

February 5, 2002

Dear 18B Panelist,

This letter covers the following topics:

- Removal of Defense Counsel Screening Bureau
- Removal of Commissioner of Accounts – Processing of 18B Vouchers
- Gideon Day
- Additions to Experts Panel
- Additions to Co Counsel Panel
- Free Web Sites
- Probation fees for 18B Defendants
- Calls from Jail
- Parts 2 & 8
- Part 9 Backup
- Major Felony Cases
- Argument before the Court
- 18B rate increases

REMOVAL OF DEFENSE COUNSEL SCREENING BUREAU

The Defense Counsel Screening Bureau has been eliminated from the County's 2002 budget. At present, therefore, all screening is being done by the judges. This means that defendants who claim to be indigent but are not may slip through the cracks. Your attention is directed to Article 18-B of the County Law, § 722d, which reads as follows:

Whenever it appears that the defendant is financially able to obtain counsel or to make partial payment for the representation or other services, counsel may report this fact to the court and the court may terminate the assignment of counsel or authorize payment, as the interests of justice may dictate, to the public defender, private legal aid bureau or society, private attorney, or otherwise.

Please keep this in mind if you find that you have been assigned to represent someone who is not entitled to 18B representation. In the meantime, I have urged the County Executive's Office to assign the screening function to another agency (e.g. Probation, Legal Aid Society, County Attorney,). I will keep you advised of any developments.

REMOVAL OF COMMISSIONER OF ACCOUNTS- PROCESSING OF 18B VOUCHERS

The Office of Commissioner of Accounts has been removed from the County's 2002 budget. This office was our liaison to the County and had responsibility to enter information about your vouchers into the County computer before the claims were paid. As a result of their demise, no attorney vouchers have been processed by the County since last December 10th. We have been working to have this matter fixed and are on the verge of doing so. In the meanwhile, your patience is appreciated.

GIDEON DAY

Gideon v. Wainwright was decided on March 18, 1963. This year, Gideon Day, the day set aside each year to honor that decision, will be on Tuesday March 19, 2002. Once again, we will be traveling to Albany to lobby for increases in 18B pay rates. I am proud to say that in 2001, Nassau had the largest contingent of any county in New York State. Please come with us this year. We leave at about 6:00 AM and are back in Mineola by about 5 or 6 PM. Take this one day to help Raise the Rates. Fax me the flyer at the end of these materials to indicate your assent. Thank you.

ADDITIONS TO EXPERT'S PANEL

The following have been added to our Experts' Panel:

Social Work / Substance Abuse

Joseph Adipietro
134 Nassau Blvd.
West Hempstead, N.Y. 11552
516-483-7797

Social Work / Custody and Visitation Issues

Susan Silverstein
51 Cuttermill Road
Great Neck, N.Y. 11021
516-487-3700

Investigations

William M. Dempsey
N & D Investigations
P.O. Box 331
Plainview, N.Y. 11803
516-822-3399
Beeper 1-866-271-6620
Fax 516-822-3399

ADDITIONS TO CO – COUNSEL PANEL

Brian C. Koenig, P.C.
44 Surrey Lane
Levittown, N.Y. 11756
516-579-7703
Cell 516-659-0395

Jeffrey Miller
18 E. Sunrise Highway Ste 400
Freeport N.Y. 11560
516-719-7480

FREE WEB SITES

The following websites are free and quite helpful:

www.findlaw.com - Gives full access to Supreme Court cases, and much more.

www.law.cornell.edu/ny/ctap/ - Gives full access to Court of Appeals cases, and more.

www.co.tompkins.ny.us/distatto/ - you can download “crimetime 2002” from this website. It is a complete guide to criminal sentencing in N.Y. State and indispensable to the criminal practitioner.

PROBATION FEES FOR 18B DEFENDANTS

If your 18B client receives a letter from the Probation Department requiring him/her to pay an Administrative Fee in connection with Probation's investigation or supervision of the case, you can call Probation at 571-4527 or 571-1723 and advise them that your client is indigent. They will then reduce or waive the fee.

CALLS FROM JAIL

You should advise your clients that when they call you collect from the jail, they should make the call to "anyone" rather than person-to-person. The former rate is considerably lower and if you are not there to take the call, your secretary can refuse it. In light of the fact that all such calls are made on a collect basis, I will not question vouchers that list such calls as being for .25 hours. That is not to say that all calls should be listed as taking that long.

PARTS 2 AND 8

If you are assigned to Parts 2 and 8 for the day, you should report to Part 2 first and should stay close to both Parts for the duration of the calendars.

PART 9 - BACKUP

If you are assigned as the backup person in Part 9, it is expected that you will stay there to be available for backup duties. You should not merely sign in and then do other business in other courts.

ARGUMENT BEFORE THE COURT

I am advised that judges look with disfavor upon the argument that: "Judge, I'm only 18B. Give me a break". I am sure that with some thought those of you who have used this particular approach can replace it with something more legally compelling.

18B RATE INCREASES

Well, here we are again. Another year has gone by and we still have no pay increases. Maddeningly, we were closer than ever in 2001 until the horror of September 11th. Our issue, however, is not dead and it will not go away. I will continue to write and telephone people in Albany. I will go to Albany on March 19th. I will continue to apprise you of any news and anything you might be able to do to help. Until then, thank you for your continued good work on the panel, and best wishes to you and your families for 2002.

Sincerely,

Patrick L. McCloskey