



**T O R O N T O   L A W Y E R S  
A S S O C I A T I O N**

September 21, 2009

The Honourable Chris Bentley  
Attorney General for Ontario  
McMurty-Scott Building  
720 Bay Street, 11th Floor,  
Toronto, Ontario M5G 2K1

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Dear Mr. Attorney General,

On September 15, 2009, the Trustees of the Toronto Lawyers Association (TLA) unanimously voted to support the boycott of Legal Aid by criminal defence counsel acting in homicide and Guns and Gangs prosecutions. The TLA strongly believes that the current Legal Aid tariffs are highly insufficient, promote inefficiency in the criminal justice system, and undermine the right of accused persons to obtain effective representation of counsel. The TLA takes this position in light both of the disproportionate increases in the remuneration of judges, Crown Attorneys, Crown expert witnesses, and Duty Counsel, as well as increases in cost of living that have not been accounted for by the Legal Aid tariff over the past two decades. Since 1987, allowing for inflation and cost of living, the real value of the legal aid tariff has diminished by more than fifty percent.

The Trustees have also reviewed the funding package proposed by the government on September 4, 2009. While the proposal represents a welcome increase in the funding of the legal aid plan, it is not one that the TLA believes properly addresses the insufficiency of the legal aid tariff. The proposed \$60 million increase in the overall funding of Legal Aid – divided between criminal certificates, non-criminal certificates, clinics, and staff offices – is not nearly enough to remedy the losses against inflation and cost of living that defence counsel have incurred over the past few decades. It is far from certain that there will be any significant increase in the tariff at all. While the TLA strongly supports the proposed funding review mechanism, we cannot support an unnecessary delay of four years without any assurances that such a commission will be established at all. Finally, the TLA takes the position that the proposed staff office for the handling of large cases creates undue bureaucracy and diverts resources that could be better put towards funding counsel to represent the individuals charged with those serious offences.

The criminal defence bar, as well as the Toronto Lawyers Association, is committed to providing accused persons with the best representation available to them in law. That cannot be achieved without significant reforms to the current Legal Aid scheme. The TLA hopes that the government will continue to work with the criminal defence bar to reach a solution that satisfies defence counsel, while protecting taxpayers and promoting the fundamental rights of accused persons.

Yours Truly.

  
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Dirk Derstine  
Trustee, Toronto Lawyers Association