

EXECUTIVE ORDER No. 118

INDIGENT DEFENSE PLAN FOR THE CITY OF NEW YORK

June 13, 2008

WHEREAS, pursuant to the provisions of Article 18-B of the County Law § 722 (“18-B”), the City of New York (“the City”) is required to provide counsel to persons charged with a crime or who are entitled to counsel pursuant to Family Court Act §§ 262 or 1120, Correction Law article 6-C or Surrogate’s Court Procedure Act § 407, and who are financially unable to obtain counsel within the meaning of County Law § 722; and

WHEREAS, it is imperative for the City to set out a plan for representation of such persons pursuant to the above statutory provisions,

NOW, THEREFORE, by virtue of the power vested in me as Mayor of the City of New York, it is hereby ordered:

Section 1. Repeal of Executive Order. Executive Order No. 178 of 1965, entitled “Furnishing Counsel to Indigent Criminal Defendants Within the City of New York,” is hereby repealed. Criminal Defense Panels created under the authority of Executive Order 178 of 1965 shall continue to exist and shall be administered in accordance with the rules of the Appellate Division, First and Second Judicial Departments.

§ 2. Definitions.

Assigned Counsel Panels. Panels of private attorneys certified by the Appellate Division, First and Second Judicial Departments, to represent indigent persons for purposes of Article 18-B of the County Law.

Criminal Defense Panels. The Assigned Counsel Panels administered by the Office of the Mayor, Office of the Assigned Counsel Plan (“ACP”), in accordance with the rules of the Appellate Division, First and Second Judicial Departments. Attorneys on the Criminal Defense Panels represent indigent defendants in criminal matters as defined in section 722-a of the County Law, as set forth below.

Family Law Panels. Assigned Counsel Panels administered by the Appellate Division, First and Second Judicial Departments, in accordance with the rules of those courts. Attorneys on the Family Law Panels represent indigent persons in the Appellate Division, First and Second Judicial Departments, and in the Supreme Court, the Surrogate’s Court and the Family Court within those Departments, in proceedings under sections 262 or 1120 of the

Family Court Act and section 407 of the Surrogate's Court Procedure Act.

Indigent Person. Any person who is entitled to be represented by counsel pursuant to section 722 of the County Law and who is financially unable to obtain counsel, as defined in the Eligibility Guidelines for the Appellate Division, First and Second Judicial Departments.

Provider. A private legal services organization selected by the Criminal Justice Coordinator ("CJC") in accordance with section three of this Order to represent indigent persons.

Indigent Defense Organization Oversight Committee. Committees established by the Appellate Division, First and Second Judicial Departments, that monitor Criminal Defense Providers.

§ 3. *Competitive Procurement Process.* The Office of the Criminal Justice Coordinator ("CJC") shall select Providers through a competitive procurement process in accordance with the rules of the Procurement Policy Board. These Providers, along with attorneys appointed from appropriate Assigned Counsel Panels of the First and Second Judicial Departments, will provide indigent legal services as described below.

Indigent Defense Organization Oversight Committees, as established by the First and Second Judicial Departments shall monitor the Providers.

§ 4. *Criminal Matters.* In classification proceedings under Article 6-C of the Correction Law and in any other criminal matters in which an indigent person is entitled to counsel pursuant to Article 18-B of the County Law, CJC shall select Providers in each of the City's five counties to provide representation at the trial level. In appellate matters in which an indigent person is entitled to counsel pursuant to Article 18-B of the County Law, CJC shall select providers in each of the First and Second Judicial Departments to provide representation in such matters. Providers shall be assigned by the court at the trial and appellate levels. In any case where, due to conflict of interest or other appropriate reason, Providers decline or are unable to represent an indigent person at the trial or on appeal in a criminal matter, counsel shall be furnished by attorneys assigned by the ACP from the appropriate Criminal Defense Panel of the Appellate Division, First or Second Judicial Department.

§ 5. *Family Law Matters.* Indigent persons who are parties in proceedings brought under sections 262 or 1120 of the Family Court Act or section 407 of the Surrogate's Court Procedure Act shall be represented by attorneys selected by the First and Second Judicial Departments from the Family Law Panels of the Appellate Division, First or Second Judicial Department, and Providers selected by CJC. Attorneys shall be assigned by the court.

§ 6. This Order shall take effect immediately.

Michael R. Bloomberg
Mayor