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## Prominent lawyer says legal aid boycott shouldn't punish accused

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A prominent criminal lawyer is speaking out against Ontario's legal aid boycott, saying those accused of serious crimes shouldn't have to bear the brunt of the dispute.

"There's no doubt that the government has seriously neglected the legal aid rates over the last 20 years," said Clay Powell, who most recently defended biker Wayne Kellestine at the Bandidos murder trial.

"But if 1,000 criminal lawyers and their association haven't got enough negotiating skill on their own, I don't think they should take it out on some people who are charged with murder and behind bars."

Powell, a London-based lawyer who works out of his home, is still taking legal aid cases despite a months-long boycott by the Criminal Lawyers' Association.

He is best known for successfully prosecuting former Toronto Maple Leafs owner Harold Ballard for fraud in the early 1970s and defending Rolling Stones guitarist Keith Richards on heroin charges.

The association is upset with the gap between what lawyers are paid through legal aid and what provincial prosecutors earn.

Powell calls the CLA's complaint "a legitimate beef," but argues the lawyers should be able to make a case to the government on their own. He isn't a member of the association himself.

His views have made him a bit of an outsider in the legal community – especially after he said he was willing to take on a high-profile murder case in Kitchener, Ont., at the current legal aid rate of \$97 an hour. The three Toronto lawyers on the case had filed an application to have a judge nearly double their tariff, which was turned down.

"There hasn't been anything direct, but you can just tell the criminal lawyers in London sort of shrug and walk away," Powell said.

"You know you're not welcome in their company, put it that way. But I could care less."

Criminal Lawyers' Association president Paul Burstein said the majority of criminal lawyers support the boycott, adding that Powell's position shouldn't be taken as a sign of a rift in boycott.

"I think it's pretty clear that Mr. Powell's views on the legal aid boycott are, if not singularly unique, limited to a class of two, maybe three," said Burstein, who took over as the association's president from Frank Addario last month.

"Mr. Powell has quite candidly acknowledged that he's in a very unique position in that he doesn't run an office, he doesn't have any staff, so he doesn't have to worry about the significant overhead that cuts into 40 or 50 per cent of a legal aid hourly fee that all other senior lawyers who normally take on these cases have to worry about."

The association began talks with the government late last month after Attorney General Chris Bentley agreed to sit down with lawyers as they threatened to extend the current boycott on guns and gangs cases to all types of offences.

Both sides have remained quiet on any progress from the talks, and the group can still decide to expand the boycott if it finds negotiations aren't progressing during the 60 days set aside to try to solve the issue.

The province has said in the past that it has done all it can to deal with the legal aid problem, including a recent cash infusion of \$150 million over the next four years, despite Ontario's almost \$25-billion deficit.

Burstein agrees it's wrong for accused people to be forced to represent themselves on serious charges or lack access to a lawyer.

But, he adds, "that doesn't mean that defence lawyers should bear the financial responsibility of having to subsidize the defence of those cases."

The boycott, which began in June, includes hundreds of criminal lawyers as well as a former Superior Court justice, the province's Crown attorneys and the Association in Defence of the Wrongly Convicted.

More than 100 cases have been affected by the boycott so far, with roughly 25 currently before the court.