



# CHIEF DEFENDERS ASSOCIATION OF NEW YORK

January 8, 2015

Kathleen Baxter, Esq.  
House of Delegates Liaison, New York State Bar Association  
One Elk Street  
Albany, New York 12207

RE: *Report of the New York State Bar Association's Task Force on Criminal Discovery*

Dear Ms. Baxter:

I am writing to express the Chief Defenders Association of New York's strong support for the reforms contained in the Report of the New York State Bar Association's Task Force on Criminal Discovery (the "Report").

The Chief Defenders Association of New York (CDANY) is an association of fifty-eight (58) chief defenders who, in 2014, led indigent defense programs in New York that represented over 400,000 New York citizens in the criminal, family, and appellate courts of New York State. CDANY members are thus acutely aware of the negative impact of New York State's restrictive criminal discovery scheme upon our justice system.

As is set forth in the Report, New York State has one of the most restrictive criminal discovery schemes in the United States. Unlike attorneys litigating a civil case where full discovery is the norm, attorneys representing clients in a criminal case in New York are often confronted with "trial by surprise" and deprived of the information necessary to effectively represent their clients. The sparse information that is required to be disclosed is often disclosed late in the process (in some instances as the trial is starting) which leads to inefficiencies and delay.

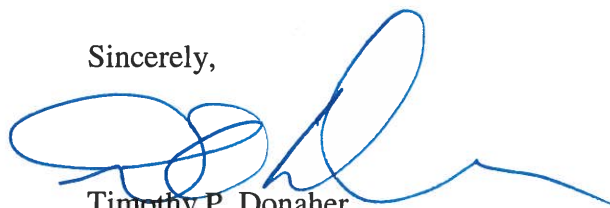
Furthermore, as is recognized both in the Report and the Final Report of the New York State Bar Association's Task Force on Wrongful Convictions (approved by the House of Delegates in April of 2009), the failure of the prosecution to disclose evidence favorable to the accused ("*Brady*" material) remains a problem in New York State. The reforms contained in the Report would reduce the instances of "*Brady*" violations in New York State and lessen the instances of the wrongfully convicted.

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Since New York's criminal discovery statutes were last modified in 1979, the states that have modified their discovery statutes have expanded the criminal discovery provided to the accused (most recently, Texas in 2014). New York now ranks among the thirteen (13) states with the most restrictive discovery statutes in the United States. New York should join the vast majority of other states that require the prosecution to provide robust discovery to the defense early in the criminal prosecution.

As is set forth fully in the Report, expanding criminal discovery in New York would reduce the instances of wrongful convictions, increase efficiencies in the criminal courts, and enhance the quality of representation provided to the accused. Therefore, CDANY urges the House of Delegates to approve the Report of the New York State Bar Association's Task Force on Criminal Discovery and make criminal discovery reform a top legislative priority for the New York State Bar Association in 2015.

Sincerely,



Timothy P. Donaher  
President, Chief Defenders Association of New York