

# Gettin' out of jail

Under reforms, 88% to be free without bail



Legal Aid Society's Tina Luongo (above) thinks the court system may not be ready for reforms set to take effect Jan. 1. (Alec Tabak/for New York Daily News )

BY GRAHAM RAYMAN NEW YORK DAILY NEWS

Up to 88% of the people arrested in the city will be released without bail while their cases are pending under changes to the state's criminal justice laws coming on Jan. 1, according to the state Office of Court Administration.

Prior to the new laws, the figure was about 50%, the agency said. And that's just one change coming.

The courts have been working since April to adjust the systems and policies for the new laws, which eliminate bail in all misdemeanors and some felonies and require prosecutors to turn over evidence to defense attorneys in 15 days.

"Judges are going to have to be much more targeted on the risk of someone fleeing," said a court administration official who wished to remain anonymous. "That's a big change of culture in bail. A generational shift. This is about training judges. This is about reassuring judges. Everybody will have to work with the defendant population."

Some observers have suggested the court system's technology still hasn't been adjusted to the coming changes.

"The court system isn't ready," said Tina Luongo, who leads the Legal Aid Society's Criminal Defense Practice. "They have to change some of their case management systems. A lot of this is electronic, and how is that going to look for their systems and how you are sharing information."

Court officials don't share that view.

"We don't see a significant lapse," said Lucian Chalfen, an OCA spokesman. "There may be some delay in automated capture. We may have to do some of it manually, but we'll be ready from day one in terms of reporting."

The discovery changes have troubled prosecutors and police who are concerned that 15 days isn't enough time and that victim and witness safety could be compromised.

But some who work in the court system said that worry is somewhat overblown.

"The new law says prosecutors have to provide appropriate contact information," the court employee said. "That doesn't necessarily mean you have to give over names. In many cases, the witnesses are going to be police officers. As for civilian witnesses, a prosecutor is going to move to protect identifying witnesses. This happens in a small percentage of cases. Most of the time the defendant and the victim are known to each other."

Most defense lawyers, the official explained, are satisfied initially with getting the key items of discovery. "They want to know they have the bulk of the case," he said.

Chalfen said the law has built-in protections that should smooth things out, and noted many other states have similar laws in place.

The OCA is concerned, however, about a sharp increase in appeals and other types of

hearings. “We are concerned there will be a lot more hearings to tax our resources,” the state court official said. “We may have to move around some resources.”

This story is the fifth in a series about upcoming criminal justice reforms that will change how people are prosecuted and detained for crimes.