

## Legal-aid shortfall limits justice

July 10, 2009

**SCOTT TRACEY**

MERCURY STAFF

Local lawyers aren't exactly hitting the picket lines, but Guelph barristers have recently joined their counterparts in other Ontario municipalities in boycotting legal aid work for the most serious of cases.

Those facing homicide or gun-related crimes in Guelph will find it more difficult to get legal representation, unless they can afford it themselves.

Who cares, right? We all should.

The crux of the boycott is a concern current legal-aid payments do not allow lawyers to adequately represent their clients. During the boycott, which began in Toronto about six weeks ago, Ontario Criminal Lawyers' Association president Frank Addario has repeatedly stressed that in the past 20 years legal aid lawyers have seen their pay rise 15 per cent, while judges' salaries are up more than 80 per cent and Crown lawyers have received a nearly 60 per cent bump.

While these numbers are impressive for legal aid types pressing their point, they don't tell the whole story. Perhaps more important than the money pocketed by the lawyers for each side is the depth of resources available to be spent on a case. For example, when the Crown -- an arm of the provincial government -- wants to hire an expert, it pays that expert \$200 per hour.

When legal aid-funded lawyers want to hire an expert, that same provincial government caps payment at \$110 an hour. The justice system is supposed to be equally accessible to all residents, regardless of their social or financial standing. While this is clearly not always the case -- O.J. Simpson, anyone? -- the current legal aid system in Ontario clearly stacks the deck against those relying on taxpayer-funded lawyers to put their case forward.

"Some experts don't do defence work," lawyer Craig Parry told the Waterloo Region Record this week. "They only do Crown work because the defence don't pay enough." Parry is representing the accused in a Guelph shaken-baby case, and is having trouble lining up expert witnesses.

"The Crown has its stable of experts ready to roll," Parry said. "I'm just not able to afford them. It's not clear I can properly defend the guy" That's scary.

Such a scenario conjures up the Hollywood depictions of public defenders -- the American version of legal aid -- dozing off at the counsel table as their poor client hurtles toward the death penalty. Thankfully, such depictions are largely fictional these days, and obviously Canadians don't have capital punishment.

But when lawyers are not able to mount a full defence for their clients, the integrity of the whole system is called into question and the risk of wrongful convictions and hefty prison terms presumably increases.