



MEMO

To: Vancouver Criminal Bar

Copies: David Griffiths, Debra Carpentier

From: James Deitch, Manager, Criminal Law and Large Case Management

Date: June 30, 2006

Re: **Changes to the Vancouver Criminal Duty Counsel Rosters**

In 2004, LSS decided to freeze the membership on the Vancouver duty counsel rosters in order to review the membership criteria and determine how to best establish a process for the admission of new lawyers without creating a roster that was so large that members would rarely obtain duty counsel assignments. In particular, we were concerned with the quality and consistency in the services provided, and recruitment and training of new members.

In 2005, we retained Karen Walker to commence a review of the criminal duty counsel system throughout the province focusing on the issues of concern set out above. She commenced this task in April, and conducted a number of meetings as well as reviewed a range of research from other jurisdictions, prior to her appointment to the bench in August. The retainer was taken over by Debra Carpentier, and she completed the report largely focusing on Vancouver as this was the area which Ms. Walker had not conducted consultations by August.

In late October 2005, a meeting was held downtown with all interested members of the Vancouver criminal bar invited. Those in attendance provided significant useful information to inform Ms. Carpentier and LSS managers of the views of the bar. In February 2006, Ms. Carpentier presented her report to LSS for review. At a meeting in May at the 222 Main Street Courthouse, the recommendations were discussed as it will be the location most impacted initially.

The recommendations included criteria for new applicants to the roster which consisted of:

- (a) minimum 2 years call to the bar;
- (b) minimum 2 years practice of criminal law in the jurisdiction;
- (c) a total of 5 days shadowing with at least 2 separate duty counsel, one for in-custody and one for out-of-custody; and
- (d) references from 2 members of the current roster who can comment on the applicant's ability to conduct show cause hearings.

These requirements may be waived or reduced where the applicant has other relevant experience at the discretion of LSS.



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Current members of the roster will also be expected to complete a form to confirm their desire to remain on the roster. They will be limited to choosing Vancouver for duty counsel purposes and will be expected to have the majority of their private practice in Vancouver as well to ensure familiarity with local practice in duty counsel services. Other factors to be considered include:

- (a) having personally done duty counsel assignments in the previous two years (roster members who have taken assignments and then regularly delegated them will not be given priority for continued roster membership);
- (b) any concerns or complaints received about members, especially about availability while acting as duty counsel, being on time in attending at Court and remaining available throughout the day and touting while acting as duty counsel;
- (c) any issues with either the Law Society or the LSS Audit and Investigation department which may impact upon their ability to provide quality services to our clients; and
- (d) any other relevant factors that LSS considers appropriate.

Current members of the rosters and other lawyers who applied to join a Vancouver roster in the past two years will be sent a form in July requiring their current roster information, their prioritized choice of rosters, and confirmation with respect to the above factors. Counsel may submit any additional information in support of their request for continued membership. In order to ensure that rosters are of manageable size and to permit inclusion of new members, roster membership will be limited and current members may not be confirmed on all of the rosters for Vancouver at the discretion of LSS.

Generally all of the above will apply to all rosters including Robson Square Youth Court. In addition, Robson Square Youth Court roster applicants will be expected to provide proof of a Criminal Records Check because under the *Criminal Records Review Act*, LSS is under an obligation to ensure that duty counsel for youths have completed a criminal record check.

Any lawyers not currently included on the rosters, who wish to be considered for membership, may apply attaching information in accord with the criteria set out at page one. A form will be sent to them to indicate their priority for the various rosters. Separate rosters will be set up for the following:

- (a) Robson Square Youth Court;
- (b) 222 Main Street In-Custody;
- (c) 222 Main Street Out-of-Custody;
- (d) 222 Main Street Night Duty Counsel;
- (e) 222 Main Street Weekend Duty Counsel; and
- (f) Vancouver Emergency on-call roster.

Depending upon the number of applicants, we may limit the number of above rosters that lawyers will be assigned to, thus we request you to prioritize your choices.

If you have any questions or concerns, please contact me at (604) 601-6108, by e-mail at james.deitch@lss.bc.ca or by facsimile at (604) 681-7963.