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JOHN FEINBLATT
Criminal Justice Coordinator

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To All Assigned Counsel Plan Criminal Panel Attorneys:

I write to notify you of several changes to be implemented at the Office of the Assigned Counsel Plan (ACP). On June 11, 2007, the New York City Department of Investigation issued a report entitled "The New York City Department of Investigation's Findings Regarding Richard Gottfried and the New York City Assigned Counsel Plan." The report is available at http://www.nyc.gov/html/doi/pdf/acp_report6112007.pdf. Although the final report only covers billing by experts, the changes outlined below will enhance fraud prevention controls throughout the ACP's Criminal Panel assignment and payment functions. We are notifying judges and experts of these changes as well.

1. Increased Staffing

The ACP recently hired a background review manager, a deputy director of payments, and a deputy director of audits.

2. Expert Application

We have expanded the expert application so that the new background review manager and administrators have a fuller picture of the expert's history to review in contemplation of adding the expert to ACP's Expert Roster.

3. Appointment of Experts to Criminal Matters

Effective immediately, all attorneys seeking the appointment of an expert or other professional to a criminal case must submit an *affirmation* to the judge presiding over the case with a copy of the expert's *curriculum vitae*. Attorneys assigned to the case must also obtain a *signed order* from the judge appointing the expert to the case. Attached please find the

affirmation and order that are to be used. In order for an expert to be paid, the affirmation and order must be completed in full and must include:

- a. The full name of the expert being requested
- b. The specific services required of the expert by the order and justification for those services
- c. The name and signature of the attorney utilizing the services of the expert

In instances where the expert is not currently on the ACP Expert Roster, the expert must complete an Expert Roster Application as a prerequisite for compensation by ACP. Please advise the expert to contact the Assigned Counsel Plan at (212) 676-0418 immediately following their appointment to a case to commence the application process. The ACP Expert Roster Application and other forms are available at www.nyc.gov/18b.

4. Payment of Experts in Criminal Matters

Effective immediately, all experts seeking payment from ACP will be required to complete the attached payment voucher entitled "NYC Assigned Counsel Plan Expert Voucher for 722-C Services in Criminal Court and Supreme Court, Criminal Term." This replaces the current expert voucher entitled "Assigned Counsel Plan 722-C Services," and is available at www.nyc.gov/18b. This voucher must be signed by the attorney assigned to the case in addition to the expert and judge. The expert must also submit the attorney *affirmation* seeking the appointment of an expert as well as the *signed order* authorizing the appointment of an expert. All expert payment vouchers received on or after February 1, 2008 that do not conform to this protocol will be returned to the expert.

5. Billing in Excess of Statutory Maximums

Effective immediately, all requests for payment in excess of the statutory maximums (\$2,400 for misdemeanors, \$4,400 for felonies, \$1,000 for experts) will be reviewed by an ACP supervisor. As has always been the case, when exceeding the cap you must submit with your voucher an affirmation setting forth the specific, extraordinary circumstances that required the unusual expenditure of time. The following are examples that may justify a request for a fee in excess of the statutory limits:

- a. Unusually complex factual or legal issues
- b. Novel issues of law requiring extensive legal research
- c. Protracted trials or other in-court proceedings which alone may raise compensation claim above statutory limit

6. Annual Billable Hours

Effective January 1, 2008, panel attorneys may not bill the ACP more than 2,300 hours per calendar year. Attorneys who expect to exceed this amount must obtain the prior approval of the ACP Administrator for the relevant department and the Assigned Counsel Plan Advisory/Screening Committee for the relevant department. This rule should not impact the vast majority of panel members. Furthermore, billing by attorneys in excess of 2,000 hours will automatically trigger an audit by the deputy director of audits to ensure accurate billing practices.

The ACP will continue to make best efforts to rotate assignments and the cap should assist in that endeavor.

7. Time Period for Submitting Vouchers

As has always been the case, attorney payment vouchers must be submitted for payment within 45 days of the date of the disposition of the case, or the date the attorney is relieved from the case. Up until now this rule has been repeatedly violated. We have received several complaints from judges about late vouchers. In fact, judges report receiving vouchers as many as 2 or 3 years after the disposition, making it difficult to recall what work was actually conducted.

Effective February 15, 2008, all attorney vouchers not submitted within 45 days of the date of disposition of the case, or the date the attorney is relieved from the case will be locked out of 18b Web, ACP's online criminal panel attorney payment system. Attorneys seeking compensation on locked vouchers must submit to the judge presiding over the case an affirmation justifying good cause for the delay. The judge then has the option of issuing an order directing the ACP to accept the payment voucher. The attorney shall, within five business days, mail the original affirmation and order to the ACP at which point the voucher will be unlocked in 18b Web. The attorney can then continue with the electronic submission of the voucher, and the voucher will follow the typical review process.

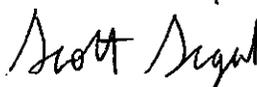
Starting in February, 18b Web will send email notifications for each voucher where the court's CRIMS system indicates that 30 days have passed since a disposition has been issued on a case and an open voucher has not been submitted. However, the onus is on the attorneys to comply with the "45 day rule," and failure to receive a notification is not grounds for failing to submit a voucher within 45 days.

8. 18b Web

ACP will deploy new functionality within 18b Web in the coming months, including the processing of expert vouchers.

The City acknowledges the fine work done by the Panel and thanks you in advance for your cooperation as we work to improve fraud prevention measures at the ACP.

Sincerely,



Scott Sigal
Deputy Criminal Justice Coordinator