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Officials slam political meddling at Legal Aid Ontario

Program 'is operating in no way like an independent entity

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Forty years after the Ontario legal-aid program was created to provide legal help to the needy, its ability to operate free of political interference is steadily eroding, according to highly placed former and current senior officials at Legal Aid Ontario.

They maintain that legal aid is turning into a creature of the Attorney-General's Ministry – a dramatic change that could jeopardize the type of legal-aid cases that receive funding, while at the same time threatening the sacrosanct confidentiality of defence strategies.

By pushing a variety of controversial policies on LAO at the same time as it is facing a Criminal Lawyers' Association boycott over low counsel fees, the ministry has allowed LAO to degenerate into disarray, contended one legal-aid official.

“Legal Aid is operating in no way like an independent entity,” he said. “The Attorney-General's Ministry is running madly off in all directions. The senior management of LAO are playing catch up, and wondering what is next.”

Critics have cited several examples of the ministry's growing influence:

In sharp contrast with previous appointments, LAO chief executive officer Robert Ward is not a lawyer and has no legal-aid experience.

A high-level ministry employee, David Field, was recently parachuted into the role of director of business and fiscal planning.

Ministry officials recently applied pressure on LAO to hire a consulting firm the ministry favoured – Deloitte Canada – to carry out a series of projects that are in line with the ministry's policy agenda.

The ministry has asserted control over a special “protocol case unit” that handles funding decisions in a range of unusual cases. That has sparked fears the ministry could influence which defence lawyers are approved for legal-aid funding.

Criminal lawyer Louis Strezos, an expert in legal-aid policy, said that the ministry has a dual conflict of interest.

“Here's a program where services are being cut, funding is not being restored, and independence is being challenged,” Mr. Strezos said. “You can't have one branch of the state prosecuting the citizen and then ensuring his defence is inadequate. It not only looks awful, it is awful.”

And Attorney-General Chris Bentley caused further apprehension recently by stating his preferences for legal-aid policy – including a return to a controversial method of paying legal-aid lawyers known as block fees.

Block fees were phased out several years ago on the basis that they encouraged some criminal lawyers to run a

high-volume practice of arranging guilty pleas.

In contrast, previous attorneys-general left the development of legal-aid policy entirely to LAO's board of directors and top officials. Robert Holden – director of the legal-aid program during much of the 1980s and 1990s – noted in an interview that legislation was painstakingly enacted to guarantee LAO's independence. “We did everything possible to ensure that everybody realized this was an independent organization,” Mr. Holden said.

A ministry spokesman, Brendan Crawley, said that the ministry has “the greatest of respect for Legal Aid's statutory independence.

“We are in the process of making the largest investment in Legal Aid since its inception and will of course work with Legal Aid and all of the stakeholders to ensure there is a plan that works for Ontarians before flowing the funds,” Mr. Crawley said. “Ontarians would expect nothing less. This will include establishing five advisory groups led by Legal Aid.”

But recent management changes at LAO have raised questions about how much independence the organization will actually have. Legal-aid advocates were dismayed in 2007 when Janet Leiper – appointed to be chair of LAO in 2004 – was not offered a new contract. Critics saw it as a sign of political disapproval within the ministry over her activist stand.

Ms. Leiper had launched a high-profile campaign to call attention to the fact that social-policy decisions – such as low-cost housing and immigration policy – intersect closely with crime rates and demand for legal aid.

“Her efforts to strengthen public discourse and engage in public education about the need for legal aid were seen as a direct challenge to the politicians,” said a top official who recently left LAO.

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