

MINUTES

COMMITTEE: Ethics Committee

DATE: March 7, 2002

6. CHAPTER 10: OBLIGATIONS OF COUNSEL WITHDRAWING FROM DUTY COUNSEL COMMITMENT

Because of budget cuts that require the Legal Services Society to reduce services, the Society asked for the Committee's views on the following questions: Whether, in the context of a Legal Services Society decision to decline to pay their accounts, lawyers can withdraw from a duty counsel commitment short of providing a replacement (who would presumably have to act without fee), and whether the obligations of duty counsel to accused in custody are different than the obligations to accused not in custody.

It was the Committee's view that where a Legal Services Society funding reduction prevents the Society from paying lawyers who have agreed to act as duty counsel in the future, the lawyers may withdraw from the duty counsel commitment by giving reasonable notice to the court of their intention to withdraw. Reasonable notice will depend on the circumstances. However, given the brief preparation time required by lawyers to perform duty counsel work, reasonable notice will be a minimal amount of time that, in some circumstances, may be as little as one day. With respect to the notice requirement, the Committee was of the view that no distinction need be made between accused who are in custody and those who are not in custody.

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