

# Emotions rampant at York courthouse

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It can be an intimidating place, a repository of discernible and disturbing contrasts where your perspective is directly influenced by your purpose for being there.

The Newmarket Courthouse is York Region's seat of justice. The 23 courtrooms hear cases from mischief to murder.

Emotions run rampant. In an environment of impartiality, decisions are ultimately reached. For some, the result is punishment. For others, redemption.

Justice for all.

For those who call it a workplace, it's familiar. For most accused, it's foreign. Activity in the wide, high corridors is bustling. Uniformed special constables, their York Regional Police colleagues, lawyers, crown attorneys and other officers of the court stride purposefully.

Defendants, awaiting their court appearance, sit pensively or pace nervously. Conversations, salutations and a robust public address system add to the public clamor. The accused, if accompanied, share private whispers.

The courts, be they scheduled for civil, criminal, family, small claims or bail hearings, are steeped in judicial protocol.

Judges, justices of the peace and clerks sit on elevations equivalent to their authority.

It's all business and business dress. Judges wear black court waistcoats with white collars. Lawyers, crown attorneys and Legal Aid Ontario duty counsel are suited with ties or skirted.

A defendant is ushered into the court through a door near the glass-walled prisoner's dock. He is handcuffed, disheveled and his wide-eyed head on a swivel. The night before, he was charged with assault. He slept in a regional police station holding cell — a small room with a hard bench, toilet and sink. A Mandarin translator is made available.

The Crown reads the charges. After a brief consultation with a duty counsellor, it is determined his surety, the person who will post his bail and assume responsibility for his release, is not available.

## ANOTHER NIGHT IN JAIL

The defendant's hearing is put over to the next day. The accused, stoic and dejected, is remanded into custody. He will spend the night in Lindsay's Central East Correctional Centre, about a 90-minute custodial drive east.

The next defendant is more fortunate. His English is limited. An Iranian translator decipheres the charges — uttering threats against his ex-wife — and his recent, court-read dysfunctional history, including a 2010 suicide attempt. He has been in the Lindsay jail since his arrest three days earlier. Aurora criminal lawyer Stefano Fortini was retained that morning by the defendant's cousin and surety, Markham psychotherapist Afsaneh Tabassian.

Ms Tabassian takes the stand. She is queried



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Legal Aid lawyers Wayne Buchanan and Ching Yuen Kitchen are part of a team of duty counsellors assisting 200 to 300 clients a day at the Newmarket courthouse.

by the lawyer and crown attorney. The court is satisfied with her character and the release, surety supervision and bail conditions. The defendant will live with his cousin until his next court appearance next month.

It's the first time Ms Tabassian has been in court, let alone under oath on the stand. Her concern was for her cousin, a "kind and gentle" man who had a momentary lapse in judgment. Still, the experience was nerve wracking, from the shock of learning of the charges, to mobilizing herself, paying a sizable cash retainer and taking the stand.

"The system is efficient, absolutely wonderful," she said while waiting for her relative's release. "Duty counsel recommended hiring a lawyer. They said without a lawyer, there could be delays. I was treated with respect. They made a translator available. On the stand, I swore on the Bible, but they gave me other options because of my culture.

"From a professional perspective, I view this as a positive experience for my cousin. Personally, I hope I don't have to get on a stand

again."

The day was routine for Mr. Fortini, who spends two to three days a week in the courthouse. Although the Newmarket courthouse is one of the busiest in Ontario, the system works and is constantly improving, he said.

From 2009 to 2010, 32,395 criminal cases, 5,161 civil, 3,682 family and 995 small claims cases were heard at York's courthouse, according to Ontario attorney general statistics.

Delays exist. It took an average of 9.3 appearances and 210 days to clear a case in 2008. Justice on Target, a provincial strategy, is aimed at reducing court delays by 30 per cent by 2012. Last year, the number of appearances dropped about 7.5 per cent to 8.7, about a 7.5-per-cent improvement.

A 20-year-old, who wanted to remain anonymous, waits for his day in court. He and his 18-year-old co-accused were arrested and charged with breaking into a vehicle, public mischief, breach of parole and possession of a controlled substance in January.

The duo will represent themselves, citing

they could not afford "hot shot" lawyers and weren't eligible for legal aid. They're savvy. The older man has been here before on charges of possessing marijuana.

He's almost prone in the corridor chair, his legs oscillating skittishly.

"I'll plead guilty," he said. "I'm hoping for an absolute discharge. The Crown wants conditional (discharge). I'll do the community service hours. Am I nervous? Yeah. The waiting makes you nervous."

The younger man exudes a boyish bravado.

"I'm pretty sure there will be a happy ending," he said. "We've written apology letters to the victim and the court. I'm confident. This is the last time for us. We're done."

York Region Crown Attorney Paul Tait supervises the courthouse's 35 provincial lawyers. He has seen his share of defendants.

## ANXIOUS EXPERIENCE

"I'm sure the experience is filled with anxiety," he said.

There's a universal and palpable angst among the accused, Legal Aid criminal duty counsel supervisor Wayne Buchanan said.

"They're anxious, frustrated, upset," the lawyer and former Toronto police officer said. "They don't understand."

Legal aid provides low-income residents with legal services in a cost-effective and efficient manner. It's the second largest justice agency in Ontario and one of the largest providers of legal services in North America.

Mr. Buchanan and colleague Ching Yuen Kitchen, the Family Law Service Centre lawyer manager, are the first line of defence for those charged. Legal aid lawyers often butt heads with crown attorneys in what can be an adversarial relationship.

"Sometimes we agree and sometimes we don't," he said. "That's why we have judges."

On a typical day, legal aid assists 200 to 300 clients in Newmarket. Their departments help defendants navigate the complexities of criminal and family law.

With high volumes, legal aid adopts an emergency room processing model, Ms Kitchen said.

"When they come, we triage, help them through the process, help with documentation, get them heard," she said. "Ours is a continual stream of assistance."

The pressures are high, they said.

"Not everyone can do this," Mr. Buchanan said. "It really is like an ER. A lot of the young lawyers can't take the volume. We get a lot of personal information from people. You take that home sometimes."

Professional positives exist, too.

"It can be heart wrenching," Ms Kitchen said, but it's rewarding to direct people to the right agencies. We help people especially when they're at a stage where they really need it."

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