kevin M. Stadelmaier, Esq, Aid to Indigent Prisoner’s Society/Erie County Assigned Counsel Program 1<sup>st</sup> Deputy Defender-Criminal Division and Legislative Committee Chair, New York State Association of Criminal Defense Lawyers.**

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