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THE NEW YORK CITY DEPARTMENT OF INVESTIGATION'S  
FINDINGS REGARDING RICHARD GOTTFRIED AND THE  
NEW YORK CITY ASSIGNED COUNSEL PANEL

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## **SUMMARY OF DOI'S INVESTIGATION AND FINDINGS**

The New York City Assigned Counsel Panel (the "Panel" or the "18-B Panel") is an organization of court-approved attorneys who provide representation to indigent persons charged with crimes in the New York City courts. The Panel is authorized by Article 18-B of the New York County Law, and funded by New York City. The Office of the Assigned Counsel Plan (the "ACP"), which reports to the City's Criminal Justice Coordinator (the "CJC") is responsible for managing the Panel and a roster of investigators and other experts (the "Expert Roster") with the assistance of two administrators, who are appointed and supervised by the Presiding Justices of the First and Second Departments. To become a member of the Panel or the Expert Roster, an interested professional must submit an application detailing his or her professional qualifications, including educational background and relevant work experience. Once accepted, Panel members and experts can be appointed by the court to provide professional services to indigent criminal defendants. In order to be paid by the City for this work, Panel members and experts must submit vouchers to the court, which detail the nature of the professional services rendered and the time expended.

In November 2005, the New York City Department of Investigation ("DOI") received a complaint from the Director of the ACP alleging that Richard Gottfried fraudulently obtained a position on the Expert Roster as a Mitigation Specialist. A Mitigation Specialist assists defense counsel in gathering information regarding a defendant to be presented to the court and/or the jury for the purposes of seeking a lesser charge and/or sentence. The complaint alleged that Gottfried submitted an application that contained materially false information concerning his educational and professional degrees, as well as his work experience. It also alleged that Gottfried failed to disclose his 1996 federal felony conviction arising from his participation in a mortgage fraud scheme, and his 20-month sentence for that conviction. The complaint concerning Gottfried was originally sent by an attorney to the Administrator for the First Department, who then forwarded the complaint to the ACP Director. In addition, Gottfried was removed from the Expert Roster by the ACP Director on September 26, 2005.

In response to these allegations, DOI conducted an investigation, which included, among other things:

1. Interviewed 19 attorneys who are members of the Panel for whom Gottfried claimed to have done work, ACP staff members, staff of the Office of Court Administration ("OCA"), judges sitting in Bronx County Supreme Court/Criminal Division, employees of the New York City Department of Correction ("DOC"), and representatives of the Philadelphia District Attorney's Office.

2. Reviewed relevant documents, including Gottfried's application for admission to the Expert Roster and all billing vouchers submitted by him for payment, court records and attorney files in cases where Gottfried billed for his "expert" services. DOI also reviewed records maintained by the City of New York Financial Information Services Agency ("FISA") related to payments made to Gottfried by the City, Gottfried's bank records, and documents regarding Gottfried's criminal history.

3. Reviewed the policies and procedures relating to the application process for admission to the Expert Roster and the voucher and payment processes for experts.

Based upon this investigation, DOI has concluded:

1. Gottfried omitted material information in seeking appointment to the Expert Roster as a Mitigation Specialist. More specifically, Gottfried failed to disclose that in 2002 a Philadelphia court had disqualified him from acting as an expert in connection with the Philadelphia's Assigned Counsel Panel based upon the court's determination that he had misrepresented his educational background and training during a proceeding in which he was testifying as an expert witness. Additionally, Gottfried failed to disclose his 1996 wire fraud conviction in the District of New Jersey, and his twenty-month sentence on that conviction. According to officials involved in the vetting process, had Gottfried made a full and frank disclosure concerning his disqualification and his criminal history, he would have been ineligible for inclusion on the Expert Roster.

2. DOI determined that during the period July 2004 through September 2005, Gottfried was paid approximately \$160,000 by the City based upon vouchers he submitted for his work as a Mitigation Specialist. DOI's investigation has revealed that of that \$160,000, Gottfried was paid approximately \$61,000 in City funds for work he never performed. DOI's investigation further revealed that with respect to the remaining approximately \$97,000, Gottfried substantially overstated the work he actually performed on behalf of criminal defendants.

3. Finally, DOI confirmed that Gottfried forged two letters from attorneys for the purpose of obtaining a professional pass from the DOC, which allowed him access to any DOC facility.

On July 31, 2006, DOI referred its findings to date to the Bronx District Attorney's Office and began working with that office toward a criminal prosecution of Gottfried.

At the same time that DOI was investigating Gottfried, he was also under investigation by the Philadelphia District Attorney's Office. On March 10, 2006, Gottfried was indicted by a grand jury in Philadelphia for engaging in essentially the same sort of fraudulent activities in the Philadelphia court system that he engaged in with respect to New York City's Expert Roster. That indictment charged Gottfried with defrauding Philadelphia's Assigned Counsel Panel by submitting hundreds of fraudulent vouchers seeking over \$300,000 for purported services rendered by him between July 2001 and June 2004. On February 5, 2007, Gottfried pleaded guilty in Philadelphia to a number of charges, including theft by deception, forgery, and tampering with public records. On March 19, 2007, Gottfried was sentenced to imprisonment for a minimum term of 11 months and 15 days up to a maximum term of 23 months on two counts of the indictment, to be served consecutively. Gottfried was also sentenced to 10 years probation on two counts of the indictment, and 7 years probation on a third count. The two 10-year probationary terms were to be served concurrently, and the 7-year term, consecutive to the two 10-year terms of probation. The court also ordered Gottfried to pay restitution (including costs and fees) in the amount of \$302,467. He is eligible for a work release program under the terms of his sentencing.

During the course of this investigation, DOI also discovered significant weaknesses in the application and screening process for inclusion onto the Expert Roster, the assignment of experts to particular cases and the billing process by which

those experts are ultimately paid. These vulnerabilities, along with specific recommendations to correct them, are detailed below.

This report is organized as follows: Section I provides an overview of the legal framework and relevant application and payment process for experts. Section II outlines DOI's findings as related to Gottfried. Section III summarizes DOI's interviews with judges sitting in Bronx County. Finally, Section IV outlines DOI's conclusions and recommendations.

## **I. BACKGROUND: THE ASSIGNED COUNSEL PANEL**

### **A. The History of the Assigned Counsel Panel**

Following the U.S. Supreme Court's decision in *Gideon v. Wainwright*, 372 U.S. 335 (1963), then-Mayor Robert F. Wagner promulgated Executive Order No. 178, entitled "*Furnishing of Counsel to Indigent Criminal Defendants Within the City of New York*" to address the City's obligation to provide indigent criminal defendants with competent counsel. That same year, the Panel was established pursuant to Article 18-B of the County Law. The City's five borough-based Bar Associations and the New York City Bar Association then devised a Comprehensive Plan (the "Plan") to provide counsel to indigent defendants. Adopted by the Judicial Conference in 1966, the Plan divided the responsibility for indigent defense in New York City between attorneys assigned through the Panel and the Legal Aid Society. The Plan, with the exception of a few changes described below, has essentially remained the same since 1966.

Under the Plan, the Legal Aid Society and other similar, more recently created not-for-profit legal offices, became the primary providers of legal services to indigent defendants. Alternatives to Legal Aid and other not-for-profit legal offices are necessary where a conflict of interest exists with regard to a particular legal office's representation of a defendant or when a defendant is charged with a crime punishable by life imprisonment. In these circumstances, the court should appoint an attorney from the panel of lawyers certified by one of the Borough Bar Associations pursuant to Article 18-B.

Attorneys assigned by the court to act as counsel for indigent defendants are paid by the City of New York at a rate provided in Section 722-b of Article 18-B. In 1993, the City assumed direct responsibility for reimbursing Panel members, and for monitoring those expenses.

The Director of the ACP, who reports to the CJC, is responsible for developing and overseeing the process by which attorneys and other professionals are paid for their services, investigating and resolving complaints related to fiscal matters, and coordinating City-wide policies with the two Panel administrators. Historically, the responsibility of the two court-appointed administrators included developing policies, and preparing attorney case assignments as well as resolving complaints regarding the quality of the representation provided by appointed professionals.<sup>1</sup>

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<sup>1</sup> See "Report of the Appellate First Department Committee on Representation of the Poor, Crisis in the Legal Representation of the Poor, Recommendations for a Revised Plan to Implement Mandated Governmentally Funded Legal Representation of Person who cannot Afford Counsel," March 23, 2001.

Section 772-c of Article 18-B allows counsel assigned to handle indigent defendant cases to apply for an "*Order Authorizing Services Other Than Counsel*" (the "Orders"). These Orders are typically used to hire investigators and/or other experts, including Mitigation Specialists, to assist in the preparation of the defense. According to officials from both the Panel and the CJC, judges should appoint a particular expert only if that expert has been accepted onto the Expert Roster. However, in practice, judges often assign professionals who are not yet on the Expert Roster to cases, and the ACP later adds these professionals to the Expert Roster after they have gone through the vetting process. In addition, according to ACP and CJC officials, it is the responsibility of the two court-appointed administrators to review the applications submitted by all those seeking admission to the Expert Roster and conduct background checks in connection with those applications.

Experts are paid by presenting payment vouchers to the assigned judge for approval and then to the ACP, together with documents affirming the expert's right to compensation. Payment rates and caps are mandated by Article 18-B, Section 722-b of the County Law; Section 245 of the Family Court Act; and Section 35 of the Judiciary Law. Payments to experts are capped at \$1,000 per case, although this cap can be waived based upon a written application setting forth the need for the expert to perform additional work and thereby receive additional payments.

## **B. The Application Process**

During the relevant period, the application form used to evaluate the admission of prospective experts to the Expert Roster consisted of only two pages, and called for very limited information concerning the applicant's training and qualifications. (A copy of that application is attached to this report as Exhibit 1.) Notably, the application did not ask whether the prospective expert had ever been convicted of a crime. In fact, there was only one question that arguably called for any negative information in the applicant's background. That question asked the applicant to:

State whether you have ever been the subject of disciplinary proceedings/measures by any licensing unit or any court, including other jurisdictions other than NY. Fully discuss.

The application also called for the applicant to list all degrees and certifications and required the applicant to submit a copy of his or her resume/curriculum vitae, a photo identification, identify three references, and provide three letters of recommendation. The application was *not* signed under penalty of perjury by the applicant, nor did it require the notarized signature of the applicant.

DOI interviewed George Golfinopoulos, the Panel's Administrator for the First Department since 1998 and James T. Murphy, the Panel's Administrator for the Second Judicial Department since 2000, concerning the application process. Both Golfinopoulos and Murphy stated that they and their respective staffs were responsible for reviewing applications and deciding whether a particular applicant should be admitted to the Expert Roster during the relevant period. This review process was an additional task given to them sometime in 2004, and both complained to DOI investigators that they did not have the resources to adequately perform this review. Prior to 2004, the review of applicants was performed by Panel staff members. According to Panel records, from May 2003 through May 2006, a total of 170 professionals submitted applications for admission to

the Expert Roster. Additionally, during the fiscal years 2003 through 2006, the Panel processed 315,228 vouchers and approved the payment of \$225 million to attorneys and experts. Payments to experts alone totaled \$12.5 million during that period.

Golfinopoulos and Murphy told DOI that they were asked by the CJC to become involved in the appointment and re-certification of experts because the CJC felt that the Panel needed to "get a better grasp on the experts because really nobody was following the experts at that time closely." They further stated that there was an "unwieldy" number of experts on the Expert Roster, and that many had been inactive for a number of years. Both Administrators said they were unaware of any written procedures or guidelines governing the appointment of experts to the Expert Roster.

The Administrators described the procedure they followed for the review of potential experts for admission onto the Expert Roster as solely a check for "facial sufficiency." More specifically, they looked at the application form to ensure that all questions were answered and that all supporting documentation was appended to the application. No other background checks were performed and no effort was made to contact the references submitted by the applicants. The Administrators also stated that they did not interview the applicants as part of the review process.

Once appointed to the Expert Roster, an expert was not given any paperwork describing ACP's rules and regulations or the experts' responsibilities. In fact, neither Administrator was aware of the existence of any such written procedures.

### **C. Counsel's Application for the Appointment of an Expert**

DOI investigators also interviewed attorneys from the Panel during the course of its investigation. Those attorneys explained that in order to have another professional, such as a Mitigation Specialist, work on behalf of their client, they were required to make an oral application, and then submit a proposed order to the judge before whom the case was pending or a judge sitting in the Calendar Part. The proposed order is a one-page form supplied by the courts, which calls for the caption of the case, including the defendant's name and indictment/docket number, the criminal charges and the proposed professional's name. The order does not require that the attorney proffer a justification for the appointment of the professional to the case. Nor does the order call for defense counsel's name or signature. Golfinopoulos and Murphy both stated that they are unaware of any written policies or procedures concerning the submission of proposed orders to the court approving the appointment of a professional to a case.

While the request should come from the assigned attorney, according to ACP and CJC officials, and as DOI investigators learned during the course of the investigation, it is common practice in Bronx Supreme Court for experts and other professionals to apply directly for appointment and obtain judicial orders assigning them to specific cases on their own, without any representation from the assigned attorney that the professional's services are actually necessary. Attorneys interviewed by DOI stated that this is often done to save them the time of preparing the order and appearing before the judge. As described in more detail below, Gottfried used this loose practice to improperly obtain many of the judicial orders he received appointing him to cases and then further abused this system by submitting false and fraudulent vouchers for payment.

## **D. The Payment Procedure for Experts**

DOI's investigation revealed that the ACP does not have written procedures that govern the process by which experts complete and submit vouchers for payment. (A sample payment voucher in use during the relevant period is attached to this report as Exhibit 2.) However, from the face of the voucher, each payment voucher must be sworn to and certified by the expert, and a form also provided by the ACP entitled, "*Expert Case Worksheet*" (the "Worksheet"), must be completed and appended to the voucher. The Worksheet calls for the expert to identify the case name, the number of hours worked, and the dates the work was performed. In some cases, DOI investigators found that experts also submitted an affidavit setting out the nature of the services rendered and the total time expended by the expert. All vouchers must be submitted to a judge for approval. Once the judge has approved the voucher, it is submitted to the ACP, along with the initial order appointing the expert, for payment.

DOI found that defense counsel, who are obviously in a key position to know what expert services were actually needed and rendered on a case, were *not* required to review, approve, or sign off on payment vouchers or Worksheets submitted by experts who purportedly worked on their cases. In addition, ACP staff did not review or question the billing submissions. The only function that ACP staff performed is to record the dollar amount listed on the voucher and transmit that information to FISA so that a check can be issued to the expert. These billing documents are then maintained by the ACP.

## **II. GOTTFRIED'S SCHEME TO DEFRAUD**

### **A. Appointment to the Expert Roster**

Gottfried was appointed to the Expert Roster by concealing both his prior disqualification as a Mitigation Specialist in Philadelphia in 2002, as well as his 1996 federal felony conviction and subsequent 20-month sentence. According to both Administrators, had Gottfried disclosed either his disqualification or his conviction, he would not have been admitted to the Expert Roster.

Gottfried first applied and was accepted to the Expert Roster as a Mitigation Specialist in August 2002. He was not, however, assigned to any cases nor did he submit any vouchers for payment in either 2002 or 2003. The application used by the ACP in 2002 did not contain any questions which would have required Gottfried to disclose his 1996 felony conviction or his disqualification from the Philadelphia Assigned Counsel Plan.

In October 2004, Gottfried was required to complete another application in order to continue to act as a Mitigation Specialist on the Panel. By this time, the application form had been modified to include the question quoted above which asked applicants to state whether they had ever been the subject of disciplinary proceedings. More specifically, that question asked Gottfried to:

State whether you have ever been the subject of disciplinary proceedings/measures by any licensing unit or any court, including other jurisdictions other than NY. Fully discuss.



Gottfried answered: "N/A" to that question. At the time Gottfried submitted his October 2004 application, he had been disqualified to act as an expert on Philadelphia's Assigned Counsel Plan and had been convicted in 1996 in federal court for wire fraud. Gottfried did not disclose either his disqualification or his 1996 federal felony conviction on his October 2004 application.

Both Administrators acknowledged that by the time Gottfried submitted his October 2004 application, it had become their responsibility to review expert applications. Both also stated that they were the only two people reviewing these applications at this time. When the Administrators were first interviewed under oath by DOI investigators, neither would say with certainty which of them actually reviewed and accepted Gottfried's application. The only marking made by the Administrator who reviewed Gottfried's 2004 application are initials at the bottom of a one page check list affixed to the application form, which according to both Administrators is meant to identify who reviewed and approved the application. Gottfried's application form has two indecipherable letters. During his first DOI interview, Golfinopoulos stated that he did not review Gottfried's 2004 application and said the initials on the check list page were not his. He also stated that he did not recognize them to be those of Murphy either. Golfinopoulos did state, however, that they were the only two people who would have reviewed Gottfried's application. He also identified his initials from other forms, and acknowledged that he used two letters, "GG," to indicate his initials.

During his initial interview, Murphy told DOI investigators that he always used the three letters, "JTM," to indicate that he had reviewed an application. When shown the initials on the page affixed to Gottfried's application, Murphy first asked whether Golfinopoulos had said they were his. When investigators refused to answer that question, Murphy said he would take "responsibility" for the review of Gottfried's application. When investigators again asked whether the initials were his, he restated that he was "responsible," but refused to identify the initials as either his or those of Golfinopoulos.

When investigators reviewed Gottfried's application with each Administrator, neither could remember any details from the form. Murphy repeated that the reviewer of this application would only have performed a check for "facial sufficiency," and each acknowledged that an in-depth scrutiny of the answers on the application would not have taken place. However, both Murphy and Golfinopoulos admitted that certain parts of the application were on their face deficient and incomplete, and certain additional information from Gottfried should have been obtained before he was approved. Specifically, Gottfried failed to fill in the space asking the number of times he had testified as an expert, after having answered the prior question affirmatively that he had given expert testimony.

When investigators asked Murphy whether he could be sure he actually read the application at all, he said he could not be certain. He conceded that the review process for applications generally conducted by him and Golfinopoulos did not involve a rigorous review of the application and almost never led to follow-up questions based upon answers given by the applicant.

Both Administrators acknowledged that they did not conduct a background check (criminal or otherwise) on Gottfried before he was admitted or re-certified for admission to the Expert Roster. In fact, each acknowledged that background checks were not

conducted for any applicant. They stated that, on occasion, they might verify that a license proffered by a proposed expert was current, but this was only done in limited situations, where the information regarding the license was "readily available" for verification, such as a New York State license that could be reviewed by an online computer check. Both Administrators said they could not recall whether anything was done in situations where an applicant claimed to possess out-of-state licenses, as was the case with Gottfried. Both Administrators admitted that the vetting process did not generally include verifying an applicant's educational degrees.

DOI found that Gottfried's material omissions would have been easily discovered with only modest efforts, such as by searching for articles about Gottfried on *Lexis/Nexis* and/or *Google*. For example, the *Philadelphia Daily News* reported in June 2002 that Gottfried had been barred from testifying as an expert Mitigation Specialist in the sentencing phase of a Pennsylvania homicide trial because of his criminal record.<sup>2</sup> A *Lexis/Nexis* search conducted by DOI investigators revealed several articles dating back to 1996, referencing Gottfried's criminal record. In 1996, the *Philadelphia Inquirer* ran a story about Gottfried's guilty plea during which he admitted to participating in a scam to inflate the value of 25 seashore properties between May 1990 and February 1991, by creating false appraisals which were then used to obtain fraudulently high mortgages. Gottfried, the article said, was later sentenced to 20 months in federal prison for his role in this scam.<sup>3</sup>

In May 2004, prior to his re-certification to the Expert Roster, the *Philadelphia Daily News* published an article which reported that Gottfried was "under grand jury investigation for bilking Philadelphia courts out of thousands in fees."<sup>4</sup> The article specifically described Gottfried as being under investigation in connection with his work as a Mitigation Specialist who "forged attorney signatures, used aliases and submitted fake bills to receive city money for work on criminal cases." It detailed a number of fraudulent actions committed by Gottfried, including falsifying his educational and work credentials and lying about his federal conviction and 20-month jail sentence.

The Administrators similarly failed to check any other information on Gottfried's application form. The form required Gottfried to list the courts where he had previously testified in his professional capacity as well as instances when he had been qualified as an expert by a court. Golfinopoulos and Murphy acknowledged that no effort was made to verify that information, such as by telephone inquiry with the appropriate court clerks.

The 2004 application also required Gottfried to indicate whether he was unwilling to visit with clients in detention facilities. Gottfried checked "yes," thereby affirming that he was not willing to go to detention facilities to meet with his clients. When asked about this question and answer, Golfinopoulos and Murphy both admitted that it would be important for the Panel to know that a prospective Mitigation Specialist was unwilling to meet with incarcerated defendants and that follow-up questioning should have taken place based upon his response.

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<sup>2</sup> *Commonwealth v. Adalberto Correador*, 852 A.2d 1245, 2004 Pa. Super. LEXIS 1584 (Pa. Super. Ct., 2004).

<sup>3</sup> *Philadelphia Inquirer*, February 3, 1996, City and Region Section, page B2.

<sup>4</sup> *Philadelphia Daily News*, May 7, 2004, Local Section, page 4.

Gottfried also submitted what he entitled an affidavit to the Panel as part of his 2004 application, although it is not a sworn statement. The last paragraph of that document states:

My personal experience with the Criminal Justice System allows me to empathize and craft solutions efficaciously for each and every client that I come in contact. *The time that I have spent inside the prison walls has allowed me a greater affect of heartfelt solutions.* The need for an advocate is a necessity in order to help these clients. Therefore, within my vast power to help and educate, I am able to gain information from family members, clergy, friends, and the community in order to make the proper determination and eloquently depict each and every clients life through unearthing deep down secrets and climb into the home of each client. *I would not be as effective an advocate if I have not experienced a facility.* (Emphasis added.)

Golfinopoulos admitted that this paragraph raises obvious questions about Gottfried's background and suggests that Gottfried himself had spent time in prison. He acknowledged that there should have been further questions posed to Gottfried based upon this response and admitted that this paragraph is especially curious given Gottfried's earlier answer on the application that he was unwilling to go to detention facilities. Golfinopoulos acknowledged that whoever reviewed this application (and he reiterated that it was not him) did so with little care. Murphy, on the other hand, told investigators that he did not think this paragraph should have caused any concern for the reviewer of the application form and suggested that for people to do it now was just "Monday morning quarterbacking."

When interviewed a second time under oath, both Administrators changed their testimony regarding who had reviewed and qualified Gottfried for admission to the Panel. In his subsequent interview, Murphy told investigators that the initials on Gottfried's application belonged to Golfinopoulos. He could not explain the obvious inconsistency with his prior testimony, but only said that he thought he had cleared up the issue at the end of his initial interview (which he had not).

During his second interview, Golfinopoulos stated that the initials on Gottfried's application were his, but added that he was uncertain who did the initial review of the application. When asked whether he actually read the application before he approved Gottfried for admission onto the Expert Roster, Golfinopoulos said that he assumed he had. He acknowledged that in retrospect the application should have undergone further scrutiny. He repeated that he did not have the staff to investigate the information provided on expert applications, and that he and Murphy were given this task without proper staff to do it adequately.

## **B. Gottfried's Fraudulent Billings**

Based upon interviews conducted with Panel attorneys, Gottfried ingratiated himself with members of the Bronx defense bar and extensively promoted his services. Nearly all the attorneys interviewed stated that Gottfried was a fixture in the Bronx County Supreme Courthouse. Most said that Gottfried made it a point to know their schedules and the status of their cases, even cases in which they had not requested his services. Several attorneys interviewed speculated that Gottfried either had access to the Court's case tracking system or gained this knowledge by his continual presence in the Courthouse and conversations with Court personnel. In several instances, DOI was told that Gottfried frequently inquired during casual conversations about the progress of their cases. In these instances, Gottfried typically did not make a formal request of them that they request his services for the cases. It appears that many times Gottfried used these conversations with attorneys as a subterfuge to develop information regarding the defendants and their cases that he would later use to get appointed to the case without the defense attorney's knowledge.

### **1. Billings for work not performed**

During the period November 2004 through September 2005, Gottfried billed the ACP for work on 123 different cases assigned to 19 different attorneys. Many of these attorneys admitted that with respect to certain cases they affirmatively requested Gottfried's assistance, but asked him to appear before the judge and obtain the order appointing him on their behalf. However, in at least 50 of these 123 cases, Gottfried was appointed as an expert without the consent or even knowledge of the assigned attorney.

The attorneys interviewed by DOI stated that judges routinely sign orders of appointment even though the assigned attorney did not personally appear in court and make the request. Despite this, when shown the complete list of Gottfried's cases based upon Panel records, almost every one of these attorneys stated that they were surprised to learn that he had been appointed to a number of their cases without their knowledge. They expressed even more surprise to learn that Gottfried had claimed to have performed work on these cases, and had submitted vouchers for payment.

Based upon DOI's investigation, Gottfried received \$61,277.50 after submitting vouchers in connection with 50 cases where he obtained orders appointing him to the case without the assigned attorney requesting his appointment and in cases where he performed absolutely no work on the cases. The total number of hours he claimed to have worked on these cases was 1,365. For each of these 50 cases, the assigned attorneys stated that they never requested Gottfried's appointment; they never had contact with him to discuss the case; did not recognize the handwriting on the order assigning him to the case; and never received any work from him regarding the case. Based upon a review of the relevant files for these cases, there was also no written work attributable to Gottfried in any of these files. Additionally, none of the attorneys for these cases had a copy of the order appointing Gottfried to the case.

For example, in one case in which the defendant was charged with selling marijuana, Gottfried submitted vouchers in which he claimed to have worked 27½ hours on the case, for which he was paid \$1,227.54. The attorney assigned to this case had no recollection of asking for Gottfried's services in connection with this case, and further stated that he would not request the services of a Mitigation Specialist for a case

involving such relatively minor charges. The attorney said he was certain that Gottfried did no work whatsoever on this case and was shocked to learn that the Panel had actually paid Gottfried for this case.

In another example, after reviewing a Worksheet Gottfried had submitted on which he claimed to have worked 12½ hours "reviewing case and conducting research," the attorney responsible for the case explained that the defendant had jumped bail after the second court date, but was returned on a bench warrant months later, and immediately took a plea. The attorney's entire file consisted of only a criminal complaint and a request for a *Bill of Particulars*. He told DOI that he was certain he never needed or requested Gottfried's services and was not aware of any work performed by Gottfried on this case.

In another case, Gottfried billed the Panel for \$1,952.50, whereas the assigned attorney only billed the Panel \$300. This attorney noted that the defendant had entered a guilty plea after only a few court dates, and was certain that he never needed or requested Gottfried's services. When reviewing Gottfried's Worksheet, the attorney pointed out that Gottfried had billed for work he claimed to have performed on July 18, 2005, although the defendant had pled guilty by June 6, 2005.

On one particular Worksheet, Gottfried claimed to have spent four hours reviewing documents with the assigned attorney. That attorney told DOI investigators that he never requested Gottfried's services, never met with him on the case to review documents or do anything else, nor did he ever receive any work product from him. Gottfried was paid \$1,665 by the Panel in connection with that case.

DOI investigators interviewed another attorney who reported that he never requested Gottfried's services for any of his cases. Despite that, Gottfried billed the Panel on two of this attorney's cases, one of which, he claimed to have performed 31½ hours of work.

It is also notable that on several of the cases noted above, the Panel authorized payments to Gottfried in excess of the \$1,000 cap. DOI's review of the relevant files did not reveal any affidavits or other written submissions setting forth a justification for Gottfried to be paid in excess of the cap. Gottfried did submit a number of affidavits in which he set forth the total number of hours that he purportedly worked on a case as well as a general description of the work he claimed to have performed on that case. In not a single affidavit reviewed by DOI did Gottfried provide an explanation or justification for him to perform work in excess of the \$1,000 cap.

## **2. Other Payments to Gottfried**

In the remaining 73 cases for which Gottfried submitted vouchers to the Panel requesting payment for his work, there was almost no written material produced by him in either the attorney or court files. With respect to these cases, Gottfried billed for and was paid a total of \$97,976.25. For many of the cases where there were no documents evidencing work actually performed by Gottfried, the assigned attorneys were not completely certain that they had even requested his appointment. Because of that uncertainty, it is possible that Gottfried may have done some work on the case, such as interviewing the defendant or a family member, even though he never actually produced a report that was provided to either the attorney or the court because a disposition

obviated the need for a report. When investigators reviewed with each assigned attorney the full roster of their cases in which Gottfried had also submitted vouchers, many said that Gottfried grossly exaggerated his hours. In total, there were only 24 out of 123 cases in which the files contained any evidence that Gottfried had actually performed work.

As an example of overbilling, one defense attorney told DOI that he did request Gottfried's appointment at the start of one of his cases, but the defendant unexpectedly pleaded guilty within a few weeks of his arraignment. The defense counsel and prosecutor had agreed upon a sentence to recommend to the judge so there was no need for Gottfried's services. A review of Gottfried's Worksheet and voucher for this case, however, revealed that he billed 30 hours totaling \$1,350 for "researching and preparing a mitigation sentencing memorandum," which according to Gottfried's billing submissions was done *after* the defendant had entered a plea of guilty. There is no indication in either the attorney or the court file that such a memorandum was ever prepared or submitted to the court on behalf of the defendant. The defense attorney said there was no need for a report given that the plea and proposed sentencing was agreed upon by both the defense and the prosecution.

In another case, Gottfried billed the Panel \$2,385 when the assigned attorney billed only \$862. In a different case with the same attorney, Gottfried billed the Panel \$1,000 whereas the attorney billed the Panel only \$487.50.

On yet another case in which the assigned attorney said that he most likely requested Gottfried's assignment to the case, the attorney was shocked to learn that Gottfried had claimed to have worked 49½ hours for a total of \$2,227.50. That attorney told DOI investigators that the case was not very complicated and could not have required that much time by a Mitigation Specialist.

### **C. Forged Letters to Obtain a Correction Department Pass**

Gottfried's fraudulent conduct extended beyond his billing scheme. DOI's investigation also revealed that Gottfried forged the signatures of two attorneys for the purpose of obtaining a professional's pass from the Department of Correction (a "DOC Pass"). A DOC Pass allows an attorney or someone working on behalf of an attorney access to any DOC facility.<sup>5</sup>

DOI investigators interviewed DOC officials, as well as the attorneys whose letterheads were used and whose purported signatures appeared on the letters submitted by Gottfried to DOC. Both attorneys stated that their respective signatures on the letters were forged. Each said that they knew Gottfried and that he had worked on a number of their cases, but were never asked by him, nor did they ever submit a letter to the DOC on his behalf for a DOC Pass.

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<sup>5</sup> DOI attempted to trace Gottfried's use of this Pass, but was informed by DOC officials that there is no centralized mechanism in place to track the use of a DOC Pass. The only way to identify which facilities Gottfried had access to would have been to individually inspect each log book at each individual DOC facility. DOI investigators have confirmed that Gottfried's DOC Pass has been cancelled.

The DOC officials interviewed explained that there are two classifications of DOC Passes: a three-year pass, available only to attorneys, and a one-year pass, available to all other legal support staff, including a Mitigation Specialist, such as Gottfried. The requisite documents for a non-attorney to obtain a pass are two forms of photographic identification and a letter from an attorney or other employer in the criminal justice system. After the letters are received, the documents are then forwarded to another section at DOC for a background check on the applicant.

The background process consists only of checking available law enforcement databases to determine whether the applicant has an outstanding parole or bail jumping warrant. No criminal history check is performed. The documents submitted are reviewed for any apparent facial discrepancies, and from time to time, a more thorough examination of the applications are performed. As a general rule, however, the attorneys and any other legal employers of the applicant are not contacted to verify the information provided in any letters.

### **III. INTERVIEWS WITH JUDGES**

DOI investigators also interviewed a number of judges sitting in the Bronx County Supreme Court/Criminal Division regarding Gottfried and the procedures relating to the Panel.

Included among the judges interviewed by DOI was the judge who raised concerns to the ACP about Gottfried's billing practices that ultimately led to DOI's investigation. That judge became suspicious when Gottfried submitted a payment voucher claiming that he had performed work on a case after a plea had already been agreed upon, but not yet entered by the defendant. The judge knew about the plea negotiations because the attorney assigned to this case appeared before the judge on another matter and mentioned the successful plea negotiations on the case to which Gottfried was assigned. Gottfried, unaware that the judge had this conversation with the assigned attorney, later submitted the fraudulent vouchers. After receiving these vouchers, the judge questioned the assigned attorney concerning Gottfried's work on this case, who confirmed that Gottfried had not performed any work on the case. The judge properly refused to approve these vouchers; however, a few weeks later, he received another voucher for the same case claiming that mitigation services had been performed by Dr. Michael Burke on behalf of the Congressional Court Consultants. The judge noticed that this voucher appeared to be in Gottfried's handwriting. The judge refused to approve this voucher as well and contacted the ACP's Director on November 29, 2005 to express his concerns regarding Gottfried. On December 1, 2005, at the direction of the ACP's Director, Congressional Court Consultants, Inc. was removed from the Expert Roster.

DOI investigators spoke with other judges as well concerning the expert panel, including Bronx County Chief Administrative Judge John P. Collins. One of the main frustrations expressed by these judges concerning their role in the assignment process was having inadequate information regarding the need for an expert in each case. Under the current case assignment system in the Bronx County Supreme Court, felony cases that are not immediately disposed of by a plea of guilty after indictment remain in a "Calendar Part" for motion practice until they are ready for hearings and/or trial, at which time they are sent to a "Trial Part."

The calendar judges are typically presented with the orders to assign experts. Currently, there are only eight Calendar Parts for all indicted felony cases in the Bronx, which has meant that each individual calendar judge is burdened with very large dockets, making it difficult for them to have a thorough knowledge of each case. Given this workload, it is difficult for the calendar judges to assess whether the assignment of an expert to a particular case is appropriate. Adding to this problem is the fact that very often the judge who is asked to review the billing submissions is not the same judge who approved the appointment of the expert in the first place. Given all this, the judges interviewed suggested that a greater burden must be placed on the assigned attorneys to monitor the use of experts and their billings.

The judges interviewed made several recommendations regarding the appointment of experts to the Expert Roster. First, the Panel should regularly update its list of qualified experts and make that list available to judges online. Additionally, the proposed order appointing an expert should be modified to not only require the signature of the assigned attorney, but to also require a written justification in the order outlining the need for the particular type of expert for that case. In addition, the assigned attorney should be required to personally appear before the judge before an expert is approved, and a copy of the order should be kept in the court's case file.

The judges interviewed also recommended placing more responsibility on the assigned attorneys concerning the expert's billings on their cases. It was suggested that the attorneys be required to sign off on all vouchers submitted by experts on their cases and certify both the hours and the description of work performed by the expert are accurate. The judges also expressed frustration at not knowing the Panel's payment guidelines and suggested that this information also be made available online.

Finally, the judges recommended that the Panel alert judges to suspicions or concerns they have regarding particular experts and/or attorneys on the Panel. It was suggested that Panel officials attend the monthly meetings held by the Chief Administrative Judges of the five boroughs to foster better communication and provide an additional forum for the exchange of ideas and concerns.

With regard to the issue of Gottfried's fraudulently obtained DOC pass, Chief Judge Collins was surprised to learn that no criminal history check was performed before Gottfried was issued the DOC pass. Chief Judge Collins correctly noted that this breach of security had the potential for serious consequences and suggested that background checks be performed by OCA staff, based on DOC's statement that they do not have adequate personnel to perform that function.

#### **IV. DOI's CONCLUSIONS AND RECOMMENDATIONS**

DOI's investigation revealed that Gottfried became a member of the Expert Roster by failing to disclose his prior disqualification from Philadelphia's Assigned Counsel Panel and his 1996 federal felony conviction. These material omissions allowed him to become a member of the Expert Roster. Once admitted to the Expert Roster, Gottfried was appointed as an expert in over 120 criminal cases, often without the knowledge or consent of the assigned attorneys. Gottfried was later paid approximately \$160,000 in City funds for his purported expert services as a Mitigation Specialist. DOI's investigation revealed that with respect to approximately \$61,000 of



these funds, Gottfried performed absolutely no work whatsoever on the cases to which he was assigned. A review of the remaining approximately \$97,000 in payments suggests that Gottfried submitted billing documents that substantially overstated the amount of time and work he actually performed on behalf of those criminal defendants. His crime went undetected for over a year because the Panel had no measures in place to catch what should have been obvious signs of gross overbilling.

DOI's investigation has demonstrated that a number of significant changes need to be made regarding the Panel's application and payment processes. During the course of their interviews with DOI, both Administrators admitted to having performed only the most perfunctory review of expert applications. Both complained that they lacked the staff to adequately screen expert applications. That lack of oversight had significant implications. Here, Gottfried, a convicted felon, was able to become a member of the Expert Roster, after having been disqualified by another Assigned Counsel Panel for misrepresenting his educational and professional credentials. Gottfried then went on to submit fraudulent payment vouchers and received City funds that he was not entitled to receive, and which were intended to be spent on ensuring that indigent criminal defendants receive competent legal representation.

Following the conclusion of its investigation, DOI has met with members of the ACP and CJC to discuss its findings. That dialogue has already led to a number of changes in both the application and payment processes for experts.

To begin with, the ACP is currently using a new application form for all potential experts. (A copy of the new application form is attached to this report as Exhibit 3.) That application calls for substantially more information than the form in use when Gottfried was re-certified to the Expert Roster in October 2004. Notably, the new application calls for the applicant to state whether they have ever been relieved by a court from a case in which they were to perform expert services and/or testify as an expert. The form also calls for the applicant to state whether they have ever been convicted of a crime or if there are any felony or misdemeanor charges currently pending against them. The form also requires the applicant to state whether they have had any professional licenses suspended or revoked, had sanctions imposed against them as a result of a judicial or administrative disciplinary proceeding and whether they have ever been suspended or removed from an Assigned Counsel Plan in any jurisdiction. Finally, the new application requires the applicant to swear to the completeness and accuracy of the responses to the questions in the application and advises the applicant that any materially false information willfully provided could subject the applicant to criminal charges.

With respect to the voucher that experts must submit to receive payment for their services, the Panel is currently implementing a new voucher which requires the assigned attorney to certify under the penalty of perjury that the expert was, in fact, appointed to work on the case and that the attorney did utilize the expert's services in connection with the representation of the defendant. The attorney will also be required to provide the date of the judicial order appointing the expert to the case.

In addition, the two Administrators interviewed by DOI who were responsible for reviewing expert applications have retired. Golfopoulos retired on September 29, 2006, and Murphy on December 29, 2006. A new Administrator has been hired for the Second Department who is currently reviewing applicants on behalf of both

Departments. That review is a much more comprehensive and probing review of expert applicants. Resumes are reviewed to ensure that the applicant has the appropriate educational background to perform the proffered expert services. Additionally, the new Administrator is checking to ensure that the applicant's licenses are in good standing, but this new Administrator is not conducting searches on *Lexis/Nexis* or other databases for any negative information about the applicants due to time constraints. In addition, criminal checks are still not being conducted on any potential applicants to the Panel. However, the offices of the CJC and the ACP have been working closely with DOI to address the vulnerabilities identified in the course of DOI's investigation and to implement DOI's proposed solutions to those vulnerabilities.

In addition to the measures that the ACP has already taken, DOI recommends that the ACP implement the following additional reforms:

- 1) DOI strongly recommends that a full background check should be conducted on all professionals applying for admission to the Panel and the Expert Roster. The Panel currently does not have adequate personnel to perform these background checks. Accordingly, DOI recommends that the ACP receive additional lines and/or funding to hire a manager to conduct these checks. A written protocol outlining a proper background check should be put in place, and DOI should be permitted to examine that protocol before it is adopted. DOI has been informed that the CJC will increase ACP's budget to cover the cost of hiring a Background Review Manager to perform these checks.
- 2) All orders seeking the appointment of an expert or other professional to a case should be submitted by the attorney assigned to that case. The proposed order should be submitted with an application sworn to by the assigned attorney that sets forth the justification for the appointment of the expert or other professional and the work that the expert intends to perform on behalf of the defendant.
- 3) Payment vouchers submitted by an expert should be signed by the assigned attorney attesting to the fact that the expert did in fact perform the work listed on the voucher. The changes being implemented by the ACP currently require that the assigned attorney certify that the expert was appointed. The attorney is also required to identify the date of that appointment and provide a copy of the order authorizing the appointment. These revised procedures do not, however, require the attorney to certify that the expert actually performed the work outlined in the payment voucher and accompanying worksheets. Although it would be unfair to have the assigned attorney certify the precise amount of time spent by the expert, the assigned attorney should be able to certify whether the expert actually provided the work product or other services described in the voucher and accompanying worksheets.
- 4) There is currently a \$1,000 cap on payments to experts on a per-case basis. This cap can be waived if the attorney or expert submits an affidavit supporting the justification for additional work. It is clear that this cap is not being adequately policed. DOI's investigation revealed numerous instances where Gottfried submitted vouchers seeking payments in excess of \$1,000. DOI's review of the relevant files, however, did not reveal a single document

in which Gottfried or the assigned attorney offered a justification for Gottfried to receive payments in excess of the \$1,000 cap. DOI suggests that the ACP require an affidavit from both the expert and the assigned attorney setting forth the justification to exceed the cap and details the work the expert intends to perform. The ACP has assured DOI that it will begin a more rigorous review of these affidavits and require that the affiant submit a written justification for exceeding the cap.

- 5) The ACP should adopt a system by which vouchers submitted by experts on a case are cross-referenced with those submitted by the assigned attorney. In many cases reviewed by DOI, Gottfried submitted vouchers in which the number of hours he claimed to have worked on a particular case far exceeded the number of hours the assigned attorney billed. It is difficult to imagine a case where the number of hours spent by an assigned expert, particularly a sentencing advocate, should substantially exceed that of the assigned attorney. The ACP has indicated to DOI that it is currently developing a database to enable such cross-checks.
- 6) The ACP should conduct random audits of the payment vouchers submitted by Panel members. Here again, the ACP does not currently have adequate staff to perform this function, and DOI recommends that the ACP receive additional lines and/or funding to hire audit staff. DOI has been informed that the CJC will increase ACP's budget to cover the cost of hiring a Deputy Director of Audits to conduct such audits.
- 7) The ACP should also have some type of monitors in place that flag irregularities or suspicious voucher submissions. For example, Gottfried billed over one hundred consecutive days of work in a one year period. According to records on file with the Panel, Gottfried was living in Pennsylvania during this period. Despite the suspicious nature of these submissions, they did not prompt any questions from Panel staff. DOI suggests that the ACP consider identifying indicia of suspicious billing activity that could help detect other fraudulent schemes. The ACP has advised DOI that it intends to accomplish this with the development of a new database that is currently under development as well as by hiring a Deputy Director for Payments to increase oversight and supervision of payment clerks.
- 8) Regular meetings should be scheduled between Panel staff and the Chief Administrative Judges for the five counties within New York City to ensure better communication regarding the management of Panel experts and attorneys.
- 9) The ACP should set forth in writing the policies and procedures that govern Panel members from application process through and including the submission of payment vouchers. These written policies and procedures should be distributed to all potential Panel members and to all existing members on an annual basis.

- 10) Currently, the Administrators responsible for overseeing the application and payment of experts are paid by the City, but report to the respective Presiding Justices of the First and Second Departments. Given that the CJC is ultimately responsible for the operations of the Panel, the Administrators should report directly to the CJC.
  
  - 11) Criminal history checks should be performed on all applicants applying for passes to Department of Correction facilities. That check should be conducted by DOC or OCA staff. In addition, DOC staff should contact all attorneys or other professionals who submit letters on behalf of experts for passes to DOC facilities to confirm that the letters of support are genuine.
-

# **EXHIBIT 1**

ASSIGNED COUNSEL PLAN New York City

APPLICATION FOR EXPERTS PANEL

Name: \_\_\_\_\_ Social Security / TIN # \_\_\_\_\_

Address: \_\_\_\_\_ License No. \_\_\_\_\_  
Please attach a copy of current license

\_\_\_\_\_  
\_\_\_\_\_

Telephone No. \_\_\_\_\_ Fax No. \_\_\_\_\_ Beeper No. \_\_\_\_\_

Area of Expertise: \_\_\_\_\_

Degrees & Certifications: \_\_\_\_\_

Sub-specialties and/or Special Skills:

Adolescents \_\_\_\_\_ Children \_\_\_\_\_ Child Abuse \_\_\_\_\_ Drug/Alcohol Abuse

Competence \_\_\_\_\_ Developmental disabilities \_\_\_\_\_ Mental Handicaps \_\_\_\_\_

Physical Handicaps \_\_\_\_\_ Sex Offenders \_\_\_\_\_ Domestic Violence \_\_\_\_\_

Foreign Languages (Please specify) \_\_\_\_\_

Any other skill(s)  
: \_\_\_\_\_

Please check here if you are unwilling to go to detention facilities \_\_\_\_\_

State whether you have ever been the subject of disciplinary proceedings/measures by any licensing unit or any court, including other jurisdictions other than NY. Fully discuss:

A COPY OF YOUR RESUME/CURRICULUM VITAE, AS WELL AS PHOTO ID  
MUST BE ATTACHED WHEN YOU RETURN THIS FORM  
See Over- complete the other side, including the inclusion of 3 reference letters.

Please provide the name, addresses and telephone numbers of three criminal defense attorneys with whom you have recently worked (include dates worked and the name of the lawyer you worked with). You may include any information which you feel the Panel will deem pertinent to your application. **WE REALIZE YOU MAY BE IN A HURRY TO GET ON THE PANEL, BUT THE APPLICATION MUST INCLUDE THREE (3) HARD COPY LETTERS FROM YOUR REFERENCES.** We do not do the calling of the references.

- 1.
- 2.
- 3.

Have you testified in court in your professional capacity? \_\_\_\_\_ For the prosecution  
\_\_\_\_\_ No of times ; For the defense \_\_\_\_\_ No. of times \_\_\_\_\_

Have you been qualified as an expert in any court? If so, what courts and what jurisdictions? How many times have you testified? \_\_\_\_\_

Is there any reason you feel you should disclose to the panel, to aid it in its decision on admission?

ANY COMMENTS YOU WOULD LIKE TO ADD:

DO NOT WRITE BELOW THIS LINE

-----  
ASSIGNED COUNSEL PLAN COMMENTS:

Date Received \_\_\_\_\_  
Date Approved \_\_\_\_\_  
Authorization: \_\_\_\_\_

# **EXHIBIT 2**



**ASSIGNED COUNSEL PLAN  
722-C SERVICES**

Defendant's Name \_\_\_\_\_  
 AKA \_\_\_\_\_ NYSID \_\_\_\_\_

Name of Payee \_\_\_\_\_  
 S.S. or Tax Payer ID# \_\_\_\_\_

Docket/Indictment Number(s) \_\_\_\_\_  
 1 Hom  1 Fel  1 Misd  1 Viol.  
 Date of Order of Assignment \_\_\_\_\_ Check Highest Charge \_\_\_\_\_

Street Address \_\_\_\_\_  
 City, State, Zip Code \_\_\_\_\_  
 Telephone Number \_\_\_\_\_

County: \_\_\_\_\_ Court: \_\_\_\_\_

CLAIM IS MADE FOR COMPENSATION FOR SERVICES RENDERED IN PEOPLE V. \_\_\_\_\_  
 COUNTY, DOCKET/INDICTMENT NO. \_\_\_\_\_ PURSUANT TO ORDER REQUESTED BY: \_\_\_\_\_  
 DATED \_\_\_\_\_ AND SIGNED BY JUSTICE/JUDGE \_\_\_\_\_ OF \_\_\_\_\_  
 SUPREME \_\_\_\_\_ CRIMINAL COURT. (Copy must be attached).

EXPERT REQUEST (WORKSHEETS MUST BE COMPLETED - HOURS ON WORKSHEET MUST AGREE WITH TOTAL HOURS BILLED).

- A. TOTAL HOURS BILLED \_\_\_\_\_ AT \$ \_\_\_\_\_ FEE/HOURLY RATE = \$ \_\_\_\_\_
- B. ITEMIZED EXPENSES (ATTACH ADDITIONAL SHEET IF NECESSARY; RECEIPTS MUST BE ATTACHED.)
- |     |       |          |
|-----|-------|----------|
| (1) | _____ | \$ _____ |
| (2) | _____ | \$ _____ |
| (3) | _____ | \$ _____ |
| (4) | _____ | \$ _____ |
| (5) | _____ | \$ _____ |
- TOTAL EXPENSES = \$ \_\_\_\_\_

C. MILEAGE (INVESTIGATORS ONLY)

DATE	MILES	DESTINATION
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

TOTAL MILES \_\_\_\_\_ AT \_\_\_\_\_ CENTS PER MILE = \$ \_\_\_\_\_

TOTAL AMOUNT OF VOUCHER (Sum of A, B, C) \$ \_\_\_\_\_

HAS COMPENSATION AND/OR REIMBURSEMENT IN THIS CASE PREVIOUSLY BEEN APPLIED FOR OR RECEIVED?  
 YES \_\_\_\_\_ NO \_\_\_\_\_ IF YES, SPECIFY AMOUNT AND CIRCUMSTANCES: \_\_\_\_\_

DATE	CASE NO.	AMOUNT	REASON FOR PAYMENT
_____	_____	_____	_____
_____	_____	_____	_____

THE ABOVE INFORMATION IS CERTIFIED CORRECT SWORN TO BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 19\_\_\_\_

CLAIMANT \_\_\_\_\_ NOTARY PUBLIC \_\_\_\_\_

(DO NOT WRITE BELOW THIS LINE)

ASSIGNED COUNSEL PLAN COMPUTATION			APPROVED BY TRIAL COURT		
\$ _____	HRS _____	\$ _____	_____	HRS _____	\$ _____
RATE/FEE X MILEAGE		\$ _____	MILEAGE		\$ _____
EXPENSES		\$ _____	EXPENSES		\$ _____
TOTAL		\$ _____	TOTAL		\$ _____

\_\_\_\_\_ RECOMMENDED AS SUBMITTED  
 \_\_\_\_\_ RECOMMENDED AS ADJUSTED

\_\_\_\_\_ APPROVED AS SUBMITTED BY ACP  
 \_\_\_\_\_ ADJUSTED

COMMENTS ASSIGNED COUNSEL PLAN:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

ASSIGNED COUNSEL PLAN \_\_\_\_\_ DATE \_\_\_\_\_

JUDGE/JUSTICE \_\_\_\_\_ DATE \_\_\_\_\_

VOUCHER NO. _____
AMOUNT PAID _____
DATE _____
BY: _____

**ASSIGNED COUNSEL PLAN  
EXPERT CASE WORKSHEET**

Defendant's Name	Expert	PID
Indict/Docket Nos.	Date Assigned	
Charge	Telephone Number	

**ACTIVITY LOG**

Date	Location	Start Time	Finish Time	Number of Hours	Description of Activity

# **EXHIBIT 3**



**ASSIGNED COUNSEL PLAN  
CITY OF NEW YORK**

**EXPERT ROSTER APPLICATION**

**CONTENT:**

**Introduction and Instructions**

**Application Questions .....1- 4**

**Certification .....4**

**Detailed Response Section....5 - 6**

## **The Expert Roster of the Assigned Counsel Plan of the City of New York**

The Expert Roster of the Assigned Counsel Plan of the City of New York provides as a resource to judges and attorneys a list of professionals that offer the investigative and expert services necessary for adequate representation for those persons who are financially unable to obtain counsel and other services under Article 18-b of the County Law.

To be considered for listing on the ACP Expert Roster, please follow the process below.

### **Instructions for Completing the ACP Expert Roster Application**

1. Complete the Expert Roster Application by answering all questions fully. If you question whether you should include certain information to satisfy a question, you are advised to err on the side of disclosure.
2. Attach the following documents to your Expert Roster Application:
  - W-9 Form (included in the Application Package)
  - Resume or Curriculum Vitae
  - Three (3) references who we may contact: criminal defense attorneys and/or judges with whom you have recently worked. Forensic experts may include family court attorneys and forensic experts as references.
  - Copy of Professional License if applicable (attach only current license)
  - Clear copy of government-issued Picture ID. Only the following are acceptable: Driver's License, Non-Driver's ID or Passport.
  - If you are certified by the Office of Court Administration (OCA) you must enclose a copy of your OCA certification and OCA-required photo
3. If you fail to complete and include in your package any of the documents requested above, your submission may not receive consideration.
4. Submit your completed application package to:  
Olga Morcelo-Mont  
Assigned Counsel Plan  
253 Broadway – Room 200  
New York, New York 10007

Once your documentation has been reviewed by ACP, you will receive a letter within 30 days of ACP receipt of your documentation as to the approval or denial of your application. Please do not contact ACP for status of your application prior to the expiration of this 30-day period. If you have any questions about the application process, contact Olga Morcelo-Mont at (212) 676-0059.

( ) Initial      ( ) Reactivation      ( ) Recertification

APPLICATION FOR EXPERT ROSTER CERTIFICATION

ASSIGNED COUNSEL PLAN  
CITY OF NEW YORK

Name of Expert: \_\_\_\_\_  
  First                              Initial                              Last

Home Address \_\_\_\_\_  
  Street/Avenue (No POs accepted)                              Apt #

City \_\_\_\_\_                              State \_\_\_\_\_                              Zip Code \_\_\_\_\_

Phone Number ( ) \_\_\_\_\_ Cell Phone # ( ) \_\_\_\_\_

Email Address: \_\_\_\_\_ Fax #: ( ) \_\_\_\_\_

Date of Birth: \_\_\_\_/\_\_\_\_/\_\_\_\_                              SS#: \_\_\_\_/\_\_\_\_/\_\_\_\_

1.  No  Yes Do you intend to provide your 18-B expert services through a for-profit or not-for-profit business entity? If you answered "No", please proceed to question #2. If you answered "Yes", please provide the following information concerning the organization:

a. Complete Business Name \_\_\_\_\_

b. Tax Identification Number \_\_\_\_/\_\_\_\_/\_\_\_\_

c. Address of Business: \_\_\_\_\_  
  Street/Avenue (No Post Office Boxes are accepted)

City \_\_\_\_\_                              State \_\_\_\_\_                              Zip Code \_\_\_\_\_

d.  No  Yes Are you currently an officer or owner of this organization or have you served in this organization in either capacity in the past?

If you answered "No", please proceed to Question 2.  
If you answered "Yes", set forth related detail on page 5.

2. Indicate your area(s) of Expertise: \_\_\_\_\_  
\_\_\_\_\_

Expert Application – Assigned Counsel Plan – New York City

Licensure:

3a.  No  Yes Does your area of expertise require a license to qualify as an expert in your field?

If you responded "No", proceed to Question #4.  
If "Yes", please provide answers to the following:

b. License Code # \_\_\_\_\_

Professional License Type \_\_\_\_\_ License Number \_\_\_\_\_

State of Issuance \_\_\_\_\_ Date of Issuance \_\_\_\_\_

Date of License Expiration \_\_\_\_\_  
D M Yr

c. If you have other licenses, set forth related detail on page 5.

4. Related Degrees and Certifications

a. Degree/Certification: \_\_\_\_\_ Year received \_\_\_\_\_

Name of Issuing Institution \_\_\_\_\_

Address \_\_\_\_\_

b. Please provide additional degree or certification information on page 5.

5. Sub-Specialties and/or Special Skills:

Adolescents \_\_\_\_\_ Children \_\_\_\_\_ Child Abuse \_\_\_\_\_ Drug/Alcohol Abuse \_\_\_\_\_

Competence \_\_\_\_\_ Developmental Disabilities \_\_\_\_\_ Mental Handicaps \_\_\_\_\_

Physical Handicaps \_\_\_\_\_ Sex Offenders \_\_\_\_\_ Domestic Violence \_\_\_\_\_

Foreign Languages (please specify) \_\_\_\_\_

Other Relevant Skills: \_\_\_\_\_

6. Prior related Experience:

Identify other assigned counsel plans or other defense organizations for which you have worked within the last five (5) years \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Expert Application – Assigned Counsel Plan – New York City

7.  No  Yes Have you been qualified as an expert in any court?

If you answered "No", proceed to Question 9.

If you answered "yes", provide information on the courts in which you qualified:

Court _____	Jurisdiction _____	Qualification Date _____
Court _____	Jurisdiction _____	Qualification Date _____
Court _____	Jurisdiction _____	Qualification Date _____

8.  No  Yes Have you testified in court in your professional capacity?

If you answered "No", proceed to Question 9.

If you answered "yes", please answer the following:

If you testified for the Prosecution, indicate approximate number of times \_\_\_\_\_

If you testified for the Defense, indicate approximate number of times \_\_\_\_\_

9. Approximately many reports have you submitted related to a case in your capacity as an expert? \_\_\_\_\_

10. Please indicate whether you have been the subject of any of the following actions, whether pending or completed. If you answer "Yes" to any of these questions, set forth the related detail on page 6.

a.  No  Yes Have you been relieved by a court from a case in which you were to perform expert services and/or testified as an expert?

b.  No  Yes Have you been convicted of a crime in this state, or in any jurisdiction of any offense which if committed in New York would constitute a crime?

c.  No  Yes Do you have any felony or misdemeanor charges currently pending against you?

d.  No  Yes Have you had any professional or other type of license or certification suspended or revoked?

e.  No  Yes Have you had any sanctions imposed as a result of judicial or administrative disciplinary proceedings with respect to any professional licenses or certifications you have held or currently hold?

f.  No  Yes Have you been suspended or removed from an Assigned Counsel Plan in any jurisdiction?



Expert Application – Assigned Counsel Plan – New York City

Please provide any information you would like the Assigned Counsel Plan to consider in relation to your Application to the Expert Panel. Append related documentation to this Application. \_\_\_\_\_

**CERTIFICATION**

***A materially false statement willfully or fraudulently made in connection with this Application may result in its rejection and, in addition, may subject the Applicant making the false statement to criminal charges.***

I, \_\_\_\_\_, hereby certify that I have supplied full and complete and accurate responses to each question in this Application. I understand that the Assigned Counsel Plan will rely on the information supplied in this application as an inducement to certify my services to the Expert Roster.

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

Seal or Stamp

For ACP Manager Only:

Date Received \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Authorization: \_\_\_\_\_  
Print and sign full name / title



Expert Application – Assigned Counsel Plan – New York City

**10a: Relieved by court from a case**

Date of Action: \_\_\_\_\_ Court \_\_\_\_\_ Presiding Judge \_\_\_\_\_

Reason for removal from case: \_\_\_\_\_

**10b: Criminal conviction**

Date of Charges \_\_\_ / \_\_\_ / \_\_\_ Court \_\_\_\_\_ Index or docket# \_\_\_\_\_

Nature of Charges \_\_\_\_\_

Result of Charges \_\_\_\_\_

**10c: Pending charges**

Date of Charges \_\_\_ / \_\_\_ / \_\_\_ Court \_\_\_\_\_ Index or docket# \_\_\_\_\_

Nature of Charges \_\_\_\_\_

**10d: License or certification suspension/revocation**

Indicate whether a suspension or revocation: \_\_\_\_\_

Type of license or certification and #: \_\_\_\_\_

Name of Sanctioning agency: \_\_\_\_\_

Reason for Action: \_\_\_\_\_

**10e: Judicial or administrative sanctions**

Date of sanction: \_\_\_ / \_\_\_ / \_\_\_

Sanctioning body: \_\_\_\_\_

License or Certification affected: \_\_\_\_\_

Sanction description: \_\_\_\_\_

Reason for Sanction \_\_\_\_\_

Current status of License or Certification \_\_\_\_\_

**10f: Suspension or removal from Assigned Counsel Plan**

Location of Assigned Counsel Plan \_\_\_\_\_

Date of Action: \_\_\_\_\_

Reason for Sanction: \_\_\_\_\_