

Pay dispute threatens to thin legal-aid ranks

Lawyers group votes to stop taking new guns-and-gangs cases until government comes across with more money

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Several high-profile Toronto defence lawyers have pulled themselves out of the legal-aid system until the Ontario government boosts their rate of pay.

The Criminal Lawyers' Association board voted on Saturday to stop taking new Legal Aid Ontario defence cases related to homicides or guns and gangs busts in Toronto. About 80 prominent defence lawyers have since signed on, CLA president Frank Addario said.

The development, which comes as Toronto police deal with a 30-per-cent jump in gun crimes this year, will leave people accused in homicides or gun-related crimes hard pressed to find veteran defence lawyers through the government-funded Legal Aid Ontario program. Lawyers warn it will cripple the justice system until a compromise is reached.

The sticking point is the tariff, or rate of pay, that the government agrees to give defence lawyers for representing people who can't afford an attorney, the CLA says.

Legal Aid Ontario's top rate of pay is \$98 an hour, but lawyers are rarely paid for all their hours because legal aid has a fixed yearly budget, regardless of its caseload, Mr. Addario said. The rate has increased 15 per cent since 1987.

"What happens is that lawyers end up donating their services after a certain point in the case," he said.

Mr. Addario said the insufficient pay forces the best veteran defence lawyers out of the legal-aid system, leaving it in the hands of inexperienced attorneys whose trials drag on at a greater cost to the public.

He points to studies and independent reports, including one released as recently as last year, that have recommended what they're asking: an increase in the rate legal aid pays defence lawyers. Ontario's Attorney-General's Office has yet to oblige.

"The anger has just boiled over," Mr. Addario said.

He said the government, when hiring a private-sector lawyer as a prosecutor, will pay nearly \$200 an hour, but it will pay private-sector defenders only half that. The Crown is also permitted to pay more for expert witnesses.

"You can imagine where all the good experts go," Mr. Addario said. "People [defence lawyers] just feel like they've been holding up the program, putting what is really a social program on their shoulders and carrying it."

Messages left late last night with a spokesman for Attorney-General Chris Bentley weren't returned.

Meanwhile, Toronto has had 102 shootings to date this year, compared with 78 at this time last year – a 30-per-cent spike.

Selwyn Pieters, a Toronto lawyer who defends clients in many of the city's high-profile

crimes, showed The Globe payment receipts from legal aid. In one, he bills \$925 and receives \$11.24. In another, he is paid \$8.78 for a \$1,474.78 bill, money that he was hoping to use to run his office and pay staff.

"I'm going to support it [the CLA motion] by not taking on these cases from legal aid," Mr. Pieters said. "These cases raise a lot of complex issues, and legal aid doesn't really pay."