

No more legal aid cases, senior lawyers VOW

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With the Ontario government proudly reminding the public today that it has made it easier for people to apply for legal aid, senior Toronto defence lawyers have voted to stop accepting those cases.

Criminal lawyers with 10 or more years' experience will no longer perform legal aid work on behalf of people charged with homicide or guns and gangs offences, said Frank Addario, president of the province's Criminal Lawyers Association.

Lawyers are fed up with the government underfunding a "vital social program" — one that is being held together by the donated services of defence counsel, said Addario.

The province has increased the salaries of judges by 83 per cent since 1997 and Crown attorneys have seen a 57 per cent pay raise in the past decade.

Yet lawyers acting for the poor through legal aid certificates have seen only a 15 per cent increase in their hourly rates since 1987.

"The imbalance in the system means there is one law for people who are wealthy or represented by the government, and there is another law for everyone else," Addario told the *Star* in an interview.

"It's not fair."

Three recent reports commissioned by the Ontario government have urged the province to increase the legal aid tariff. The hourly rate ranges from approximately \$77 to \$98 an hour.

The most recent report — by Patrick LeSage, former chief justice of the Superior Court of Justice, and former law professor Michael Code — said one of the solutions to delays, inefficiencies and overly long trials is to have more senior lawyers handling complex cases.

"We appear to be trapped in a vicious cycle," the two experts wrote in their report. "The longer criminal trials become, the less likely it is that leading defence counsel will agree to conduct them on a legal aid certificate."

Their study found 28 per cent of defence work in big cases funded by legal aid is performed by lawyers with less than four years' experience.

"Everyone in the system — judges, Crown counsel and senior police officials — have asked the Ontario government to pay senior lawyers to come back to the legal aid program, because the system works far more efficiently for everyone, including witnesses and victims, if senior defence counsel are involved," Addario said.

While \$98 an hour might seem like a lavish hourly rate, it is actually "much closer to

minimum wage" once a lawyer's labour and expenses are considered, he said.

With the legal aid system imposing fixed caps on the number of hours a lawyer will be paid for, defence counsel can end up working hundreds of hours on a case pro bono.

"We have been making the system work through donated services," said Addario, who has appealed to Attorney General Chris Bentley in person and by letter in recent months.

"Lawyers who accept legal aid certificates do so because they want to represent people regardless of their income or economic station," he said in a letter April 17.

"This is a liberal ideal and we adhere to it. But, every lawyer who represents legally-aided clients has an office to run and employees to pay."