

[The demand for discovery must be made within 30 days after arraignment on the indictment in a felony case or the first appearance of counsel, whichever is later, but before the beginning of trial. Where counsel is present at arraignment, demands for discovery and requests for bills of particular should be made as soon as possible so that non-compliance can be dealt with in the form of a motion to compel in the Omnibus Pretrial Motions, which are due within 45 days of arraignment.]

The best practice is to serve the original discovery demand and request for particulars upon the prosecution, and to file a copy of both – along with a certificate of service – with the clerk of the court. This practice keeps the record clear and lays the groundwork for any future motion to compel.

In those jurisdictions with “open file discovery” – a phrase that has different meanings in different places – it still is incumbent upon the defense lawyer to file Brady demands that are tailored to the case at hand. Counsel should never rely on generalized demands for “all favorable evidence.” Discovery, except for Brady material, is limited to “tangible property.”]

COURT OF _____
COUNTY OF _____

-----X

THE PEOPLE OF THE STATE OF NEW YORK

-against-

Index No. _____

[NAME],

Accused.

-----X

DEMAND FOR DISCOVERY

I am the attorney of record for the accused _____. This request is made together with the accompanying Request for a Bill of Particulars to help me prepare for trial. Pursuant to CPL §§ 240.20 and 340.30, I am writing this demand for you to produce the following information relating to the charges pending against Mr. _____:

1. CPL § 240.20(1)(a)

Every written, recorded, and/or oral statement of Mr. _____ made, other than in the course of the alleged criminal transaction, to a public servant engaged in law enforcement activity or to a person then acting under his direction or in cooperation with