

Congress of the United States

Washington, DC 20515

March 24, 2025

The Honorable Governor Kathy Hochul
Governor of New York State
NYS State Capitol Building
Albany, NY 12224

The Honorable Andrea Stewart-Cousins
Majority Leader, New York State Senate
Room 907, Legislative Office Building
Albany, NY 12247

The Honorable Carl E. Heastie
Speaker, New York State Assembly
Room 932, Legislative Office Building
Albany, NY 12247

Dear Governor Hochul, Majority Leader Stewart-Cousins, and Speaker Heastie:

We write to you urging the State to include meaningful reforms to New York's discovery laws in the upcoming budget in order to ensure a fair and effective criminal justice system that protects both victims of crime and the rights of the accused. We were encouraged to see many of these reforms included in the Governor's budget proposal and hope that they will be included in the final budget agreement.¹

As you know, in 2019, New York State enacted significant reforms to its discovery laws to require earlier and more comprehensive disclosure of evidence to defendants in criminal cases. These reforms were important steps for improving fairness by allowing defendants to make informed decisions about their cases and to avoid guilty pleas based on ignorance of the strength of the prosecution's evidence. However, while the intentions behind these reforms were commendable, they have resulted in some unintended negative consequences that are undermining public safety and the administration of justice.²

As the law currently stands, prosecutors must disclose a broad range of materials—some of which may be irrelevant or have little to no evidentiary value—within a narrow timeframe under penalty of case dismissal. This rigid standard has resulted in thousands of dismissals of criminal cases each year, including serious cases, often with no regard to the merits or fairness of the original charge. According to the New York County District Attorney's office, New York City has seen its case dismissal rate balloon to 62% in 2023, up from 42% in pre-reform 2019.³ In

¹Press Release, State of New York, Governor Hochul Unveils Highlights of FY 2026 Executive Budget Dividends (Jan. 21, 2025), <https://www.budget.ny.gov/pubs/press/2025/fy26-executive-budget.html>

²Hannah E. Meyers, *Destroyed by Discovery: How New York State's Discovery Law Destabilizes the Criminal Justice System*, MANHATTAN INST. (Jan. 19, 2023), <https://manhattan.institute/article/destroyed-by-discovery-how-new-york-states-discovery-law-destabilizes-the-criminal-justice-system>.

³NY COUNTY DIST. ATT'Y, *Why Common Sense Changes to New York's Discovery Laws are Needed* (Jan. 22, 2025).

totality, that amounts to a 48% increase in the case dismissal rate and 20,538 cases dismissed citywide in 2023 compared to 2019. While an uptick in dismissals alone is not necessarily indicative of a process issue, the scale and high rate of technical issue dismissals implies changes are needed to ensure justice is served.

Further, while the intent of the discovery reforms was to ensure transparency and fairness, the current implementation of these laws has overwhelmed our criminal justice system. Prosecutors, in their effort to comply with the voluminous and often irrelevant discovery requirements, are often forced to dismiss cases simply because they were unable to compile and turn over every last piece of material within the mandated timeframe. Moreover, onerous discovery requirements force both prosecutors and police officers to spend significant time obtaining often irrelevant discovery materials when that time would be better spent investigating and prosecuting other cases.

This is not a matter of fairness; it is a consequence of an overly broad and inflexible statute that fails to balance the rights of the accused with the need to protect victims and maintain public safety.

In light of these challenges, we urge you to take the following actions to refine and improve New York's discovery laws:

1. **Require proof of prejudice before dismissing cases for discovery noncompliance:** To avoid dismissals that are unrelated to the fairness of the trial, we propose that the Legislature amend CPL § 30.30(5) to include the same standard for dismissal based on prejudice as was applied to CPL § 245.80. Such legislation would ensure that cases are not dismissed solely because of technicalities, but only when the defendant's ability to defend themselves has been substantially harmed. Instead, we urge you to include the possible remedy of exclusion of any evidence provided after the deadline.
2. **Mandate timely challenges by the defense:** Under the current law, defense attorneys can — and often do — wait until after the speedy trial clock has run out to raise discovery issues, which incentivizes delays and undermines the reforms' original goal. We recommend that the Legislature require defense attorneys to raise any discovery issues within 35 days of receiving the prosecution's Certificate of Compliance. If issues are not raised within this period, they should be deemed waived, unless the court extends the deadline for good cause. This will help prevent tactical delays that only serve to prolong cases and prevent timely justice for victims.
3. **Clarify what materials must be disclosed in the initial Certificate of Compliance (COC):** The current law requires prosecutors to disclose all materials "relating to" a case, regardless of its relevance. This ambiguity has led to unnecessary efforts to chase down voluminous, irrelevant records. A more reasonable standard would require the prosecution to file the COC once they have turned over all materials "directly relevant to the charges," based on a good faith effort to locate the necessary evidence. This will still ensure transparency and fairness, while preventing wasteful and endless searches for documents with no evidentiary value.

These reforms will help balance the goals of ensuring justice for the accused and safeguarding victims' rights. Such reforms will also enable our criminal justice system to operate more efficiently, reducing unnecessary case dismissals while maintaining the integrity of our discovery process.

Even with the proposed changes, New York will remain the most open and transparent state in the nation when it comes to discovery laws. Compared to other states with expansive disclosure requirements—such as California, New Jersey, and Texas—New York stands out for its strict connection between discovery compliance and speedy trial laws, making it the only state with this link. While other states have less stringent timelines or more limited remedies for nondisclosure, New York imposes the broadest duty on prosecutors to quickly identify and disclose both direct and tangentially related evidence, including materials affecting the credibility of law enforcement witnesses. These reforms will maintain New York's leadership in ensuring transparency while balancing fairness for both defendants and victims.

We ask for your leadership in championing these commonsense reforms during the upcoming legislative session. By making these adjustments to our discovery laws, New York can continue to be a national leader in criminal justice reform, while ensuring that victims of crime do not suffer further from a system that fails to deliver justice in a timely manner.

Thank you for your attention to this critical issue. We look forward to your support in making New York's criminal justice system more just, effective, and fair for all.

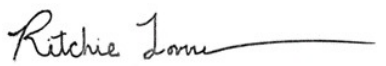
Sincerely,



Dan Goldman
Member of Congress



Thomas R. Suozzi
Member of Congress



Ritchie Torres
Member of Congress



Laura A. Gillen
Member of Congress