

April 25, 2002

**AN OPEN LETTER
TO THE MEMBERS OF THE 18B CRIMINAL PANELS**

IT IS NOT MY INTENTION TO DIMINISH THE RANKS OF THE 18B CRIMINAL PANELS, BUT SOME THINGS NEED TO BE SAID AND SOME THINGS NEED TO BE CHANGED. THE FOLLOWING IS WRITTEN TO ALL CRIMINAL PANELISTS, BUT DOES NOT APPLY TO ALL CRIMINAL PANELISTS. IF IT APPLIES TO YOU, YOU WILL KNOW IT.

All of us are united in our disgust for the apathy of Albany when it comes to the absurdly low rates being paid to 18B attorneys. A large number of Panelists seem to think, however, that because the rates are so low, that they can maintain their status on the Panel and yet refuse to be part of the assignment rotation that is its lifeblood. These panelists repeatedly announce that they are "unavailable" for assignments, often at the last minute. I can point to Panelists who have cancelled 10 assignments in a row. One Panelist told me that his repeated cancellations were a form of protest at the low rates. Excuse me for saying so, but such a "protest" will have no effect in the Governor's office or the New York State Legislature because they will never know about it. The only practical effect of such a mentality is that it causes Joanne, Dina, Marilyn and me huge administrative problems.

Prior to 2000, 18B cases were often assigned to particular Panelists by individual judges. Favoritism existed. It did not matter who the "attorney of the day" was. If a judge wanted to give 5 cases to a particular panelist, it would be done. That system no longer exists. Now, except in rare instances where a judge has a particularly complex case and feels that a particular 18B attorney would best handle it, all assignments now go to the 18B attorneys of the day in Parts 2, 8 and 9.

I have endeavored to make assignments to these parts (and to Arraignment B and Traffic) equitably, so that all Panelists will share the workload equally. As noted, however, there are many who refuse to accept such assignments. I suspect that these Panelists are hoping to remain on the Panel with a view toward taking 18B cases again once the rates rise to more respectable levels. Such an approach is understandable but is not fair to those Panelists who must take more 18B cases because of those who refuse to shoulder their burden. I have concluded that the administration of the Panel will be measurably more efficient if it consists of fewer Panelists who responsibly accept their assignments, rather than a larger pool where certain members routinely cancel their assignments.

I am therefore asking you to call or write to me if you do not wish to accept 18B assignments. Tell me so, and I will remove you from the Panel. If you want to remain on the Panel and avail yourself of the CLE benefits and make a meaningful contribution to the criminal justice system, then do not call me but please do give greater attention to future 18B assignments, and if you must cancel an assignment for any reason, call us with an alternate date sometime in the succeeding month or two. For those of you who have been and continue to fulfill your assignments dutifully, please accept my continued thanks.

Patrick L. McCloskey

