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Defence lawyers set to boycott legal aid

By MEGAN GILLIS, SUN MEDIA

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Mark Ertel is the president of the Defence Counsel Association of Ottawa, which is joining the province-wide boycott of legal aid cases. MEGAN GILLIS/Sun Media

Ottawa defence lawyers voted unanimously Monday to support a boycott of serious legal aid cases that's spreading across the province, arguing rates are so low it's creating a two-tier system of justice.

If the government doesn't act within weeks, they'll stop accepting legal aid for homicide and guns and gangs cases. That will leave people newly charged with the most serious crimes unable to get a fair day in court or even fight for bail if they don't have thousands of dollars to hire a lawyer privately.

"We're not happy about doing it," said Mark Ertel, president of the 125-member Defence Counsel Association of Ottawa.

More than 500 lawyers provincewide are already part of the three-month-old boycott.

"If you believe it's important in a democracy that only guilty people are convicted and innocent people are acquitted, then we need quality counsel."

The Criminal Lawyers' Association launched the boycott in June, arguing it has to draw attention to the "notorious imbalance" between cash for police and prosecutors and paltry resources for a legal defence for people who can't afford one.

Lawyers say they're already turning down legal aid certificates because rates, which range from \$77 to \$98 an hour, have risen by just 15% in the past 20 years — even as Crown

prosecutor's wages rose 57% between 1997 and 2007.

With caps on hours, defence lawyers earn more like \$30 to \$40 an hour, Ertel said.

"We'd like the province to negotiate a fair rate of pay," he said.

"At this rate, we can't even pay our staff and pay for the photocopiers and the rent. It's not tenable to continue."

Various reports on the issue have recommended rates of \$150 to \$200 an hour.

It's not just lawyers' wages. Prosecutors can marshal the best expert witnesses because they can pay \$200 an hour to hire a psychiatrist while legal aid pays \$130 — if one is approved at all.

Legal Aid Ontario has stated that it's monitoring the situation to make sure people have access to representation and aims to balance quality legal services for low-income people and value for tax payers.

A spokeswoman for the Ministry of the Attorney General said Monday that it's working with Legal Aid Ontario to renew the system and make sure cases continue to be heard.

The ministry reports it's increased funding by \$51 million over three years — including a third 5% increase to lawyers' rates — but admits it doesn't make up for 15 years of cuts and freezes.

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