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

***Over 50 Public Defenders Representing 39 New York Counties Urge Lawmakers to Reject Proposals from Governor Hochul, NYC DAs to Overturn New York's Successful Discovery Reform Law***

(NEW YORK, NY) - Over 50 public defender offices representing 39 New York State counties released an [open letter](#) today urging Albany lawmakers to reject proposals from Governor Kathy Hochul and New York City District Attorneys to overturn New York's successful discovery reform law.

The organizations represent every corner of the state from western, central, upstate and downstate counties.

**In their letter, the defense attorneys write that the clandestine push by three New York City prosecutors has completely averted any democratic process and pushed out stakeholders from across the state:**

*"Changes to crucial legislation should always be based on evidence and subject to public debate and scrutiny. Thus far, the process that has led us to this moment has been entirely clandestine and undemocratic. Not only has it excluded all of us and even more critically, the people directly impacted by the criminal legal system, it has also excluded elected lawmakers and those they represent."*

**Furthermore, the defense attorneys noted that the only proper mention of the discovery statutes in the budget would be to finally fund the implementation needs that will address the shared burden of evidence disclosure and review:**

*Rather than entertaining these closed-door 11th-hour policy proposals during budget negotiations, we urge you to take up the funding mandates that both houses outlined in their one house budget proposals. Funding for both prosecutors and defenders will finally realize the full potential of the 2019 discovery reform, known as "Kalief's Law."*

**Lastly, the defense attorneys point out that collaborative inquiries into evidence sharing that include both defense and prosecutors are already in motion and must be allowed to carry out their work to shape actual solutions that will solve any implementation challenges:**

*In fact, the work that has been done by the committees convened by the Governor and NYC Mayor have demonstrated that this sort of evidence-based, deliberative process works to form practical, targeted solutions to problems of implementation. For instance, through its meetings of stakeholders, the Governor's committee on discovery identified that the main problem interfering with discovery compliance was the fact that the police and prosecutors did not have computer systems that enabled them to effectively share materials. This prompted the NYPD to begin development of a new technology that will solve that problem. With more funding, committees like this one can make the changes needed to effectively implement the existing law.*

“Before the reforms of 2019, New York’s discovery statute eroded due process, furthered court backlogs and contributed to wrongful convictions,” said **Tina Luongo, Chief Attorney of the Criminal Defense Practice at The Legal Aid Society**. “Instead of gutting discovery reform, lawmakers must appropriate the funds necessary, which were missing from the initial legislation, for this law to live up to its intended promise. We call on the Legislature not to diminish their own hard-fought achievement, but to stand firm against these shortsighted, last-minute rollback efforts.”

“Contrary to their professed ‘progressive mindedness’ three New York City prosecutors seek to undermine transformative legislation for the entire state based on misleading data about dismissals. Rather than trying to solve implementation problems and working with the New York City Police Department to streamline the exchange of discovery, these prosecutors now seek to burden defense attorneys by having them ‘guess’ as to what information may not have been turned over. They seek to return to the days where withholding valuable information to gain strategic advantage over already disadvantaged litigants was the norm. This will inevitably lead to substantial case delays, unwarranted and lengthy incarcerations and more wrongful convictions. The discovery changes implemented in 2020 made an unfair system eminently more just. Compromising that fairness for process efficiency is the opposite of justice,” said **Kevin Stadelmaier, Legislative Director, New York State Association of Criminal Defense Lawyers**.

“It is disturbing that negotiations to rollback our discovery laws are happening behind closed doors and without input from defenders and impacted people and their families. Changes to discovery will almost certainly have unintended consequences, not only for those accused of crimes, but also for the court system, including delays and unnecessary motion practice. The Legislature and Governor need to focus on funding for SFY 2023-2024, which will ensure that prosecutors and defense counsel are able to fully implement the law. NYSDA continues to urge lawmakers to stand firm and say no to rollbacks,” said **Susan C. Bryant, Executive Director, New York State Defenders Association**.

“After extensive legislative debate and decades of expert research and recommendations, New York finally achieved discovery laws designed to address its high rate of wrongful convictions, coerced pleas, and unnecessary pre-trial delays, bringing the law in line with the rest of country’s discovery practices,” said **Yung-Mi Lee, Legal Director of Brooklyn Defender Services’ Criminal Defense Practice**. “For decades, people languished in New York jails in the dark about crucial information in their cases, as prosecutors used the old discovery laws to withhold evidence until the eve of trial and pressure guilty pleas. New York cannot go back to the era of the ‘Blindfold Law’ on the urging of three city district attorneys, and instead, must adequately fund discovery implementation to fulfill the promise of the reforms.”

“Our judicial system promotes justice for all, but there can be no justice without timely and equal access to evidence. The legislature should do everything in its power to both protect discovery reform from those who would roll it back, and facilitate its implementation with appropriate funding,” said **Leanne Lapp, Ontario County Public Defender and Immediate Past President, CDANY**.

“The membership of CDANY implores the legislature to defend our discovery laws, which are necessary to protect New Yorkers from wrongful convictions and coerced guilty pleas. Discovery reform replaced the blindfold law with fairness and transparency, enabling defense attorneys to effectively advise their clients, and allowing people accused of crimes to make informed decisions. These reforms were long overdue, and should not

be upended because of the complaints of three New York City prosecutors. The proposed rollbacks will result in delayed and denied justice. The legislature must hold the line on discovery,” said **Mark Funk, President of the Chief Defenders Association of New York.**

“If knowledge is truly power, then you know why three NYC District Attorneys have attempted, under cover of night, to turn the tables on fundamental fairness and due process by trying to gut a discovery law needing no corrections. They want to return to when the accused had to guess at what the evidence was in their case. The budget is no place for one sided, unvetted legislation, especially a unilateral attempt to upend what is now established law. The legislature must reject this attack on fairness and, instead, ensure the full funding required on both sides to ensure the ‘Blindfold Law’ never returns,” said **Andrew D. Correia, Wayne County Public Defender and Board of Directors member of NYSDA and CDANY.**

“New York’s old system of discovery was among the worst in the country. Which is why what prosecutors are trying to do at the 11th hour and behind closed doors – away from the scrutiny of the public and lawmakers – is appalling. Not only are they mocking the memory of Kalief Browder and so many others, but they are also openly showing they want the power to strip people of their freedom without any meaningful burden to turn over the very evidence they claim merits such treatment. Lawmakers must reject this undemocratic process and instead fully fund discovery reform so that no one ever languishes in hellholes like Rikers Island simply because they have the audacity to seek trial,” said **Eli Northrup, Policy Director in the Criminal Defense Practice at The Bronx Defenders.**

“Lawmakers in both chambers should stand firm and protect landmark discovery reform that assures fairness for the accused by allowing timely confrontation of evidence. We can’t return to an antiquated system where defense attorneys are denied evidence and are blindfolded until the last moment. Instead allow time for democratic process, legislative oversight and stakeholder input to properly weigh the efficacy of discovery reform, and immediately provide adequate funding to ease workload burdens for prosecutor and defender offices,” said **Laurette Mulry, Attorney in Charge of the Legal Aid Society of Suffolk County.**

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