

Innocence Project co-founder addresses State Bar meeting

By Frank Weir
Legal News

Innocence Project co-founder Barry Scheck traveled to the State Bar of Michigan's Annual Meeting Friday, September 15, to campaign for improvements in how the state compensates lawyers who represent indigents in criminal cases.

Scheck's address began a joint program of the bar's Criminal Law Section and the Michigan Public Defense Task Force on "Fixing Michigan's Broken Public Defense System."

He told the crowd that the state ranks 47th in the country in compensation for those attorneys assigned to indigent cases.

Scheck compared Michigan's situation to that in New York and Massachusetts a few years ago.

"I come from New York and I feel like a public defender at heart. At one time, we were 48th or 49th in compensation in New York City which is a lot more expensive. My friends in Massachusetts, court appointed attorneys, also were receiving very little money.

"There were strikes and that put everything into an uproar. But the legislature came up with a fix," he said.

He added that with the task force in place it won't be long before Michigan's system is improved.

Citing John Reed's speech just before his, Scheck quoted Reed that "lawyers are the infrastructure that protects liberty.

"If lawyers are the bulwark of liberty then public defenders are its last champions," Scheck said.

Scheck mentioned the exoneration of Ken Wyniemko through the efforts of the Thomas Cooley Innocence Project and attorney Gail Pamukov associated with the project.

"It's hard to think of Ken's case without noting the extraordinary parallels with the Eddie Joe Lloyd case.

Lloyd, represented by Scheck's Benjamin Cardozo School of Law Innocence Project, was exonerated in Wayne County through DNA testing and analysis of first degree felony murder in 2002 after serving 17 years in prison.

Lloyd died in 2004 and Scheck noted that, as part of a lawsuit settlement, the Detroit Police Department agreed to begin videotaping interrogations of suspects who face life imprisonment without parole.

"Eddie was a brilliant man but was suffering from mental illness. He literally wrote out a contract in which he agreed to confess to the murder of Michelle Jackson to be arrested so he could smoke out the real killer.

"His first lawyer wasn't even going to get a psychiatric expert because there wasn't enough money to get one. There were no appropriate motions to suppress the confession. There were Miranda issues that were ignored.

“Six days before trial, the lawyer tells the court he can’t try it and the second lawyer goes forward on six days preparation in a capital case,” Scheck said.

Scheck added that Lloyd’s appellate lawyer did not even visit him in jail and Lloyd began writing letters. The appeal failed and Lloyd was convicted in 1985, remaining in prison until his exoneration in 2002.

“It is terrifying to look at this case and all the ineffectiveness and that it could have happened.

“The prosecuting attorney on the case really stepped up and described with candor and courage that he was not aware of investigative leads that were not followed and other problems in the case.

“Adequately funding criminal defenses is a win-win process for all kinds of reasons.

Remember that every time an innocent person is convicted or executed, the real offender is out there. Adequate representation protects the innocent and there are clear benefits to public safety.

“Public defenders for instance help oversee drug offenders getting therapy and making restitution. Even on issues of bail, there is efficiency if you have a good public defender getting bail for offenders. You don’t load up expenses with having them remain in county jail. There are cost savings to working within the system.”

Scheck noted that in the area of forensics, it is important to have defense counsel checking on the work of labs.

“Even the best labs make mistakes. In Harris County Texas, there is an entire crime lab that is in receivership after 20 years of incompetence and fraud. Everyone acknowledges that.

“Even here at a time of budget shortfalls and when the automakers are making cuts, you can rejuvenate the whole system to protect the innocent and apprehend the guilty thereby improving it for everyone,” he concluded.