



Not Enough Money Or Time To Defend Detroit's Poor

by Ailsa Chang

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The right has been enshrined in the Constitution: Anyone accused of a crime has the right to a lawyer, no matter how poor they are. Public defenders are supposed to represent the people who can't afford lawyers. But they've been so overworked and underpaid for decades, the system is in crisis. And the recession has made the situation worse.

Groups of lawyers and advocates have filed lawsuits in states from New York to Florida to Arizona charging that low-income people can't get a fair trial. Public defenders in Kansas and Minnesota are refusing cases outright.

In Michigan, the system has been broken for decades. Detroit public defenders face abysmal pay, unmanageable caseloads and flimsy oversight.

A Product of the System

The system does not provide the lawyers with the tools they need to defend their clients. Investigators are very important, expert witnesses are very important ... You get such a small amount of money that you can't find anybody to do the work for you.

- Frank Eaman, former public defender in Detroit

A lot of lawyers in Detroit say if you want to see what's wrong with this country's public defender system, just take a look at Bob Slameka: He has gotten into trouble a lot during his 40 years as a public defender, but the county still appoints him to cases.

Records show the state Supreme Court reprimanded him for misconduct involving more than 16 clients. In most of those cases, he filed briefs late and didn't keep his clients adequately informed. And then one of his clients, Eddie Joe Lloyd, made national headlines in 2002. He was exonerated by DNA evidence after serving 17 years in prison for rape and murder.

Slameka had taken on Lloyd's appeal. In the two years he handled the case, Slameka never once met with his client or accepted any of his phone calls. The appeal failed. Lloyd didn't get out of prison until a national advocacy group took on the case. Slameka says he couldn't do more for Lloyd because of one important reason: the government didn't pay him enough.

"I don't get paid for his long-distance phone calls from Jackson prison," Slameka says. "My God, they run about how much money and you don't get paid for that stuff. Nothing. I did the best I could given what I had. That's all I could do."

Critics say Slameka is right. He might sound extreme, but Slameka reflects widespread problems across the country. In New York City, because there aren't enough defenders, overworked lawyers say they show up for trials ready to tell the judge they've done nothing on the case. In Miami, they say the only way they can squeeze

in jail visits is if they work every weekend. And in Detroit, public defenders haven't seen a raise in more than 30 years. Slameka has to take on 50 clients at a time to earn a living.

One former public defender, Frank Eaman, is now suing the state of Michigan to get more money for the system.



Defendants charged with felonies in Detroit make their court appearances at the Frank Murphy Hall of Justice. Public defenders will travel between several courtrooms here in a single day, sometimes covering for each other because of staggering caseloads and scheduling conflicts.

"I know I have friends who work in that court who break their backs trying to defend people to the utmost in doing whatever they can do," Eaman says. "They're constantly expressing their frustration to me of how hard it is to do that."

No Pay For Keeping In Touch

Eaman says one significant problem is the fact that public defenders in Detroit don't get paid for some of the most basic things — like communicating with their clients. They don't get paid for their time making phone calls or for writing letters. And, in most cases, they get paid for only one jail visit. They get \$50 for that. As a result, when a client is in jail, one of the few times Bob Slameka ends up talking to him or her is just minutes before court appearances.

Often those conferences take place in the "bullpen." It's a cell next to the judge's chambers where they cart defendants over from the county jail. On a recent day, Slameka meets with one of his clients there.

He calls out to her: "Kelly! How you doing?"

Slameka has silver hair down to his shoulders. He's peering into a small window in a steel door at Kelly. She's been accused of assaulting a woman with a knife.

"We're here today in front of Judge Strong," he tells her, "and they're going to make the same offer like I said downstairs. One to four [years], or go to trial. And that decision is yours."

Kelly asks him if she should plead guilty. He doesn't tell her what to do, but it's very clear he has little interest in taking this case to trial. Critics of the system say a lot of appointed defenders, at this point, will urge their clients to plead guilty because they aren't paid enough to really prepare for trial. A defender in Detroit receives \$180 for a basic full-day felony trial. Eaman says that doesn't even come close to covering trial costs.

"The system does not provide the lawyers with the tools they need to defend their clients," Eaman says. "Investigators are very important, expert witnesses are very important. In an appointed case, you need permission of the court. You don't always get permission of the court, or if you do, you get such a small amount of money that you can't find anybody to do the work for you."

Public Defense As A Volume Business

Eaman says defenders also try to avoid trials because they don't have the time for them. They make so little money per case, they have to take on an extremely high caseload just to stay afloat. If a lawyer can avoid trial and plead a client out, he or she can take on more cases.

And that's another problem: Public defense has become a volume business. Some lawyers take on dozens — even hundreds — of cases at a time.

It's difficult to say how much public defenders in Michigan make a year. Each appointed counsel takes on a different mix of public defense and private retainer cases. But everyone agrees the public system doesn't pay enough.

Slameka says he never leans on his clients to plead guilty, but he's not shy about trying to get a case over with.

For example, one of his clients wants to claim self-defense after he was charged with shooting and killing an unarmed man. Slameka thinks they wouldn't have a chance in front of a jury. So, he pulls the prosecutor into the hallway when his client isn't around.

"Lookit, between you and I, we should resolve this case," Slameka tells the prosecutor. "You just can't just shoot people on the street."

"Yeah," says the prosecutor, "when I was reading it, I was thinking the same thing as well."

"And he's trying to claim self-defense," says Slameka, "and I don't think it's viable."

"Not with multiple gunshots at close range like that," the prosecutor says.



Ruth Harlin's brother Eddie Joe Lloyd served 17 years in prison for rape and murder, but was exonerated after DNA testing. Harlin says today she would pay for a defense lawyer rather than accept a public defender.

"Yeah, about five [gunshots]? Yeah. Doesn't fly. I understand," Slameka says. "But he's of a different mind. But I think if you make some kind of reasonable offer, we can resolve it."

A System With Little Oversight

Critics like Eaman, the former defender who's now suing the state, say public defenders should do everything they possibly can for their clients. The whole system is based on the idea that a lawyer must remain a vigorous advocate.

"Robert Slameka and other lawyers of his type — there are too many of them in the court system," Eaman says. "There are too many that take shortcuts."

He and other legal advocates say it's the system that encourages those shortcuts. Judge Cynthia Stephens of the Michigan Court of Appeals says that's the root of the problem. Stephens presided over trials in Detroit for more than 20 years. More than 90 percent of all criminal defendants in Wayne County can't afford their own lawyers. She says the defenders appointed to those people get away with shoddy work.

"I've seen some appellate briefs that have worried me," Stephens says. "They seem like they came out of a can. I mean, so much so that they're citing a principle of law that probably had to do with the last two cases, but doesn't fit into this one."

Stephens says what worries her most aren't the lawyers getting F grades. Those lawyers are so incompetent, they get caught. She's more worried about the mediocre lawyers — the ones she says get Cs and Ds. And that's another problem with the public defender system: the state will slap lawyers on the wrist, but will allow them to keep representing some of the most vulnerable members of society, like Eddie Joe Lloyd.

Remember, Slameka lost Lloyd's appeal even though it turned out years later he was innocent. Yet the national notoriety of that case didn't hurt Slameka's business one bit.

Lloyd died just two years after his exoneration. His sister, Ruth Harlin, says if someone close to her needed a defense lawyer today, she would do whatever it took to pay for a lawyer.

"I'd mortgage the house," Harlin says. "I would not let a public defender defend anyone in my family ever again. Ever, ever again."

After his appeal had failed and before he was exonerated, Lloyd filed a complaint with the state. He told them Slameka never gave him the time of day. Harlin still has a copy of Slameka's rebuttal, which she read out loud:

"This is a sick individual who raped, kidnapped and strangled a young woman on her way to school. His claim of my wrongdoing is frivolous, just as is his existence. Both should be terminated."

When asked if he really thought his own client should be executed, Slameka said yes, that's what he wrote at the time and that's how he felt.

"That's exactly what I wrote. That's exactly how I felt," he said. "You know something? Because of people's actions, a lot of people don't deserve to live. OK? You take people's lives — I'm not saying, an eye for an eye — but because of the nature of your behavior, sometimes maybe you don't deserve to live on this Earth."

When reminded that Lloyd was exonerated and never actually killed anyone, Slameka brushed it off. He said he didn't have DNA evidence at the time, and criminal defense is a very different job now.

Well, except for a few things. Crushing caseloads and skimpy pay have strained public defenders for more than 40 years. And year after year, prosecutors in Detroit get twice the funding defenders do.