



CRIMES

By Trevor W. Coleman

OF THE COURTS

Nine African-American teenagers were framed by local authorities for the rape of two White women on a train near Scottsboro, Ala., in 1931. The youth, who were convicted and faced execution, became known as the Scottsboro Boys. Their case highlighted the racism ingrained in the American legal system and sparked international outrage.

With assistance from groups like the NAACP, a legal team got the convictions overturned. The case went all the way to the U.S. Supreme Court, which in 1932 recognized a right to counsel for people unable to afford a defense attorney. The Court ruled that the Scottsboro defendants were denied effective counsel, which violated their right to due process under the Fourteenth Amendment. Later court decisions continued to expand the right to counsel under the Sixth Amendment to the Bill of Rights.

Yet, still today, many people—disproportionately of color—are convicted of crimes they did not commit, or are sentenced to groundlessly long prison sentences, because their right to effective legal representation was disregarded.

The National Legal Aid and Defender Association (NLADA), a 100-year-old nonprofit dedicated to providing quality legal representation for those who can't afford it, identified Michigan's public defense system as one of the worst in the nation. NLADA ranked Michigan 44th out of the 50 states in per capita spending for public defense. Michigan's 83 counties and their courts all fund and administer public defense differently, often resulting in injustice and disarray.

Michigan taxpayers continually pay a high price for this—in inefficiency, bloated corrections costs and compromised public safety when the wrong individuals are jailed while perpetrators are free to strike again.

The family of the late Eddie Joe Lloyd of Detroit knows this scenario all too well. "What happened to Eddie and our family was devastating," says Lloyd's sister, Ruth Lloyd Harlin.

Lloyd was in a psychiatric institution when he gave a false confession. He was later

wrongfully convicted of the 1984 rape and murder of a 16-year-old girl. He was sentenced to life without parole and spent more than 17 years in prison. Lloyd was exonerated by DNA evidence in August 2002. He died two years later.

Laura Sager, executive director of the Lansing-based nonprofit Campaign for Justice, says there is a bipartisan effort underway in Lansing—and nationwide—to implement reforms to adequately fund the public defense system and meet at least minimum national standards. "We are fighting to ensure that the basic constitutional rights of Michigan residents are upheld, regardless of whether they can afford an attorney," she says.

Many public defense attorneys are trying their best to represent clients, but they are grossly underpaid and have huge caseloads. Experts have pointed out for decades that Michigan's system of public defense is a failing one, but reforms haven't yet occurred.

A coalition of more than 70 organizations across the state, including the Campaign for Justice and the State Bar of Michigan, are collaborating to rally leaders from across the political spectrum to bring about change. Among their activities are forums held to educate the public and outreach to faith-based organizations.

Pointing to other metro Detroiters who've been wrongfully incarcerated, such as Ken Wyniemko, Sager says the Campaign for Justice knows there are others yet to be discovered. (Wyniemko was convicted of the 1994 rape of a Clinton Township woman and was sentenced to 40 to 60 years in prison. He spent more than eight years behind bars and was exonerated in 2003.)

"The Eddie Joe Lloyd case illustrates the problems faced by many individuals who are wrongfully convicted," says Sager. "Although cases may differ in the details, they all share

the same underlying problem—a failure of the public defense system to put prosecutors' cases to an adequate test."

Highland Park resident Lloyd Harlin and her family found themselves overwhelmed by a system that seemed to snatch her brother up, charge him with the most horrific of crimes and never give him an adequate chance to prove his innocence. "We found ourselves in a situation where there was just a total injustice against Eddie, due to the fact that he did not have adequate defense counseling," she says.

"If he had received adequate defense counsel—which we are all entitled to in the United States—they would have spotted the injustice in his coerced confession," says Lloyd Harlin. "They would have spotted all the inconsistencies. But that did not happen. The public defense attorneys just did not care about Eddie Joe Lloyd because he was a poor Black man and his family was not able to secure an adequate defense."

Eddie Joe Lloyd's tragic case illuminates the plight of far too many impoverished African-American men and women who get entangled in the criminal justice system and find their freedom hinging on the efforts of an often overworked, underpaid and under-resourced public defense attorney.

In 1985, Lloyd's first appointed trial lawyer quit on the day of his trial because he was ill. His second lawyer failed to argue key issues. Among them:

- There was no challenge to the police interrogation that took place while Lloyd was in a mental institution.
- No psychiatric expert was asked to evaluate the reliability of his confession, even though he was in a mental institution at the time he was interviewed.
- There was no call for forensic analysis of the blood, hair or fingernail scrapings from the crime scene. ▶

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- Little cross-examination took place during trial and no defense witnesses were called.
- The first lawyer received a flat \$150 for all investigative activities, regardless of what could actually be accomplished for that amount.
- The investigator, a law student with a prior criminal record, never met with Lloyd or conducted a meaningful investigation.

Lloyd contacted the Innocence Project, a national public policy and litigation organization focused on proving the innocence of the falsely convicted. After years of searching for the biological evidence in his case, two crime labs performed DNA testing, both finding that the evidence excluded Lloyd as a suspect. On August 26, 2002, he was exonerated.

The real perpetrator has never been found.

Vanessa Potkin, a lawyer with the Innocence Project in New York, litigated Eddie Joe Lloyd's case. She says the abuse he suffered at the hands of Michigan public defense system was so extreme, it was egregious even by this state's abysmally low standards.

"We do see this throughout the country in



Eddie Joe Lloyd

terms of false confessions and wrongful convictions," Potkin says. "But I think the quality of the defense that Eddie Joe received, and others from Detroit, does stand out in terms of a really inadequate defense. We do see bad lawyering in these kinds of cases, whether it's ineffective defenses or prosecutorial misconduct."

After spending nearly two decades in prison, Lloyd was released with a chronic heart ailment. Poor and unable to find a steady job or adequate healthcare, he died just two years later at the age of 54.

According to a NLADA report called "A Race to the Bottom: Speed and Savings Over Due Process: A Constitutional Crisis,"

Michigan's chronically underfunded system doesn't meet minimum national standards. (To read the American Bar Association's "Eleven Principles of a Public Defense Delivery

System," see "Crimes of the Courts" on BLACdetroit.com.)

In a damning assessment of Michigan's public defense system, the NLADA concluded that many of the systemic deficiencies identified over three-quarters of a century ago in the Scottsboro Boys' case are readily found in courts today. They include lawyers appointed to cases they are unqualified to handle, attorneys meeting clients on the eve of trial and holding confidential discussions in public courtroom corridors, lawyers failing to properly prepare for hearings and many more.

Another tragic cost of Michigan's dysfunctional public defense system is the loss of faith in the criminal justice system by entire swaths of citizens. Some view Michigan's courts today not much differently than the Alabama court that sentenced the Scottsboro Boys to death almost 80 years ago.

Lloyd Harlin says her family did eventually sue for her brother's wrongful conviction, imprisonment and failure to provide effective counsel, winning a settlement of \$4 million. However, he didn't live to see it.

"We're still very sad about the situation, that he was coerced like that. They did not care. They were just trying to close the case," she says. "We're saddened he didn't have the opportunity to live a life." **B**

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RESOURCES

The Campaign for Justice: MiJustice.org

Innocence Project: InnocenceProject.org

National Legal Aid & Defender Association: NLADA.org

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