

## **Legal-aid lawyers for indigent prisoners join boycott Hundreds of Ontario inmates left without representation as counsel withdraw services to take part in funding protest**

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A program that provides lawyers for indigent prison inmates convicted of serious crimes is closing its doors to join a growing boycott of Ontario's legal-aid plan. In a letter to Ontario Chief Justice Warren Winkler and two other senior Court of Appeal judges, the 26 lawyers of the inmate appellate duty counsel program say they agonized over their decision to leave hundreds of inmates without legal representation.

"Successive governments have ignored the problem that has produced the present crisis," the letter says. "The current state of Legal Aid has driven senior counsel away from the handling of serious cases both at trial and appeal," it adds, noting "the loss to the justice system as a whole, and the significant contribution this has caused to delays and overall costs."

The 26 lawyers – who rank among the most skilled criminal lawyers in the province – devote scores of unpaid hours each year to representing inmates appealing their convictions.

The legal-aid boycott they are joining was launched several weeks ago to protest against what the lawyers say is the consistent underfunding of legal-aid budgets. Lawyers in most corners of Ontario have refused to take on serious cases and those involving "guns and gangs" legislation.

They argue that in a short-sighted bid to cut costs, the province is in fact achieving the opposite by driving senior lawyers away from legal aid. That leaves the field to junior counsel who are more likely to pursue fruitless and time-consuming legal motions and who typically decline measures that could shorten legal proceedings.

In another significant development Friday, a senior Crown official said there is widespread discomfort within Crown ranks over the growing disparity between legal-aid funding and the resources of the Crown.

"The Crowns understand that you can't just pour millions of dollars into one side and starve the other," said the official, who requested anonymity. "It undermines the balance of the system. Many of us are embarrassed that we are able to pay experts something like double what the defence can pay. It makes us look like we are afraid of a vigorous defence bar."

As impartial officers of the court, prosecutors are ethically bound to do their best to ensure a fair result in every case. Any crack in Crown ranks would come as a blow to Attorney-General Chris Bentley's staunch defence of legal-aid funding levels.

"They [the province] have spent millions on "guns and gangs" [prosecutions], but seem unwilling to ensure the defence side is adequately funded, too," the Crown

official said. "You can't fund one side and not the other. It means the cases won't get handled quickly or efficiently. It's bad planning."

Scott Hutchison, a former veteran prosecutor who left the Crown Attorney's Office several years ago to join the defence bar, said it has been troubling and depressing to see experienced defence counsel exit the legal-aid plan over the years.

"The justice system needs senior defence counsel," Mr. Hutchison said in an interview. "The Court of Appeal depends on them to help prevent and identify miscarriages of justice. To take one obvious example, Guy Paul Morin's defence team – all senior counsel – exposed his wrongful conviction in the Court of Appeal.

"There is going to be a tangible cost to justice if some measure of balance cannot be re-established," Mr. Hutchison said. "The whole boycott should focus everyone's attention so that this critical issue can finally be resolved in a substantive way. The public is going to be very, very unhappy in five years if the problem is not fixed now."

Frank Addario, president of the Criminal Lawyers' Association, said the various players in the justice system are becoming united in the face of the province's intransigence.

"The government has not yet focused on the problem," Mr. Addario said. "It's still sending people out to chastise us for discussing the issue publicly. That approach has worked before, but it won't work this time.

"If the program is not fixed in a substantive way, the lawyers they need won't take the cases. They need to get that into their heads."