

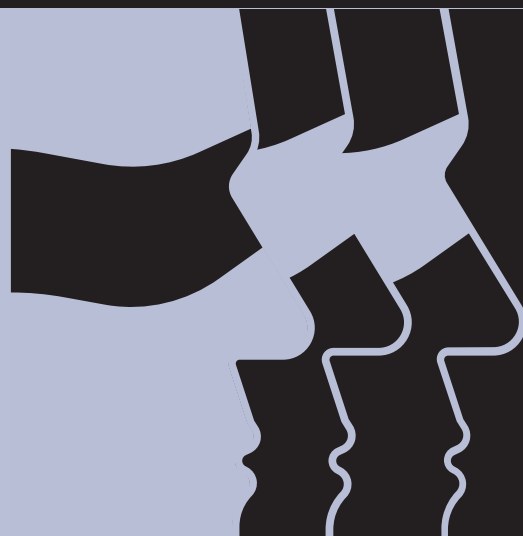
New York has one of the  
worst criminal discovery laws  
in the country.

People accused of crimes are  
denied access to the most  
important information in  
their case.

The result: Delayed trials.  
Impaired Legal Representation.  
Uninformed plea decisions.  
Wrongful convictions.

**JUSTICE IS  
BLINDFOLDED**

**REPEAL THE  
BLINDFOLD  
COALITION**





## **REPEAL THE BLINDFOLD COALITION**

Copyright ©2018 Brooklyn Defender Services.

Copyright ©2018 In Defense Of.

All rights reserved.

For more information, see [www.indefenseof.us](http://www.indefenseof.us)

### Organizations Including:

Innocence Project

The Legal Aid Society

Brooklyn Defender Services

Citizen Action of New York

Vocal New York

Just Leadership USA

Discovery For Justice

It Could Happen to You

The Bronx Defenders

Monroe County Public Defenders Office

**“BY REPEALING THE  
OUTMODED STATUTE THAT  
ALLOWS FOR 11TH-HOUR  
EVIDENCE DISCLOSURE  
AND PASSING LEGISLATION  
THAT WOULD MAKE ACCESS  
TO THIS INFORMATION  
AUTOMATIC AT OR NEAR  
THE BEGINNING OF A  
CRIMINAL CASE, NEW YORK  
LAWMAKERS COULD LEVEL  
THE PLAYING FIELD FOR  
DEFENDANTS AND BRING  
THE STATE CLOSER TO ITS  
PROGRESSIVE IDEALS.”**

**—NEW YORK TIMES EDITORIAL BOARD**

Editorial: “How to Make New York as Progressive  
on Criminal Justice as Texas”

# CONTENTS

---

## **CHAPTER 1: INTRODUCTION** **5**

The Case for Discovery	6
Exhibit A: Discovery Promotes Truth	8

---

## **CHAPTER 2: NUMBERS** **10**

Brooklyn Statistics	12
Exhibit B: Discovery Prevents Wrongful Conviction	14

---

## **CHAPTER 3: WITH & WITHOUT DISCOVERY** **16**

Side by Side Comparison	18
Exhibit C: Discovery Allows Informed Decisions	22

---

## **CHAPTER 4: NY V. THE COUNTRY** **24**

Maps: Comparing State Discovery Laws	26
Exhibit D: Discovery Ensures Fairer and More Expedient Case Outcomes	30

---

## **CHAPTER 5: PROSECUTORS NATIONWIDE AGREE** **32**

A National Consensus	33
Exhibit E: Discovery Powers the Presumption of Innocence	34

---

## **CHAPTER 6: CLOSING ARGUMENT** **36**

The Time Is Now	37
-----------------	----

---

## **APPENDIX: DISCOVERY LAW ACROSS THE NATION** **38**



**CHAPTER 1:**

# INTRO



# **IN NEW YORK, PEOPLE ACCUSED OF CRIMES ARE DENIED ACCESS TO THE MOST IMPORTANT INFORMATION IN THEIR CASE.**

Unlike the rest of the country, New York’s “discovery” law does not require the prosecutor to turn over any information, such as police reports, until trial begins — months or even years after an arrest. As 95% of convictions come from guilty pleas, most New Yorkers may never see any evidence at all. They are in the dark.

**SENATOR JAMAAL BAILEY AND ASSEMBLY MEMBER JOE LENTOL  
HAVE INTRODUCED LEGISLATION THAT WILL FINALLY CHANGE  
NEW YORK’S GROSSLY OUTDATED DISCOVERY LAWS.** Please support  
the Discovery for Justice Reform Act to overhaul New York’s unjust  
discovery laws. Learn more: [justiceisblindfolded.com](http://justiceisblindfolded.com)



# WHAT IS DISCOVERY?

**DISCOVERY IS THE PROCESS BY WHICH PROSECUTORS SHARE INFORMATION WITH THE DEFENSE.** Police reports. Witness statements. The name of an accuser. Video surveillance. Information about eyewitnesses. Crime scene photos. 911 calls. Medical Records. DNA results. A note on a little slip of paper that could lead to exoneration. All the information the prosecution has related to the case.

# WHAT'S AT STAKE

**IMAGINE HEADING INTO TRIAL** Your life, family, career, freedom is on the line. And you haven't seen any evidence. Imagine being forced to make the most important decision of your life, whether to plead guilty or not, and you don't even know who is accusing you. That's the reality for New Yorkers.

# THE TIME IS NOW.

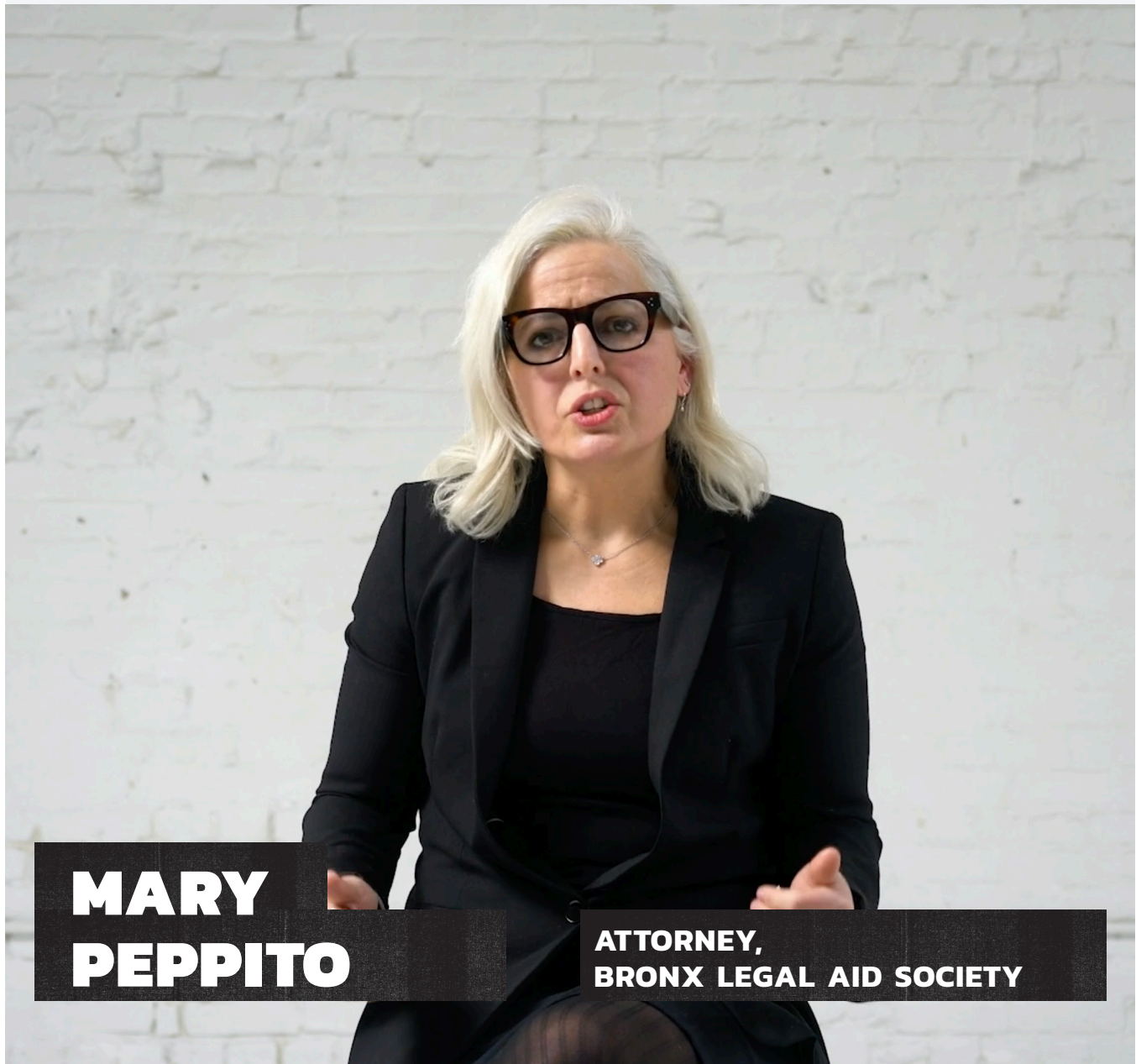
**FOR FOUR DECADES, PEOPLE ACCUSED OF CRIMES IN NEW YORK HAVE SUFFERED AND JUSTICE HAS BEEN UNDERMINED.** We finally have an opportunity to make things right and repeal New York's 'Blindfold Law.'



**EXHIBIT A:**

# **DISCOVERY PROMOTES TRUTH.**

Interview Excerpt from the video series  
“In The Dark: Criminal Discovery in the State of New York”



**MARY  
PEPPITO**

**ATTORNEY,  
BRONX LEGAL AID SOCIETY**

# **MY CLIENT THEN GOT TO SHOW HE HAS AN ALIBI. HE GOT TO SHOW THAT THE COMPLAINING WITNESS WAS LYING HIS PANTS OFF. AND HE GOT TO SHOW HIS INNOCENCE.**

Getting discovery at an early stage is so vital.

My client was arrested because he was a black man in the South Bronx wearing a white t-shirt. He was accused of participating in a gunpoint robbery with four other individuals. They busted down his door. They dragged him out. They indicted him for the gunpoint robbery even though he has nothing to do with it.

On the eve of trial, we were handed a document. And in this witness statement was this nugget, this little thread. When the statement was turned over, we had the good fortune to be able to pull on it. It was a phone number we had never seen before. Bingo.

The complainant actually was visiting an escort service and not getting robbed by my client.

The phone records show that whatever happened between the person that had that phone number and the complaining witness, it happened an hour earlier than my client even was there.

My client then got to show he has an alibi. He got to show that the complaining witness was lying his pants off. And he got to show his innocence.

We would not have been able to do that had we gone right into trial once we got that document.

**FOR THE FULL INTERVIEW, VISIT:  
[JUSTICEISBLINDFOLDED.COM/#MARY](https://justiceisblindfolded.com/#MARY)**



**CHAPTER 2:**

# THE NUMBERS





**IN NEW YORK, THE VAST  
MAJORITY OF PEOPLE  
CHARGED WITH A CRIME  
WILL NEVER SEE CRUCIAL  
EVIDENCE COLLECTED  
BY POLICE AND  
PROSECUTORS.**

**EVEN IN BROOKLYN, THE  
COUNTY KNOWN TO GIVE  
THE MOST DISCOVERY,  
HERE ARE THE NUMBERS:**

# 56%

**OF PEOPLE PLED GUILTY BEFORE  
THE PROSECUTOR TURNED OVER  
ANY INFORMATION AT ALL.**

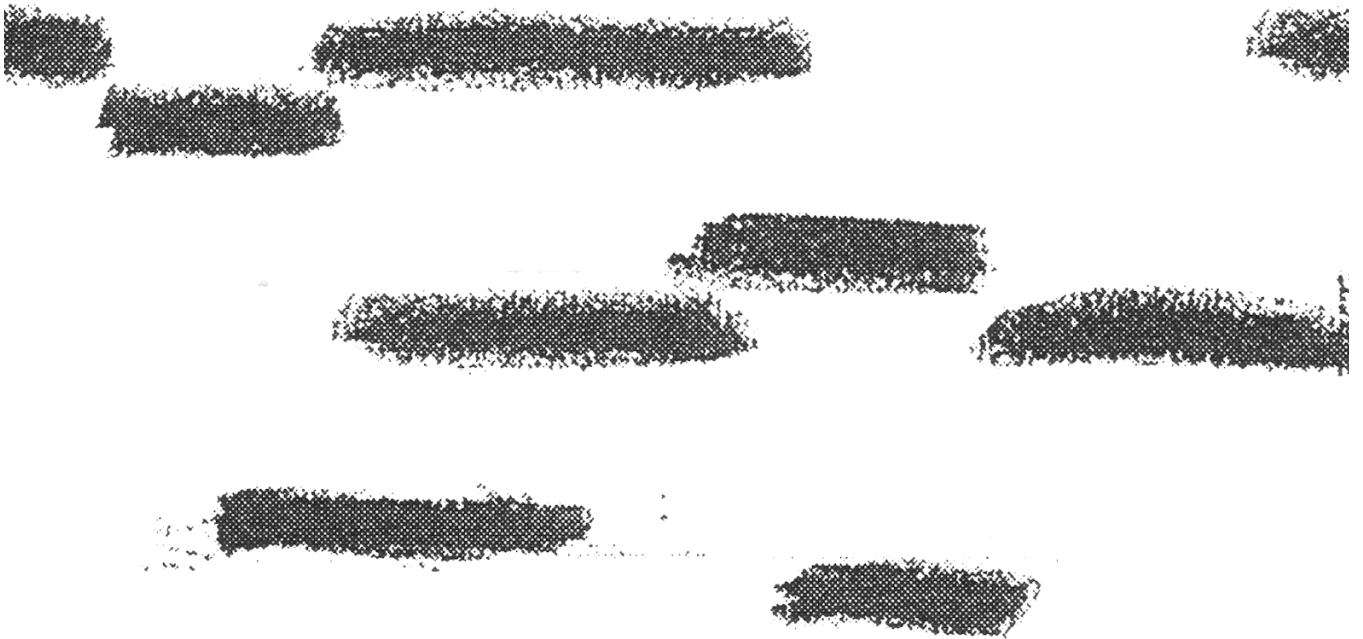
# 92%

**OF PEOPLE PLED GUILTY TO  
DRUG OFFENSES BEFORE THE  
PROSECUTOR TURNED OVER ANY  
DRUG LAB.**

# 1 IN 2

**PEOPLE WHO PLED GUILTY TO  
JAIL SENTENCES NEVER SAW  
ANY INFORMATION AT ALL.**





An excerpt from an actual police report handed over by prosecution. Even when the defense receives discovery ahead of trial, the information is often heavily redacted.

**IN MOST NEW YORK COUNTIES,** these numbers are even more stark. Because the law does not require the District Attorney to share documents and evidence with the defense, each can decide what their policy will be. In most of the state, prosecutors turn over nothing until trial. This deprives people accused of crimes and their attorneys of the opportunity to review the information before trial starts or before they must decide whether or not to accept a plea.

---

**The result: Delayed trials at taxpayer expense. Impaired legal representation. Uninformed plea decisions. Wrongful convictions.**

---

Source: Study of Brooklyn Defender Services case files resolved by plea bargain in October 2017, conducted by James Foreman's Yale Law School clinic.

**EXHIBIT B:**

# **DISCOVERY PREVENTS WRONGFUL CONVICTIONS.**

Interview Excerpt from the video series  
“In The Dark: Criminal Discovery in the State of New York”



**MARK  
WILLIAMS**

**PUBLIC DEFENDER,  
CATTAGARAUS COUNTY**

# **THIS YOUNG MAN SPENT EIGHT AND A HALF YEARS OF HIS LIFE SITTING IN PRISON FOR SOMETHING THAT HE DIDN'T DO. THAT COULD HAVE BEEN PREVENTED.**

I had a client who was a 21 year old Native American, charged with an assault on a police officer. The allegations were that he struck an officer with a rock and caused a physical injury. There was no discovery in the case. We had not received any documents. Ultimately he was found guilty and sentenced to the maximum sentence that was possible for that and some other charges.

8 years into his prison sentence, I went to the court, looked at the file, and found a police report. My client was in the state park at the time of the alleged assault, which was about 13 miles away from where this incident occurred. He could not have been there.

It burns me up when I sit and look at this young man who spent eight and a half years of his life, sitting in prison for something that he didn't do. That could have been prevented. Had we been provided that information, we would've had a chance to defend him and had him found not guilty.

To me, it's a terrible human waste, and a terrible waste of tax dollars. People do not think of the tax dollars that go into housing someone in State prison for eight and a half years. It's a lot of money.

But even more important is the human side of this. He wasn't around while his daughter was growing up. I just feel bad because he could have been there during eight and a half years of her life.

**FOR THE FULL INTERVIEW, VISIT:  
[JUSTICEISBLINDFOLDED.COM/#MARK](https://justiceisblindfolded.com/#MARK)**



**CHAPTER 3:**

**WITH &  
WITHOUT  
DISCOVERY**







**ACCESS TO EVIDENCE  
MAKES ALL THE DIFFERENCE.  
COMPARE AND CONTRAST  
HOW DISCOVERY CHANGES  
LIVES AND CASE OUTCOMES. →**



# SEAN 36.

**WORKS SECURITY, 2 CHILDREN**

**ARRESTED:** After a dispute over the fare, Sean is stopped by the police and told the cab driver accused him of an armed robbery. Sean tells the police there was no robbery and, in fact, the cab driver pulled a gun on him.

**CHARGED:** Sean is charged with armed robbery, a violent felony. Mandatory minimum is 5 years. Maximum 25.

**DETAINED:** Jailed pretrial on bail he cannot afford to pay.

## WITH DISCOVERY

### PROVIDED DISCOVERY

3WK

As part of open file discovery, Sean's attorney receives copies of 911 calls, video surveillance, police reports, witness statements, the criminal record of the witness, and contact information for eyewitnesses.

### INVESTIGATION CONDUCTED

4WK

Sean's attorney interviews all known witnesses. The 911 caller explains that it was the driver of the car, not Sean, who was the aggressor with the gun. Sean's attorney finds inconsistencies in prior statements the driver made to police. Video surveillance shows Sean running away, but it is unclear who had weapon.

### PLEA OFFER MADE

5WK

Plea to a felony charge and 2 years in prison.

### INFORMED CONVERSATION

Defense attorney conveys the offer to Sean. After he hears about the 911 caller, inconsistencies, and ambiguous video he feels empowered and confidently **turns down the offer.**

## WITHOUT DISCOVERY

### DENIED DISCOVERY

In New York, Sean gets nothing.

### INVESTIGATION IMPEDED

Although Sean's attorney immediately sent investigators to the scene, they could not find anyone who saw the incident. The super of the building said the video surveillance of the street had already been recorded over, but was provided to the police.

### PLEA OFFER MADE

Plea to a felony charge and 2 years in prison.

### • BLIND CONVERSATION

Sean asks basic questions, but the police reports and video is not available. Sean feels powerless, scared. Deeply troubled, **Sean turns down offer. For now.**



### TRIAL PREPARATION

Defense attorney prepares case for trial and conducts legal research using the information provided through discovery and follow up investigations.

### FREED

With the information, Sean's defense attorney requests that the judge to release him. The judge agrees and reduces bail to an amount the family can afford. Sean is released and returns to his family and his job.

### TRIAL

Using the information obtained through discovery, and with ample time to prepare, the defense attorney is able to show the jury the truth.

### NOT GUILTY

The jury finds Sean not guilty. The case is over.

### CASE STAGNATES

Defense attorney asks prosecutor for evidence. Still gets none. Attorney does not even know that there was a 911 caller.

### DETAINED

Sean remains incarcerated. He is separated from his family and unemployed. While jailed, he has not received needed medical care.

### DELAY

Sean is brought to court 14 times. He and his attorney never get any additional information about the case.

### MORE BLIND CONVERSATIONS

Basic questions from attorney and Sean: Eyewitnesses? What does video show? What does the driver claim happened? Any physical evidence? No answers. Sean's frustration and fear grows.

### 2YRS NEW PLEA OFFER

Prosecution offer changes--if he pleads guilty to a felony, Sean will receive a sentence of time already served. Take it, and it's over. Sean will go home. Don't accept it: He faces 25 years at trial.

### PLEADS GUILTY

Worn down, tired, scared of the unknowns of trial, the risks of so much prison time, and desperate to go home, Sean pleads guilty without any information. Now with a criminal record, he cannot get his old job back.

**\*BASED ON ACTUAL CASES**





# JASON, 28.

## HOMELESS

**ARRESTED:** Jason was arrested two weeks after a local deli had items taken during the night.

**CHARGED:** Jason is charged with burglary for theft of Redbulls and cigarettes. Faces a maximum 7 years in prison. He tells his lawyer he can't remember the incident.

**DETAINED:** Jailed pretrial on bail he cannot afford.

### WITH DISCOVERY

#### PROVIDED DISCOVERY

Jason's attorney receives video surveillance the deli owner had turned over to police and police reports.  
The video is very clear.

#### INVESTIGATION CONDUCTED

Jason's defense attorney has a productive conversation with the deli owner, who confirms he knows Jason well. His version of events is consistent with what is in the police reports and what is depicted on the video.

#### INFORMED CONVERSATION

Defense attorney shows Jason the video. While he still does not remember the incident, Jason readily accepts responsibility. He opens up to his attorney that he sometimes steals to support his drug habit.  
Drugs are destroying his life.

#### TRUST BUILDS

Jason opens up to his attorney and shares his past. He expresses interest in finally getting clean. Jason meets with a social worker. The attorney drafts and submits a letter to the prosecutor describing Jason's struggle with addiction and his need for treatment.

### WITHOUT DISCOVERY

#### DENIED DISCOVERY

No discovery is provided

#### INVESTIGATION IMPEDED

Jason's attorney cannot access the video surveillance from the deli owner because it was recorded over after the police obtained it. The deli owner claims he knows Jason, but his attorney cannot confirm this.

#### BLIND CONVERSATION

Jason's defense attorney tells Jason all she knows. He does not disclose his drug use.

#### TRUST STAGNATES

Jason is still hesitant to talk about his life or the case. His attorney asks about any past substance or mental health issues and whether he would be interested in exploring treatment if the prosecution would offer it. Jason says he will think about it.





**PRODUCTIVE NEGOTIATIONS**

Prosecution offers 2 years in prison. Jason's defense attorney asks for drug treatment as an alternative.

**RELEASED**

Jason's defense attorney points out to the prosecutor that Jason is clearly intoxicated on the video, confirming his drug problem. After reviewing the video and reading the letter submitted by the defense, the prosecutor consents to treatment. Upon successful completion of 9 months of residential treatment, the case will be dismissed. Jason is released to an inpatient drug program.

**CLEAN AND SOBER**

Jason excels in treatment. His case is dismissed. His life is improved.

**4MO****LIMITED NEGOTIATIONS**

Prosecution offers 2 years in prison.

**6MO****DETAINED**

Jason declined the offer.

**1YR****DELAY**

Case is adjourned 4 times over the next 6 months. Jason keeps asking to see the police reports and video, but the attorney has not received them yet.

**1.5YRS****DISCOVERY TURNED OVER**

Four days before trial, the prosecutor turns over the police reports and video. After watching himself on video, Jason realizes that it is him and finally opens up to his attorney about his drug addiction. He asks his attorney if treatment is an option.

**DATE OF TRIAL**

Defense asks for time to prepare to a letter to the court and prosecutor to request treatment. The judge will not give more time because the case is scheduled for trial.

**PLEADS GUILTY**

Rather than risk a trial he knows he will lose, Jason accepts 2 years in prison. Without treatment, Jason relapses when he gets out of jail.

**\*BASED ON ACTUAL CASES**

**EXHIBIT C:**

# **DISCOVERY ALLOWS INFORMED DECISIONS.**

Interview Excerpt from the video series  
“In The Dark: Criminal Discovery in the State of New York”



**BERT  
ROUGHTON**

**SENIOR STAFF ATTORNEY,  
BROOKLYN DEFENDER SERVICES**

# **COMING TO NEW YORK WAS A SHOCK. I WAS SHOCKED TO SEE THAT WE WEREN'T GETTING WITNESS NAMES OR POLICE REPORTS OR OTHER BIG PIECES OF DISCOVERY.**

I started practicing in Georgia and Georgia is certainly by no means a paradise for criminal justice.

Coming to New York was a shock. First of all I was shocked to see that we weren't getting witness names or police reports or other big pieces of discovery like that at the first court date. When we did receive some of these items, that key information was redacted or left off or blacked out.

In Georgia, I represented a man who was charged with armed robbery and when I first met with him, he wasn't interested in having a discussion about taking any type of plea. He wasn't interested in

considering the lesser sentence that was being offered by the prosecutor. But at a very early phase of case, I received a copy of video surveillance footage with a larger packet of discovery. This wasn't months into the case. This wasn't years into the case. This was weeks into the case.

And once he saw that I had the information, he was much more receptive to having the conversation. Without him being able to see what evidence they had against him and that they had strong evidence against him. He decided to take the offer which was far less than the 10 to life that he was facing and as a result, he saved years of his life.

**FOR THE FULL INTERVIEW, VISIT:  
JUSTICEISBLINDFOLDED.COM/#BERT**



**CHAPTER 4:**

# NY V. THE COUNTRY



## **NEW YORK NEEDS REFORM.**

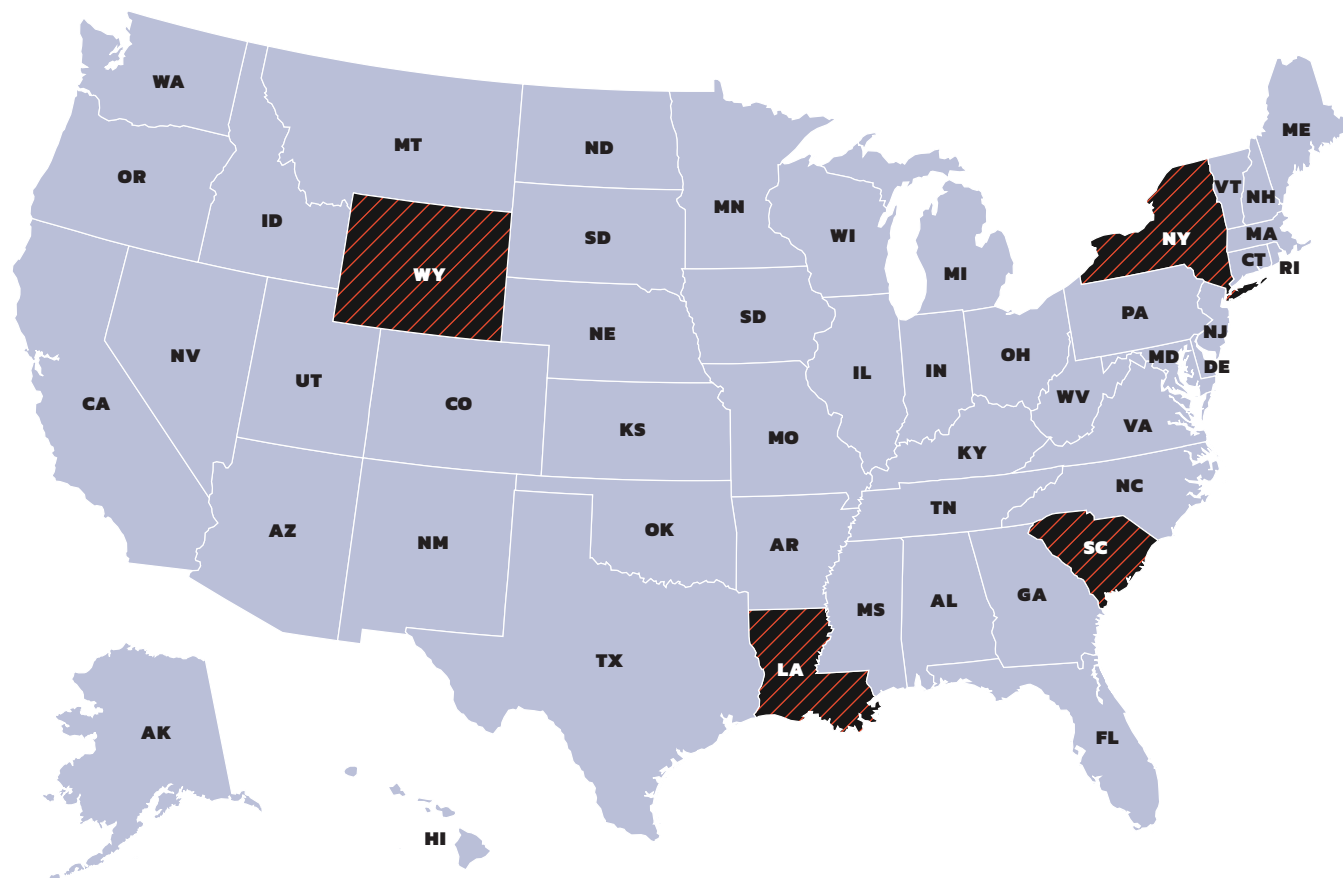
This so-called ‘progressive’ state lags far behind the discovery laws and practices of the rest of the country. Over the past thirty years, most other states have passed discovery laws that provide the accused with critical and informative evidence early and automatically. Yes, even Texas.

**“TEXAS IS KNOWN AS A LAW AND ORDER STATE. WITH THAT TRADITION, HOWEVER, COMES A VERY POWERFUL RESPONSIBILITY TO MAKE SURE OUR JUDICIAL PROCESS IS AS TRANSPARENT AND OPEN AS HUMANLY POSSIBLE.”**

**—GOVERNOR RICK PERRY,**

Upon signing comprehensive discovery reform into law in Texas in 2013.

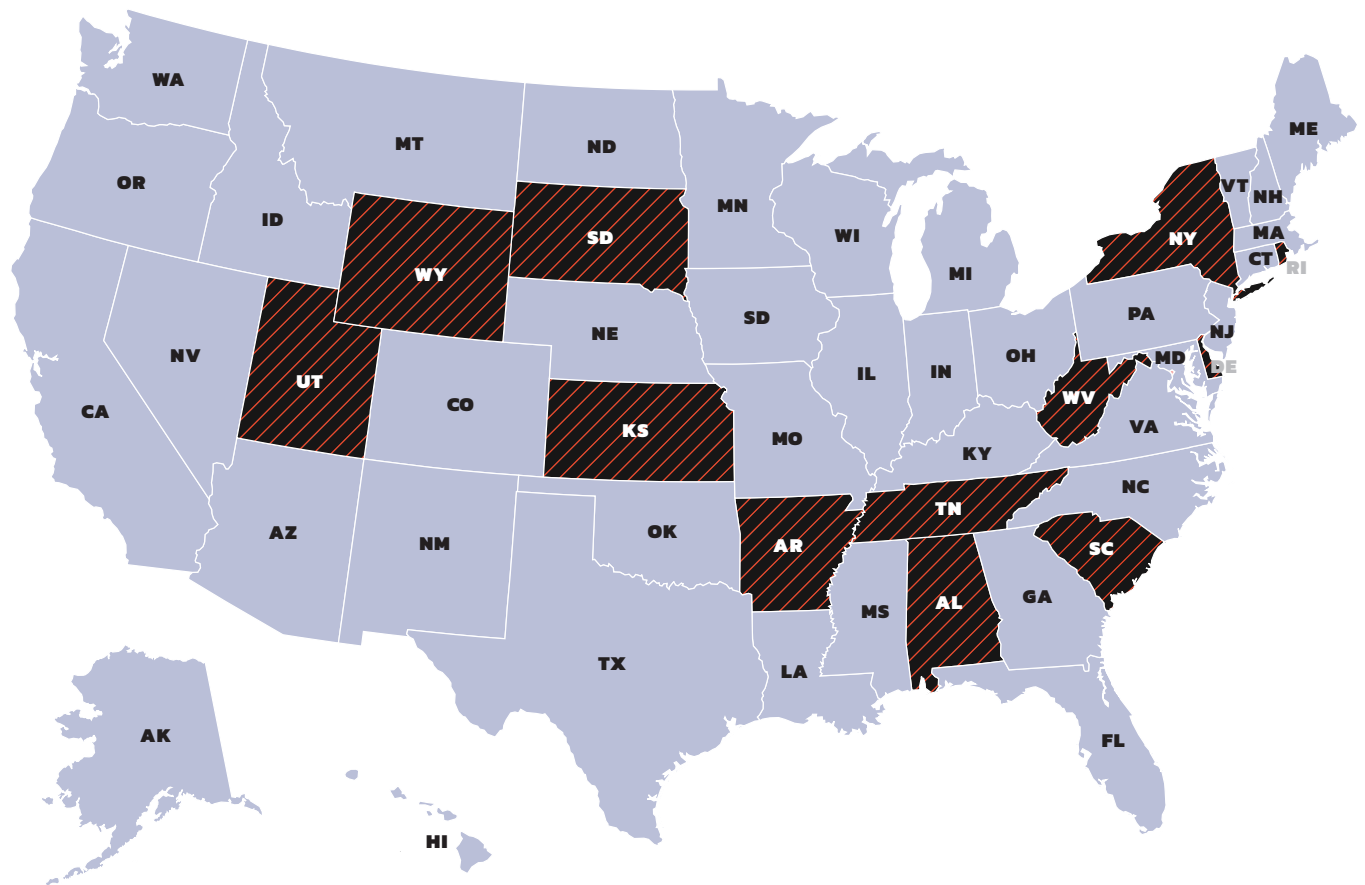
# BROAD AND EARLY DISCOVERY:



New York is among the four worst states in the country for discovery, alongside Louisiana, South Carolina and Wyoming.



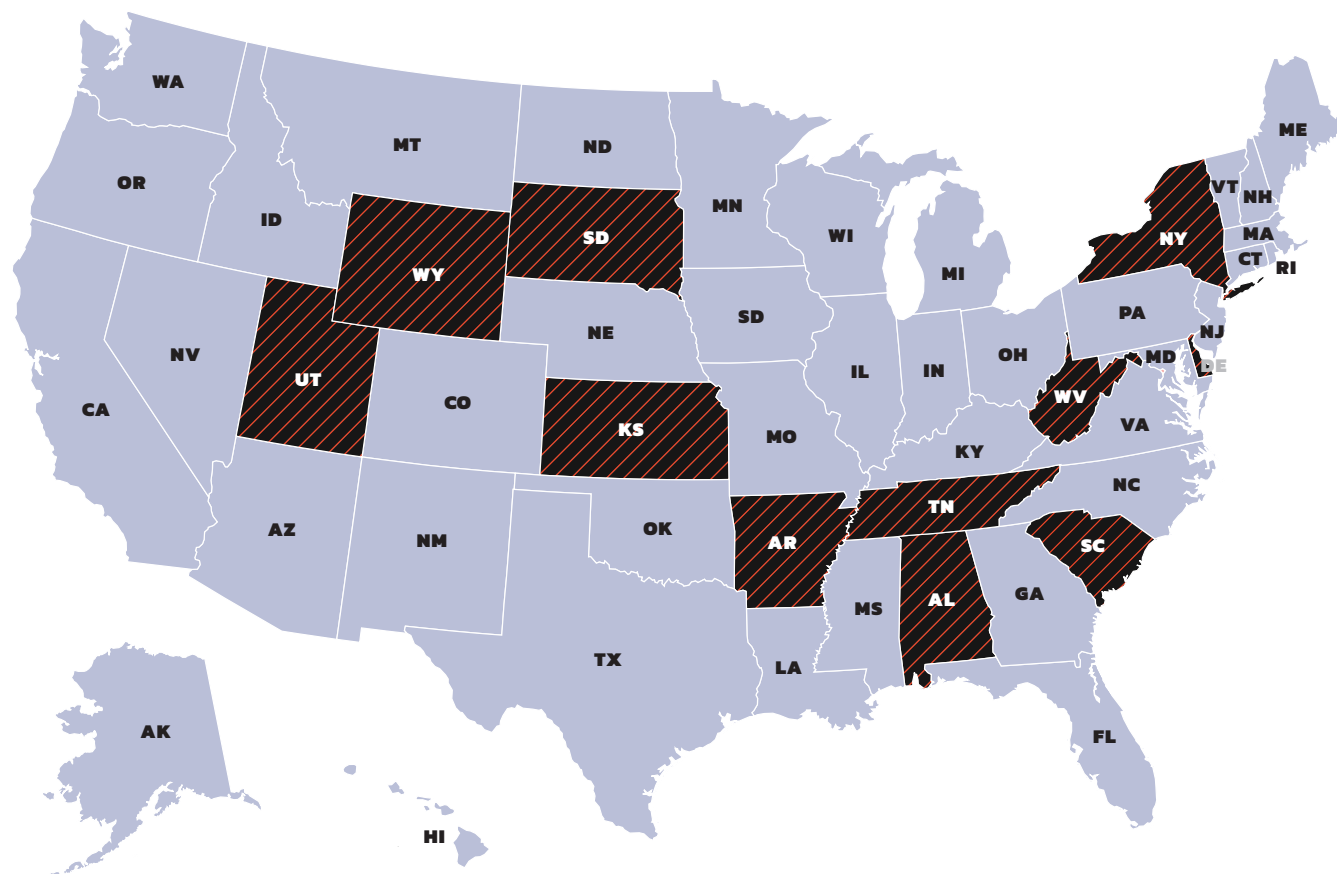
# POLICE REPORTS:



In New York, even at trial, some police reports will never be disclosed. 38 other states are more transparent.



# WITNESS STATEMENTS:

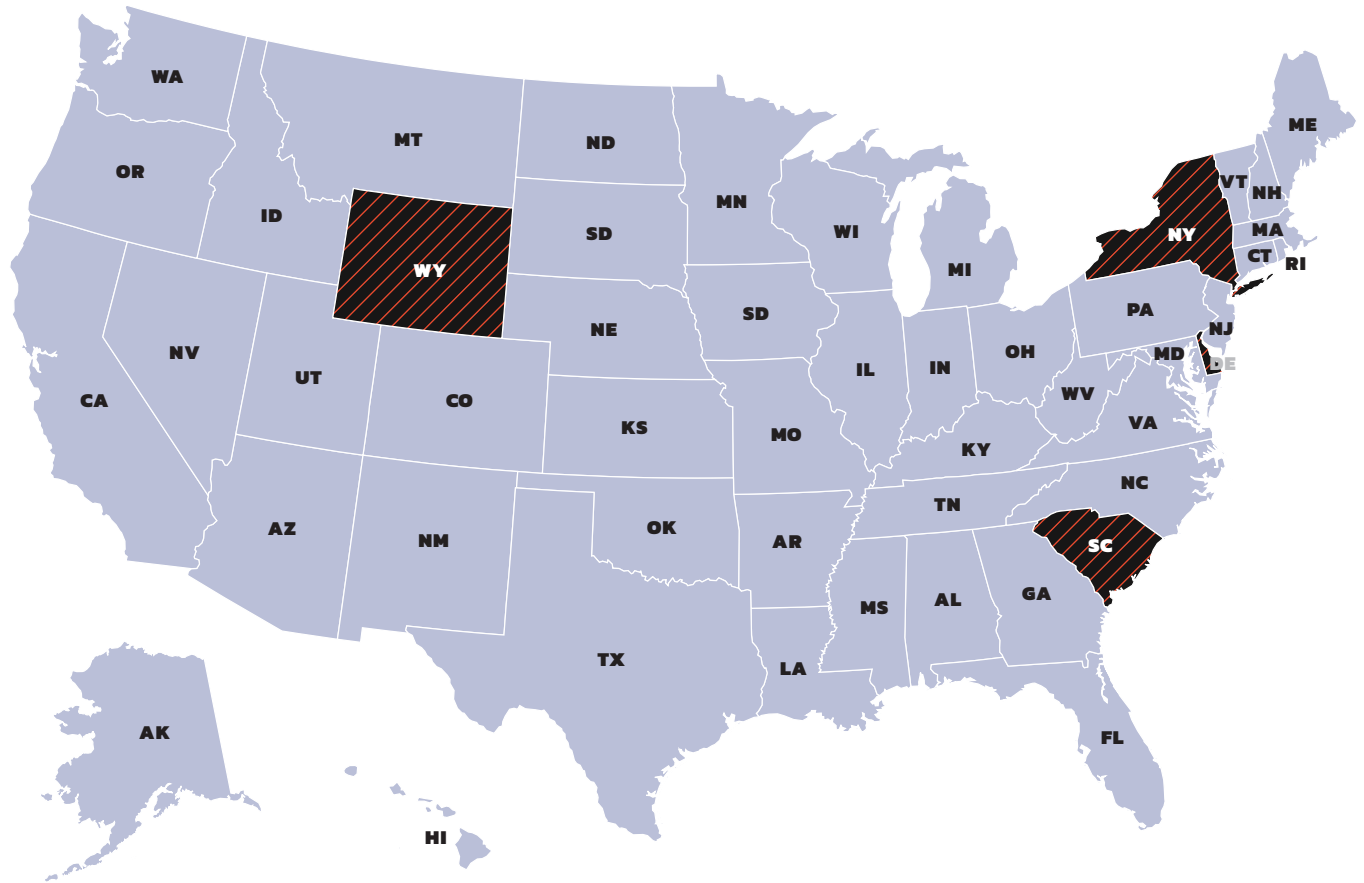


New York law permits the prosecution to turn over witness treatments after trial begins.





# WITNESS INFORMATION:



The names of witnesses and their contact information are essential for investigating the allegations. Only 3 other states are as restrictive as New York.



**EXHIBIT D:**

# **DISCOVERY ENSURES FAIRER & MORE EXPEDIENT CASE OUTCOMES.**

Interview Excerpt from the video series  
“In The Dark: Criminal Discovery in the State of New York”



**DANIELLE  
REGIS**

**SENIOR STAFF ATTORNEY,  
BROOKLYN DEFENDER SERVICES**

# **WHEN I'M GOING THROUGH MY DISCOVERY WITH MY CLIENTS, I LIKE TO POINT OUT THE GOOD THINGS, AND THE BAD THINGS. YOU CAN'T COME TO AN EDUCATED DECISION IF YOU DON'T HAVE THE TOOLS.**

I remember getting a case. It was a burglary of an apartment, and my client was adamant that he didn't do it.

At the time of this incident, he had taken some kind of mood altering substance. He really didn't remember what happened, but he knew what type of person he was. He really just denied these accusations.

So, I got the discovery packet, and it included their surveillance video.

When I'm going through my discovery with my clients, I like to point out the good things, and the bad things. You can't come to an educated decision if you don't have the tools, if you don't have the discovery, if they don't know what it is they're facing.

We go to the office and look at the video, and it's clearly him, and can't even believe what he just saw.

The case ended up turning into a plea, rather quickly. If they had turned that over the day before, or the day of trial, it might have been too late.

**FOR THE FULL INTERVIEW, VISIT:  
[JUSTICEISBLINDFOLDED.COM/#DANIELLE](https://justiceisblindfolded.com/#DANIELLE)**



**CHAPTER 5:**

# PROSECUTORS NATIONWIDE AGREE





When the law requires prosecutors to turn over discovery early, everyone in the system benefits, including prosecutors. As long as one side is allowed to control all the information and hold all of the power, justice is denied.

## NORTH CAROLINA:

On open file discovery: “I’ve never had an issue where I haven’t wanted to provide the file because of certain things that may be contained in it. If I did feel that way, **I would actually question whether or not the case should be prosecuted.**”

— **BRITTNEY EDWARDS,**

*Assistant District Attorney, Durham County, North Carolina*

On open file discovery: “Open file discovery is the right thing to do because of the goals we’re trying to achieve. We shouldn’t be having trial by ambush. **My job is only done if a defense attorney is able to do his or her job too.** They can only do their job if they have the information.”

— **BRUCE LILY,**

*Deputy District Attorney, Mecklenburg County, North Carolina*

## LOUISIANA:

On Justice: “Prosecutors have a duty to seek justice: It’s not just to get a conviction. It’s to get a correct conviction. That means we have to err on the side of disclosure.”

On Witness safety: “Under our laws It’s a right that a defendant has witness information. It’s the confrontation clause for goodness sakes: They’ve got to be able to confront the witnesses against them.”

— **LAURA FULCO,**

*First Assistant District Attorney, Shreveport, Louisiana.*

## VIRGINIA:

On more expedient outcomes: “In our office, we’ve always done open file discovery. We invite the defense to come into our office, look at our file. It helps if everyone realizes what the evidence is and we can go from there. **I want the defense to see the inculpatory evidence, because I want to encourage them to plea.**”

On witness safety: “We’re coming up with a classification for defense attorney’s eyes only. The defense attorney is under obligation as officer of court to not turn that over to his client, and yet they would **have the ability to send out his investigator, go talk to the witness himself, look into the matter.**”

— **MICHAEL R. DOUCHETTE,** *Executive Director, Virginia Association of Commonwealth Attorneys.*

On benefits to prosecutors: “With open file discovery, the chances you can be successfully accused of withholding exculpatory or impeachment evidence is minimal. We don’t spend a lot of time on discovery disputes, and **it’s a long time since we’ve been accused of hiding the ball.**”

— *Commonwealth Attorney, Virginia*

## TEXAS:

On open file discovery: “I absolutely think open file discovery is a good thing. **For someone to truly be able to represent their client they need to see everything in the file.** The intent of our new discovery law in Texas is honorable and good.

— **GREG COX,** *Director Public Integrity Unit, Travis County District Attorney’s Office.*

**EXHIBIT E:**

# **DISCOVERY POWERS THE PRESUMPTION OF INNOCENCE.**

Interview Excerpt from the video series  
“In The Dark: Criminal Discovery in the State of New York”



**AMINIE  
WOOLWORTH**

**SENIOR STAFF ATTORNEY,  
BROOKLYN DEFENDER SERVICES**

# **DISCOVERY WAS IMPORTANT IN THAT CASE BECAUSE STATEMENTS WERE ALL OVER THE PLACE, INCONSISTENT.**

I had a client that was charged with assaulting a corrections officer.

Discovery was important in that case because statements were all over the place, inconsistent. He actually had injuries to himself. Lo and behold, all the weapons at Brooklyn House are stored with only five corrections officers. They were all involved in the case.

They had given him numerous plea offers. It started at two years, and then it went down to a year,

and then probation. When you're facing time in prison, and someone tells you probation and a misdemeanor, and you're done, it's really hard, unless you're really confident, and you know all the paperwork, and you trust your lawyer to say, "You know what? No. I'm gonna get up there. I didn't do it, and I'm gonna go to trial."

He went up there, he testified, he was acquitted. He has a resume that we helped him put together. He's getting jobs, and he applied for college, and he's going to college.

**FOR THE FULL INTERVIEW, VISIT:  
[JUSTICEISBLINDFOLDED.COM/#AMINIE](https://justiceisblindfolded.com/#AMINIE)**



**CHAPTER 6:**

# CLOSING ARGUMENT





**THE TIME IS NOW.** The New York State Assembly and New York State Senate have put out proposals that would bring about true progressive discovery reform. Governor Andrew Cuomo has now made clear that discovery reform in New York is a critical priority for the State in 2019:

**"DEFENDANTS ARE OFTEN LEFT COMPLETELY IN THE DARK REGARDING WHAT INFORMATION THE GOVERNMENT INTENDS TO USE AGAINST THEM. NO LONGER WILL THOSE WHO ARE CHARGED WITH A CRIME BE LEFT IN THE DARK AND PRESSURED TO ADMIT GUILT SIMPLY TO AVOID THE UNKNOWN."**

For four decades, people accused of crimes in New York have suffered and justice has been undermined. We finally have an opportunity to make things right and **REPEAL NEW YORK'S 'BLINDFOLD LAW.'**





**APPENDIX:**

# DISCOVERY LAWS ACROSS THE NATION





## ALABAMA

- **Police Reports:** No
- **Witness Statements:** No
- **Witness Info:** Yes, Ala. Code §§15-11-1, 15-11-6, Right to preliminary hearing at which complainant and witnesses testify in the defendant's presence)

## ALASKA

- **Police Reports:** Yes, Material to be shared, but not provided: "a record of the Department of Corrections other than the defendant's own file and any other incident report relating to the crime with which the defendant is charged. (See 16(d)(3)(A)(vi)
- **Witness Statements:** Yes, Alaska R. Crim. P. 16(b)(1)(A)(i)
- **Witness Info:** Yes, Alaska R.Crim.P. 16(b)(1)(A)(i)

## ARIZONA:

- **Police Reports:** Yes, Ariz. R. Crim. P. (15.1(b)(3)
- **Witness Statements:** Yes, Ariz. R. Crim. P. 15.1(b)(3)
- **Witness Info:** Yes, Ariz.R.Crim.P. 15.1(b)(1)

## ARKANSAS:

- **Police Reports:** Yes, Ariz. R. Crim. P. (15.1(b)(3)
- **Witness Statements:** Yes, Ariz. R. Crim. P. 15.1(b)(3)
- **Witness Info:** Yes, Ariz.R.Crim.P. 15.1(b)(1)

## CALIFORNIA:

- **Police Reports:** Yes, not required in practice but they are turned over.
- **Witness Statements:** Yes, Cal Pen Code § 1054.1(f), 1054.3(a)(1)
- **Witness Info:** Yes, Cal.Pen. Code §1054.1(a)

## COLORADO:

- **Police Reports:** Yes, Colo. Crim. P. 16 16(Part I)(a)(1)(I)
- **Witness Statements:** Yes, Colo. Crim. P. 16 (Part I)(a)(1)(I)
- **Witness Info:** Yes, Colo.Crim.P.R. 16, Part I (a)(1)(VII)

## CONNECTICUT

- **Police Reports:** Conn. Practice Book § 40; (40-13A)
- **Witness Statements:** Yes, N (but see 40-11(a)(5)(B): statements of coconspirators, and 40-13A: "photocopies of all statements... within the possession of the prosecuting authority and his or her agents... [which] were prepared concerning the offense charged.")
- **Witness Info:** Yes, Conn.R.Super.Ct.Crim. §40-13(a);

## DELAWARE

- **Police Reports:** No
- **Witness Statements:** No
- **Witness Information:** No

## FLORIDA

- **Police Reports:** Fla. R. C.P. 3.220(b)(1)(B)
- **Witness Statements:** Fla. R. C.P. 3.220(b)(1)(A), 3.220(d)(1))
- **Witness Information:** Fla.R.Crim.P. 3.220(b)(1)(A)

## GEORGIA

- **Police Reports:** Fla. R. C.P. 3.220(b)(1)(B)
- **Witness Statements:** Fla. R. C.P. 3.220(b)(1)(A), 3.220(d)(1))
- **Witness Information:** Fla.R.Crim.P. 3.220(b)(1)(A)

## HAWAII

- **Police Reports:** Yes – not required but in practice they are turned over.
- **Witness Statements:** Hawaii R. Penal P. 16(b)(1)(i),(c)(2)(i)
- **Witness Information:** Hawaii R. Penal P. 16(b)(1)(i)

## IDAHO

- **Police Reports:** Yes, I.C.R. Rule (16(b)(8))
- **Witness Statements:** Yes, I.C.R. Rule 16(b)(6))
- **Witness Information:** Yes, Idaho R.Crim.P. 16(b)(6)



## ILLINOIS

- **Police Reports:** Yes – not required but in practice they are turned over.\*
- **Witness Statements:** Ill. Sup. Ct., R 412 (a)(i), 413(d)(i)
- **Witness Information:** Ill. Sup.Ct.R. 412(a)(i)

## INDIANA

- **Police Reports:** Yes – not required but in practice they are turned over.\*
- **Witness Statements:** Yes, Rule 37(A)(4) [https://www.in.gov/judiciary/rules/trial\\_proc/index.html](https://www.in.gov/judiciary/rules/trial_proc/index.html)
- **Witness Information:** Yes, Ind. Code Ann. §35-34-1-2(c) (“An indictment or information shall have stated upon it the names of all the material witnesses”)

## IOWA

- **Police Reports:** Yes – not required but in practice they are turned over.\*
- **Witness Statements:** Yes, Ia. R. 2.4(6) (indictment includes “notice in writing stating the name and occupation of the witness upon whose testimony the indictment is found, and a full and fair statement of the witness’ testimony. . . . The clerk of the court must, on demand made, furnish the defendant or his or her counsel a copy thereof”);
- **Witness Information:** Yes, Ia. R. 2.4(6) (indictment includes “notice in writing stating the name and occupation of the witness upon whose testimony the indictment is found, and a full and fair statement of the witness’ testimony. . . . The clerk of the court must, on demand made, furnish the defendant or his or her counsel a copy thereof”);

## KANSAS

- **Police Reports:** No
- **Witness Statements:** No
- **Witness Information:** Yes, Kan. Stat. Ann. §22-3201(g) (“the prosecuting attorney shall endorse the names of all witnesses known to the prosecuting attorney upon the complaint, information and indictment. . . . [I]n no event shall identification of a witness be delayed beyond arraignment without further order of the court after hearing and an opportunity of the defendant to be heard”);

## KENTUCKY

- **Police Reports:** Yes, Ky. RCr Rule 7.24(2)
- **Witness Statements:** Yes, Ky. RCr Rule 7.26
- **Witness Information:** Yes, S.D. C.L. §23A-5-18 (indictment contains “names of only those witnesses examined before the grand jury”);

## LOUISIANA

- **Police Reports:** Yes, La. C.Cr.P. Art. (718)
- **Witness Statements:** Yes, Y (716(D), 725.1(A))
- **Witness Information:** Yes, Y (716(D), 725.1(A))

## MAINE

- **Police Reports:** Yes, Me. R. U. Crim. P. Rule 16(a)(2)(A)
- **Witness Statements:** Yes, Me. R. U. Crim. P. Rule (16(a)(2)(I))
- **Witness Information:** Yes, Me.R.Crim.P. 16(b)(2)(C)

## MARYLAND

- **Police Reports:** Yes, Md. Rule 4-262(d)(2)(B). [https://www.marylandcriminalattorneyblog.com/changes\\_to\\_the\\_maryland\\_crimin\\_1/](https://www.marylandcriminalattorneyblog.com/changes_to_the_maryland_crimin_1/)
- **Witness Statements:** Yes, (D. Ct.: 4-262(d)(2)(B); C. Ct: 4-263(d)(3),(6)(D), 4-263(e)(1))
- **Witness Information:** Yes, Md.R. 4-263(d)(3), 4-262(d)(2)(B);



## MASSACHUSETTS

- **Police Reports:** Yes, Mass. R.Crim.P. 14(a)(1)(A)(vii);
- **Witness Statements:** Yes, ALM R. Crim. P. Rule 14(a)(1)(A)(vii-viii), 14(a)(1)(B))
- **Witness Information:** Yes, Mass.R.Crim.P. 14(a)(1)(A)(iv);)

## MICHIGAN

- **Police Reports:** Yes, Mich. CR 6.201(B)(2)
- **Witness Statements:** Yes, MCR 6.201(A)(2)
- **Witness Information:** Yes, Mich.Ct.R. 6.201(A)(1)

## MINNESOTA

- **Police Reports:** Yes, Felony & Gross Misdemeanors (9.01 Subd. 1(3)(c)); Misdemeanors (9.04)
- **Witness Statements:** Yes, Minn. R. Crim. P. 9 (Felonies & Gross Misdemeanors: 9.01 Subd. 1(2), 9.02 Subd. 1(4))
- **Witness Information:** Yes, Minn.R.Crim.P. 9.01 Subd. 1,(1)(a)

## MISSISSIPPI

- **Police Reports:** Yes, – not required but in practice they are turned over.\*
- **Witness Statements:** Yes, MISSISSIPPI RULES OF CRIMINAL PROCEDURE, Rule 17 (9.01 Subd. 1(2), 9.02 Subd. 1(4))
- **Witness Information:** Yes, Miss.U.R.C.C.C. 9.04(A)(1)

## MISSOURI

- **Police Reports:** Yes, – not required but in practice they are turned over.\*
- **Witness Statements:** Yes, Mo. Sup. Ct. R. 25 (25.03(A)(1), 25.05(A)(2))
- **Witness Information:** Yes, Mo.R.Crim.P. 25.03(A)(1);

## MONTANA

- **Police Reports:** Yes, – not required but in practice they are turned over.\*
- **Witness Statements:** Yes, MCA (46-15-322(1)(a), 46-15-323(6)(a))
- **Witness Information:** Yes, Mont. Code Ann. §46-15-322(1)(a);

## NEBRASKA

- **Police Reports:** Yes,
- **Witness Statements:** Yes,
- **Witness Information:** Yes, Neb.Rev.Stat. §29-1912(1)(d);

## NEVADA

- **Police Reports:** Yes, not required but in practice they are turned over.\*
- **Witness Statements:** Yes, Nev. Rev. Stat. Ann. § 171.1965 (171.1965.1(a); 174:235.1(a), 174:245.1(a))
- **Witness Information:** Yes, Nev. Rev. Stat. Ann. §174.275;

## NEW HAMPSHIRE

- **Police Reports:** Yes, NH Superior Ct: 12(b)(1)(B)
- **Witness Statements:** Yes, Cir. Ct.-Dist. Div: 12(b)(1)(B); Superior Ct: 12(b)(4)(A))
- **Witness Information:** Yes, N.H.R.Super.Ct. 98(C)(1) (names not addresses);

## NEW JERSEY

- **Police Reports:** Yes, N.J. CT. R. 3:13-3(c)(8);
- **Witness Statements:** Yes, N.J.Crim.R. 3:13-3(b)(1)(G)
- **Witness Information:** Yes, N.J.Crim.R. 3:13-3(c)(6);

## NEW MEXICO

- **Police Reports:** Yes, [http://www.nmcompcomm.us/nmrules/NMRules/5-501\\_11-1-2015.pdf](http://www.nmcompcomm.us/nmrules/NMRules/5-501_11-1-2015.pdf)
- **Witness Statements:** Yes, (5-501A(5), 5-502.A(3))
- **Witness Information:** Yes, N.M.Dist.Ct.R.Crim.P. 5-501(A)(5);



## NEW YORK

- **Police Reports:** No
- **Witness Statements:** No
- **Witness Information:** No

## NORTH CAROLINA

- **Police Reports:** Yes, N.C. Gen. Stat. §§15A-903(a)(1), (a)(3)(c)
- **Witness Statements:** Yes, (15A-903(a)(1)(a))
- **Witness Information:** Yes, N.C.Gen.Stat.Ann. §15A-904(a)(a2)

## NORTH DAKOTA

- **Police Reports:** Yes, When the United States enters into an SDA, the United States will include or make available, law enforcement reports (excluding evaluative material or work product such as possible defenses and legal strategies), and evidence, or existing summaries of evidence, which provide bases for the case against the defendant.
- **Witness Statements:** Yes, Obligation (16(f)(1))
- **Witness Information:** Yes, N.D.R.Crim.P. 16(f)(1)(A);

## OHIO

- **Police Reports:** Yes, Ohio R.Crim.P. 16(B)(6).
- **Witness Statements:** Yes, (16(B)(7), 16(H)(5))
- **Witness Information:** Yes, Ohio R.Crim.P. 16(I)

## OKLAHOMA

- **Police Reports:** Yes, 22 Okl. St. § 2002(A)(1)(a)
- **Witness Statements:** Yes, (2002(A)(1)(a), 2002(B)(1))
- **Witness Information:** Yes, Okla.Stat.Ann. tit. 22, §32-2002(A)(1)(a);

## OREGON

- **Police Reports:** Yes, 2017 ORS 135.815 (3.a)
- **Witness Statements:** Yes, (135.835(1))
- **Witness Information:** Yes, Or.Rev.Stat. §135.815(1)(a);

## PENNSYLVANIA

- **Police Reports:** Yes, see 573(2)(a)(iv)
- **Witness Statements:** Yes, Obligation (Discretionary w/ Ct 573(B)(2)(a)(ii))
- **Witness Information:** Yes, Pa.R.Crim.P. 573(B)(2)(a)(i);

## RHODE ISLAND

- **Police Reports:** No
- **Witness Statements:** Yes, (16(a)(8),(b)(5))
- **Witness Information:** Yes, R.I. R.Super.Ct.R.C.R.P. Rule 16(a)(7);

## SOUTH CAROLINA

- **Police Reports:** No
- **Witness Statements:** No
- **Witness Information:** No

## SOUTH DAKOTA

- **Police Reports:** No
- **Witness Statements:** No
- **Witness Information:** Yes, S.D. C.L. §23A-5-18 (indictment contains “names of only those witnesses examined before the grand jury”);

## TENNESSEE

- **Police Reports:** No
- **Witness Statements:** No
- **Witness Information:** Yes, Tenn. Code Ann. §40-13-107 (indictment lists “names of the witnesses”);

## TEXAS

- **Police Reports:** Yes, Y (39.14(a) “offense reports”)
- **Witness Statements:** Yes, 39.14(a))
- **Witness Information:** Yes, Tex. Crim. Pro. Art. 20.20 (indictment lists “names of the witnesses upon whose testimony the [indictment] was found”);





## UTAH

- **Police Reports:** No
- **Witness Statements:** No
- **Witness Information:** Yes, Utah R. Crim. P. 4 (j) (indictment or information lists “names of witnesses” on whose evidence it was based and prosecutor shall upon request furnish “names of other witnesses”);

## VERMONT

- **Police Reports:** No
- **Witness Statements:** Yes, P Obligation 16(a)(1)
- **Witness Information:** Yes, Vt.R.Crim.P. 16(a)(2)(E)

## VIRGINIA

- **Police Reports:** Yes,
- **Witness Statements:** Yes,
- **Witness Information:** Yes, Va. Code Ann. §19.2-228 (“name and address of the complaining witness” in misdemeanor cases); Va. Code Ann. §19.2-183 (similar).

## WASHINGTON

- **Police Reports:** No
- **Witness Statements:** Yes, (4.7(a)(1)(i), 4.7(b)(1))
- **Witness Information:** Yes, Wash.Super.Ct.Crim.R. 4.7(a)(1)(i)

## WEST VIRGINIA

- **Police Reports:** No
- **Witness Statements:** Yes, (4.7(a)(1)(i), 4.7(b)(1))
- **Witness Information:** Yes, Wash.Super.Ct.Crim.R. 4.7(a)(1)(i);

## WISCONSIN

- **Police Reports:** Yes, not required but in practice they are turned over.\*
- **Witness Statements:** Yes, (971.23(1)(e), 971.23(2m) (am))
- **Witness Information:** Yes, Wi.Stat.Ann. §971.23(1) (d).

## WYOMING

- **Police Reports:** No
- **Witness Statements:** No
- **Witness Information:** No

