Gladue Report Writer Roster

Part 1 - Definitions:

"Director" – is the Director, Public Legal Information and Applications, or his or her designate

"LSS" — is the Legal Services Society

"Manager" — is the Manager, Aboriginal Services, or his or her designate

"Gladue" — R. v. Gladue is the 1999 Supreme Court of Canada decision which recognized the need to remedy the overrepresentation of Aboriginal people in prison. Gladue reports provide information to the courts, for Aboriginal defendants, for bail and sentencing, to support reasonable alternatives to prison.

"Gladue Report" — a report prepared for a sentencing or bail hearing that provides the court with comprehensive information on the offender, the offender's community and a plan that looks at realistic and viable alternatives to prisons.

Part 2 – General Guidelines

On July 1, 2011, LSS began funding the writing of *Gladue* reports as an expert report disbursement pilot. Lawyers can request a *Gladue* report by submitting a Request for Authorization of Disbursements to the Case Management Section.

LSS will assign a writer from the roster of LSS-certified writers maintained by Aboriginal Services. The report writer will require a minimum of eight weeks to complete the report.

Unless the client explicitly requests that a report writer not be connected to his or her community, Case Management will match the client with a *Gladue* report writer who is:

(a) familiar with the client's culture and community, and
(b) close to the client's residence or the correctional facility.

Lawyers may optionally request a specific report writer who fits the criteria above.

The requirements to be considered for and to be included on the *Gladue* report writer roster apply across the province. LSS may apply the minimum standards in a flexible manner, on the basis of local conditions, taking into consideration local practices and the need to maintain or rebuild the *Gladue* writer roster to meet the current needs without compromising the quality of service.

An applicant may be admitted to the roster by agreeing to meet standards deemed appropriate for the local area, which may include professional development and/or mentoring in the discretion of the LSS.

Part 3 – Roster Criteria and Expectations

In order to be considered to be on the *Gladue* report writer roster, writers must meet the following criteria:

(a) Successfully completed a *Gladue* report writing training course approved by LSS.

(b) Be Aboriginal or be closely connected to the Aboriginal community (e.g. an Aboriginal Justice Worker who does not identify as Aboriginal).

(c) Any other relevant factors that LSS deems appropriate, such as training provided by the Native Courtworkers Association, and Correctional Services Canada Aboriginal Liaison program,

At the discretion of LSS, these requirements may be waived or reduced where the applicant has other relevant experience.

Gladue report writers included on the roster must:

(d) Notify LSS (specifically, the Manager, Aboriginal Services) of how they know the offender that they are writing the *Gladue* report about and members of that offender's community prior to starting the *Gladue* report writing process for the assigned *Gladue* report. Notification to LSS must occur unless expressly exempted.

(e) Keep informed about, and comply with LSS's procedures, policies and administrative requirements.

(f) Act honestly and in good faith in dealing with LSS.

(g) Respond promptly to all requests by LSS for information.

(h) Advise LSS promptly of any changes to his or her business address or contact details.

(i) Advise LSS if he or she wants to be removed from the *Gladue* report writer roster.

(j) Provide the services authorized at the times and places agreed to.

(k) Continue to provide the service to the client unless removed from the assignment.

(l) Attend all assignments on time and as scheduled, or provide reasonable notice to LSS if unable to do so.

(m) Notify LSS immediately if he or she ceases to provide the service to the client.

Part 4 – Manager Decision

Membership on the *Gladue* writer roster is at the sole discretion of LSS. Where the Manager, Aboriginal Services, determines that there is reasonable cause, the Manager may impose conditions

on, or temporarily or permanently suspend a *Gladue* writer's eligibility to receive *Gladue* report writing referrals from LSS. Reasonable cause includes:

(a) Failure of a *Gladue* report writer to meet applicable standards as established by LSS.

(b) Failure of a *Gladue* report writer to provide an acceptable quality of service.

(c) Failure of a *Gladue* report writer to comply with a condition imposed by the Manager, Aboriginal Services.

(d) A *Gladue* report writer billing LSS for services, knowing that the services have not been rendered or the nature or extent of the services rendered have been misrepresented.

(e) A *Gladue* report writer creating an administrative burden on LSS that outweighs the benefit(s) provided by the *Gladue* report writer.

The Manager will notify the *Gladue* Report Writer of his or her decision in writing.

If the Manager imposes conditions on, or temporarily or permanently suspends, the *Gladue* report writer's eligibility to receive referrals from LSS, the Manager may require that, within time limits set by the Manager, the *Gladue* report writer report on the status of all unfinished work; and complete work on existing referrals.

Part 5 – Review

1. A *Gladue* report writer who has had conditions imposed, or been temporarily or permanently suspended of his or her eligibility to receive *Gladue* report writing referrals from LSS may request a review of that decision.

2. The Director may receive such representations from the *Gladue* report writer as he or she deems appropriate.

3. After completing a review, the Director may confirm or vary the initial decision. The Director will notify the *Gladue* report writer of his or her decision in writing. The Director's decision is final and binding.

HISTORY:	**EMC Approved May 8, 2012; Appendices EMC Approved September 25, 2012.**
QUESTIONS TO:	Manager, Aboriginal Services Department

Appendix A – Gladue Report Preparation and Writing Standards

The standards outlined below are intended to ensure that a *Gladue* report prepared by a report writer is of an acceptable quality so that the court will have the necessary information to effectively apply *Gladue* principles, find the report credible and understandable, and give the report weight when making its sentencing or bail decision.

Gladue report writers included on the roster must:

(n) Prepare *Gladue* reports within required deadlines (see Appendix B).

(o) Keep informed of *Gladue* principles and *Gladue* report writing practices and procedures.

(p) Keep familiar with services to assist Aboriginal peoples in his or her local community.

(q) Follow the Provincial Correctional Centres Protocol when visiting clients in custody (see Appendix C).

(r) Prepare a comprehensive, accurate, objective and clear report that includes *Gladue* factors and a detailed restorative justice plan.

The *Gladue* report must:

(a) Contain all necessary information in order to provide a complete picture of the client and his or her circumstances within an Aboriginal context.

(b) Clearly outline recommendations for realistic and viable alternatives to prison.

(c) Present accurate facts.

(d) Provide a source for all information presented (e.g., people contacted or documents reviewed).

(e) Corroborate facts and information using written sources or other people, whenever possible (e.g., provide peer-reviewed academic sources to support discussion of systemic issues, and information from family or community members to support client's information).

(f) Be objective, and avoid bias and advocacy. It must not contain personal conclusions or opinions of the writer.

(g) Avoid inconsistent statements (i.e., two or more statements that contradict each other) or conflicting information.

(h) Meet minimum writing standards. The report must:

i. Be written for its specific audience (i.e., the court).

ii. Use proper format (i.e., follows the LSS *Gladue* report template).

iii. Use proper grammar, punctuation and spelling.

iv. Use appropriate words and clear, concise and complete sentences.

v. Be well organized and flow logically.

vi. Contain proper citations for quotations and written sources.

vii. Contain no plagiarism, that is, borrowing or copying someone else's ideas or statements without properly acknowledging or citing the source of that information.

Appendix B – Gladue Report Preparation Timelines

The following timelines are intended to ensure timely preparation of *Gladue* reports:

(a) The *Gladue* report writer ("writer") will require a minimum of eight weeks to complete a report.

(b) The writer must provide the LSS *Gladue* reviewer with a draft report at least ten (10) days before the sentencing or bail hearing court date.

(c) The reviewer will return the draft report to the writer within two (2) days.

(d) The writer must submit a final completed *Gladue* report to the client's lawyer one (1) week before the court hearing date.

(e) The lawyer will submit the report to the court registry two (2) days before the court hearing date.

If a *Gladue* report is not completed on a timely basis, the writer will not be paid for preparing that report.

Appendix C – Provincial Correctional Centres Protocol

When preparing a *Gladue* report for a client in custody, a *Gladue* report writer must follow the Provincial Correctional Centres Protocol[1] when visiting the client.

Gladue report writers ("writer") included on the roster must:

(a) Pass a security clearance. Arrangements for a security clearance should be made with correctional staff well before the writer's first visit with the client. A security clearance must be renewed annually.

(b) Contact the Deputy Warden of Programs at the provincial correctional centre where the client is located to arrange an interview with the client. The writer should do this well before the date he or she wants to meet with the client to ensure meeting space is available for the necessary length of time.

The interview will be held in a private room, but it will be monitored periodically by correctional staff and equipped with an emergency response transmitter.

If the writer cannot attend the correctional centre in person, arrangements may be made to interview the client by phone, or by video if equipment is available. Approval for video conferencing needs to be obtained from the Ministry of Justice, Court Services Branch.

(c) Advise correctional staff if the inmate is very emotional at the end of the interview or if there is reason to believe that the client may try to harm him or herself. This is so correctional staff can refer the client to the appropriate support services within the centre.

[1] As outlined by the Provincial Director of the Adult Custody Division of the Corrections Branch, Ministry of Public Safety and Solicitor General in a letter to the Legal Services Society, dated January 20, 2011.

Appendix D – Confidentiality Standards and Procedures

Gladue report writers must be familiar with and follow LSS' *Confidentiality* policy.

All information a client gives to a *Gladue* report writer is subject to solicitor-client privilege. *Gladue* report writers should also review the confidentiality standards contained in Chapter 5 of the Law Society of British Columbia's *Professional Conduct Handbook*.

In particular:

(a) A *Gladue* report writer ("writer") must keep confidential all information about a client that he or she learns or receives while preparing a *Gladue* report, regardless of the nature or source of the information or that others may know the same information.

(b) A writer should get a client's written consent to obtain a client's personal records and information for the purposes of preparing the *Gladue* report for the court (see Appendix E for Consent to Release Information Form).

(c) A writer must use a client's information solely for the purposes of preparing a *Gladue* report, and must not disclose any information unless:

   i. expressly or implicitly authorized by the client

   ii. required by law

   iii. required to perform job function (e.g., a writer may discuss the client's information with the client's lawyer unless the client indicates otherwise)

   iv. required under one of the specific exceptions to solicitor-client privilege, which include disclosing information necessary to prevent a crime that is likely to result in death or serious bodily harm to another person, or any serious indictable offence.

(d) A writer must not talk about a client in public places, or have indiscreet conversations or gossip about a client, even though the client is not named or otherwise identified.

(e) A writer must take all reasonable steps to ensure the privacy and safekeeping of a client's file and personal records. A writer should provide a client's file, including all notes, to the client's lawyer upon completing the *Gladue* report.

(f) A writer must be aware of and understand publications bans, and comply with any publication ban that applies to a client's sentencing or bail hearing.

Appendix E – Consent to Release Information Form

YOUR NAME - *Gladue* Report Writer
CONTACT INFORMATION – ADDRESS, TELEPHONE, EMAIL

Consent to Release Information

Date: _____

I hereby consent to the release of any assessment, clinical information, medical, psychiatric, psychological, legal, educational, social and family information to **Your Name** Certified *Gladue* Report Writer.

I understand this information may be used by **Your Name** solely for the purposes of compiling a *Gladue* report for the court in British Columbia and may be taken into account for court decisions.

_____
Signed:

_____
Name (please print):

_____
Address:

_____

_____ _____
Date: Witness: