



Andrew M. Cuomo
Governor

STATE OF NEW YORK
OFFICE OF INDIGENT LEGAL SERVICES

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Improving the Quality of Mandated Representation Throughout the State of New York

INDIGENT LEGAL SERVICES BOARD

December 6, 2019

Association of the Bar of the City of New York

AGENDA

- I. Approval of Minutes of September 20, 2019 Meeting (attached)
- II. Status update on ILS Budget Request for FY 2020-21 (Bill, Patricia)
- III. Status of Statewide HH Implementation (Joanne Macri) (materials to follow)
- IV. Update on Eligibility Standards and Criteria for Parental Representation (Bill)
- V. Report on Workload Study for Parental Representation (Melissa Mackey)
- VI. January 1, 2020 implementation of bail and discovery law reforms (Bill, Patricia, Joanne)
- VII. John Dunne receives Haywood Burns Memorial Award (program attached)
- VIII. Honoring another invaluable ILS Board member (materials to follow)
- IX. Schedule of Board meetings for 2020:
April 24
June 5
September 25
December 4

Minutes for the Indigent Legal Services Board Meeting

September 20, 2019

10:45 A.M.

City Bar of the Association of New York

Board Members Present: Chief Judge Janet DiFiore, Judge Carmen Ciparick, Vince Doyle, Suzette Melendez, John Dunne, Joe Mareane (by telephone), Lenny Noisette, Mike Breslin (by telephone)

ILS Office Attendees: Bill Leahy, Patricia Warth, Joanne Macri, Melissa Mackey, Angela Burton, Tammeka Freeman, Nora Christenson

Minutes taken by: Mindy Jeng

I. Appreciation of Governor Cuomo's Former Counsel, Alphonso David

The Chief Judge entered into the public record ILS' deep gratitude and appreciation for Alphonso David's work to improve the quality of criminal representation for indigent New Yorkers (see attachment).

Bill Leahy praised Alphonso David and his team (Sandy Toll, Adam Silverman, and others) for their phenomenal work. Their achievements in the Executive Chamber were historic.

Alphonso David thanked ILS and the Chief Judge for the recognition, and for working to ensure that our justice system operates fairly for all. He emphasized his pride in the enactment of bail reform, discovery reform, and speedy trial legislation. New York is the model. Hope continues. Alphonso's new job is with the Human Rights Campaign, which will expand its scope to include criminal justice issues.

II. Approval of Minutes of June 14, 2019

The board unanimously approved the June 14, 2019 minutes.

III. Congratulations to Patricia Warth, Melissa Mackey, Nora Christenson on their appointments

Bill stated that ILS found worthy successors to fill vital vacancies. Patricia Warth is the new Counsel, Melissa Mackey is the new Director of Research, and Nora Christenson will take over the work as Chief *Hurrell-Harring* Implementation Attorney. The Board congratulated all on their new positions; and also Tammeka Freeman, who has served ILS with impressive commitment since 2011.

IV. Plan to Increase the Efficiency of the Contracting Process

With the support of the Division of Budget, ILS has expanded the Grants Unit staff from just two in late 2018 to six by mid-2019. With a greater number of people in the Unit, there are now opportunities to increase its efficiency. Patricia Warth, Administrative Officer Christine Becker and Grants Unit Manager Jenn Colvin are working to develop and implement procedures to improve the Unit's efficiency and responsiveness to counties and providers.

Patricia stated that her goal is to improve efficiency in the contracting process. ILS is developing protocols and procedures to eliminate bottlenecks and improve communication between ILS program staff and the grants unit. A common grants e-mail address has been established.

ILS is now processing budget modifications more efficiently. The Grants Unit is growing at an appropriate pace, and is adapting to meet the challenges of statewide reform.

V. Allocation of FY 2019-2020 Aid to Localities Appropriation

Bill informed the board that the total amount allocated to Aid to Localities in the current appropriation was \$204.81 million. He reviewed his recommendation for the distribution of this funding as set forth in the memorandum, "Allocation of ILS FY 2019-2020 Aid to Localities Appropriation", which had been circulated to the members in advance of the meeting.

A motion was made to approve the aid to localities appropriation and seconded. The appropriation was unanimously approved.

VI. ILS Budget Request for FY 2020-2021

Bill noted that the 2020-2021 budget request of \$267.1 million constitutes an increase of \$56.2 million. The bulk of this increase, \$50 million, is the third annual funding component of the five-year statewide Hurrell-Harring reform implementation enacted in 2017. Five million dollars is requested for the improvement of parental representation, based upon the findings and recommendations of the Chief Judge's Commission on Parental Legal Representation. Finally, \$1.2 million is dedicated to additional ILS employee positions: a Parental Representation Unit, an Assistant Counsel position and an additional Grants Unit position.

A motion to approve the budget request was made and seconded. The budget request was unanimously approved.

VII. Update on Status of Statewide *Hurrell-Harring* Implementation

Joanne Macri described the status of *Hurrell-Harring* implementation statewide. ILS has 52 contracts for 52 counties. Over thirty counties have received fully executed five-year contracts.

Joanne gave highlights of what her team has achieved. Many counties across the state are developing assigned counsel programs. Many additional attorneys and support staff have been added. Many counties are adding supervisory positions and providing training, mentoring, and resources for expert witnesses. Every county is designating or hiring a data officer. The first data officer training meeting will be held on November 19.

Joanne is optimistic about coverage of counsel at arraignment. Representation is always available in city courts and county courts. There is also an increase in representation in town and village courts. She and her team have had good discussions with magistrates and OCA. More counties are adding centralized arraignment plans.

ILS is starting to receive Year 2 budgets. The goal is to have every county have a year 2 budget early in 2020. Joanne is also planning an Assigned Counsel Program Summit, at which the ILS Standards for Assigned Counsel programs will be discussed.

The next public defender career fair will take place at UB Law School. Cornell University is creating a program that will provide support from college students to public defender offices.

A board member commented that the data officer is a key role that will be helpful to management. Suzette Melendez stated that Syracuse University is developing a 3 plus 3 program (college and law school in six years) with historically black universities in Atlanta. Their goal is to attract minority graduates to the legal profession.

VIII. Update on Status of Parental Representation

Angela Burton gave an update on parental representation. They are nearly finished scoring the proposals submitted in response to our RFP for an Upstate Model Family Representation Office.

Angela described the public hearings on standards for determining financial eligibility for assigned parental representation. One board member who participated in the panel said that there were a wide array of opinions and interesting, diverse views from the public. There were helpful comments, and people from different communities showed different needs.

Angela shared that they also issued surveys and solicited written submissions. Jan Fink distributed the surveys to the Family Court judges, and there was an extremely robust response. Almost three-quarters of the judges who responded believe that the ILS standards should be extended to cover parental representation.

Melissa Mackey, Director of Research, reported on the workload standards study. The workload study is being conducted by Welfare Research Incorporated (WRI). The study is using the same methods as the Rand study. There is a time-keeping component, which will be completed by October 25. The second phase of the workload study is the time sufficiency study, followed by a Delphi panel.

A board member noted that the research unit's assistance to the parental representation team was invaluable. Another board member asked whether our budget request for a parental representation unit includes researchers. Bill affirmed that it does.

Angela gave an update about the search for federal funding on parental representation. There have been several meetings since June with the Office of Children and Family Services (OCFS). There has been significant progress in understanding what needs to be done.

IX. Highlights Letter to *Hurrell-Harring* Parties and NYLJ article

Nora Christenson wrote an article published in the New York Law Journal about the *Hurrell-Harring* providers meeting the caseload standards. The focus of the article was that implementation of the caseload reforms has led to an improved quality of representation.

A board member congratulated ILS on the significant improvements in public defense. There has been great progress since the time of the Kaye Commission, and especially since the creation of the ILS Office and Board.

X. September 2019 Raise the Age Task Force Report

Bill Leahy stated that there has been good inter-agency cooperation on the Raise the Age Task Force. There has been fidelity to the purpose of the law. The bad news is that there are still issues relating to housing 16- and 17-year-olds pre-trial. There continue to be disparities between the city and upstate. There are differences in the frequency of removal between New York City and the rest of the state. Bill commended the Task Force's report to the board.

XI. Upcoming ILS Criminal Defense Advisory Group (CDAG) meeting

Bill informed the board that the CDAG meeting would be held on September 26.

XII. Next meeting of the Board – December 6, 2019

The next meeting of the board will be December 6, 2019. A motion to adjourn the meeting was made and seconded. The meeting concluded at 12:42 p.m.

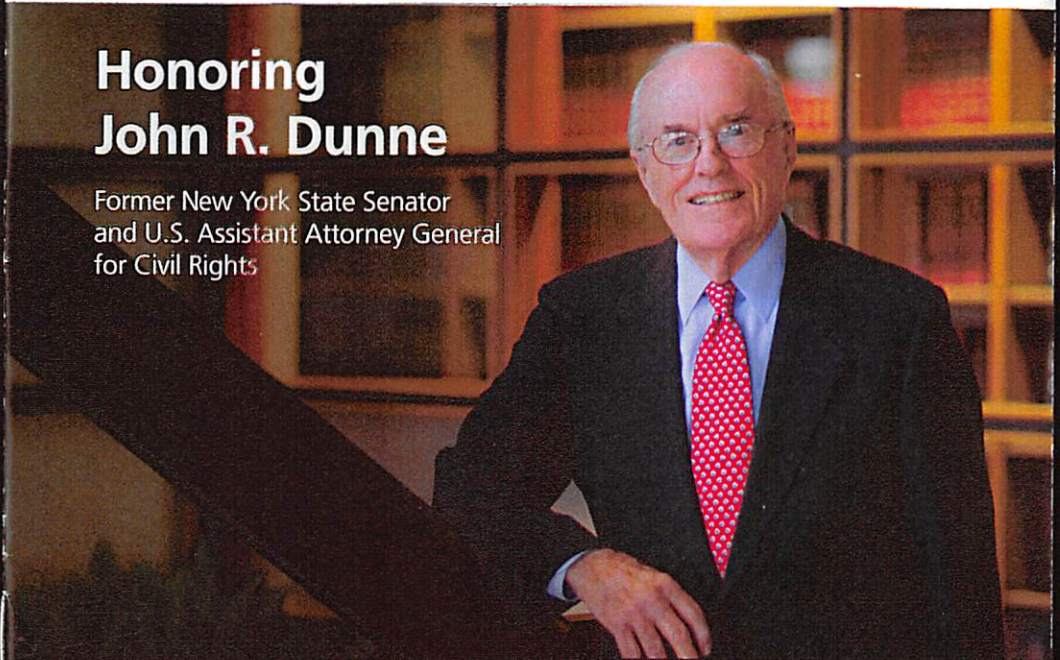
NEW YORK STATE BAR ASSOCIATION

Committee on Civil Rights

2019 Haywood Burns Memorial Award Ceremony and Reception

Honoring John R. Dunne

Former New York State Senator
and U.S. Assistant Attorney General
for Civil Rights



Wednesday, October 16, 2019

6:30 to 8:30 p.m.

CUNY School of Law's Auditorium
and Community room

2 Court Square West,
Long Island City, NY 11101

The City University of New York

CUNY SCHOOL OF LAW

Law in the Service of Human Needs



JOHN R. DUNNE, ESQ.

John Dunne currently serves as Senior Counsel at the Albany law firm of Whiteman Osterman & Hanna LLP and provides legal services to the firm's Environmental, Government Relations, Insurance, and Litigation and Appeals Practices groups.

Prior to joining Whiteman Mr. Dunne served in a variety of federal, state and local government positions for 30 years. From 1990 to 1993 he was the Assistant Attorney General for Civil Rights at the U.S. Department of Justice. From 1966 to 1989 he was a member of the New York State Senate. Throughout his local and state service, he actively practiced law on Long Island, as a partner in the national law firm of Rivkin, Radler, Dunne & Bayh.

As Assistant Attorney General, Mr. Dunne headed up the enforcement of all federal civil rights laws, arguing cases in federal appeals courts and in the U.S. Supreme Court. He was awarded both the Edmund Randolph and the John Marshal awards for distinguished service and in 2006 received the New York State Bar Association's Gold Medal, the highest award bestowed by the Association.

During his 24 years as a state senator, Mr. Dunne served at various times as Deputy Majority Leader and chair of the judiciary, environmental protection, insurance and prisons committees. One highly notable aspect of his service occurred in 1971, as Chair of the State Senate's Correction Committee, he went to Attica State Prison during the riots for the purpose of obtaining justice through a fair and peaceful resolution for the inmates and hostages.

Mr. Dunne is licensed to practice in New York and at U.S. Supreme Court. He is a member of the New York State Bar Association, a past member of its House of Delegates and past chair of its Legislative Policy Committee and Committee on Judicial Independence; a Fellow of the New York Bar Foundation and past Chair; and Past President of the Nassau County Bar Association. Mr. Dunne served as Trustee for The College of Insurance (1993-1998), The College of Saint Rose, the Albany Institute of History & Art, WAMC Northeast Public Radio, and the Columbia County Historical Society. He is a director of Prisoners' Legal Services of New York and the Committee for Modern Courts.

Mr. Dunne received his A.B. from Georgetown University in 1951 and his LL.B. from Yale Law School in 1954.

PROGRAM

- 6:30 p.m. **Welcome remarks**
Matthew Alpern, Esq. and Cheryl Smith Fisher, Esq.
Co-chairs, New York State Bar Association Committee on Civil Rights
- 6:35 – 7:30 p.m. **Symposium: "The Sixth Amendment – Past, Present and Future"**
Panelists
William J. Leahy, Esq.
Director, New York State Office of Indigent Legal Services
Albany, NY
Laurette D. Mulry, Esq.
Attorney-in-Charge, Legal Aid Society of Suffolk County, Inc.
Central Islip, NY
Steve Zeidman, Esq.
Professor of Law and Co-Director, Defenders Clinic
CUNY School of Law
Long Island City, NY
- 7:30 – 7:35 p.m. Break
- 7:35 – 8:00 p.m. **Award Ceremony**
- Welcome from Mary Lu Bilek, Esq.
Dean and Professor of Law, CUNY School of Law
 - Remarks from Henry Greenberg, Esq.
President, New York State Bar Association
 - Recognition of Dean Burns and Past Awardees
Jennifer Dohrn, DNP, CNM, FAAN
 - Presentation of Award to John R. Dunne by Matthew Alpern and Cheryl Smith Fisher
 - Remarks from John Dunne
- 8:00 p.m. Reception

SPEAKER BIOGRAPHIES

Bill Leahy

Bill Leahy attended the University of Notre Dame (1968) and Harvard Law School (1974). Between these academic experiences, he taught at Public School 20 in the Bronx. After practicing for 10 years as a trial and appellate public defender for the Massachusetts Defenders Committee, he became the first leader of the Public Defender Division of the Massachusetts Committee for Public Counsel Services (CPCS) from 1984 to 1991, when he became the second Chief Counsel of that statewide agency until his retirement in July, 2010.

In February 2011, Bill began his tenure as Director of the Office of Indigent Legal Services (ILS) for New York State (www.ils.ny.gov), with the mission to improve the quality of representation that poor people receive in the criminal and family courts throughout the state. His office is implementing the 2014 settlement between the New York Civil Liberties Union and the State of New York in the right-to-counsel case of *Hurrell-Harring v. The State of New York*. In December 2016, ILS published the first binding and state-funded criminal defense caseload standards in the United States that require sharp reductions from the 1973 National Advisory Commission standards.

On March 15, 2013, Bill spoke at the United States Department of Justice's commemoration of the 50th anniversary of the Gideon decision, where he proposed the creation of a federal office to improve the quality of state-funded public defense, and called for a White House Commission on the Fair Administration of Justice for the Indigent Accused.

In April 2017, Governor Cuomo approved landmark legislative changes, under which Bill's office is now extending the key *Hurrell-Harring* public criminal defense reforms – caseload relief, counsel at arraignment, and quality improvement initiatives – throughout New York State; pursuant to plans which his office filed on December 1, 2017. His article *The Right to Counsel in the State of New York: How Reform Was Achieved After Decades of Failure* is published at 51 *Indiana Law Review* 145 (2018).

The next frontier for Bill and ILS is to achieve statewide parental representation reform, as recommended by the February 2019 report issued by Chief Judge DiFiore's *Commission on Parental Legal Representation*.

Laurette Mulry

Laurette D. Mulry is the Attorney in Charge of the legal Aid Society of Suffolk County. Since assuming this role, she has led the Society through a time of unprecedented growth and change, a bellwether of statewide criminal justice reform.

Ms. Mulry graduated from Colgate University (B.A. '84) and worked as a pharmaceutical marketing executive in New York City. She earned her law degree from Touro College Jacob D. Fuchsberg Law Center (J.D. 1999, *magna cum laude*), and was awarded the Bessie Ray Geffner Memorial Award for Outstanding Woman law Student. She was a Research Editor for the *Touro Law Review* and was twice published. After being admitted to practice in New York State in 2000, she began her career at the legal Aid Society of Suffolk County, first as a Staff Attorney in the Senior Citizens Bureau and District Court Bureau, then joining Administration where

she was eventually named Deputy Bureau Chief in 2012, and subsequently named Attorney in Charge in 2016.

Throughout her years as an Attorney, Ms. Mulry is very proud of her time as a teacher and mentor. She supervised many interns and externs while at legal Aid. She was an adjunct professor at Touro from 2005 to 2015 teaching Property law. Since 2005 she has been the Attorney Advisor for the Bay Shore High School Mock Trial Team, which has won county and state championships.

In 2017 the Honorable C. Randall Hinrichs, District Administrative Judge of Suffolk County, named Ms. Mulry to Co-chair the Suffolk County Judicial Women in the Courts Committee. She is currently the President-Elect of the Chief Defenders Association of New York. Ms. Mulry serves on many Boards including the New York State Office of Indigent legal Services Advisory Board, the Suffolk County Catholic lawyers Guild and the Suffolk County Bar Association Pro Bono Foundation. She is a past President of the Brehon law Society of Suffolk County.

Since 2017, Ms. Mulry has enjoyed serving on the Suffolk County Access to Justice leadership Committee which has led state efforts to find ways to close the justice gap. Indeed, one of her career highlights has been presenting at the 2018 Civil Legal Services Hearing at the New York State Court of Appeals at the invitation of Chief Judge Janet DiFiore and the Chair of the New York State Bar's President's Commission on Access to Justice, Helaine Barnett.

Steve Zeidman

Professor Zeidman is Co-Director of CUNY Law's Defenders Clinic and has spent the last 25 years working in the area of criminal defense. A graduate of Duke University School of Law, he is a highly respected trial lawyer and former supervisor at the Legal Aid Society. He began his teaching career with substantive and clinical courses and has taught at Fordham, Pace, and New York University. Professor Zeidman was awarded the NYU Alumni Association's Great Teacher Award in 1997 and CUNY's Outstanding Professor of the Year honor in 2011. Prior to joining the CUNY faculty in 2002, he was Executive Director of the Fund for Modern Courts, a nonpartisan, statewide court reform organization.

Professor Zeidman is a member of the Appellate Division's Indigent Defense Organization Oversight Committee and serves on the Board of Directors of Prisoners' Legal Services. He was recently appointed by District Court Judge Shira Scheindlin to an Advisory Council created to help implement her remedial order in the *Floyd v. City of New York* stop-and-frisk litigation. He has also served on several statewide commissions, including the Commission on the Future of Indigent Defense Services and the Jury Project. Professor Zeidman was a member of the Mayor's Advisory Committee for the Judiciary in the Bloomberg and Giuliani administrations. He has made numerous presentations on a range of issues, including judicial selection, hearsay, and the ethical dimensions of the effective assistance of counsel. His published work has been cited in numerous law reviews and journals, as well as by the New York Court of Appeals.

In addition to his law degree from Duke, Professor Zeidman received his B.A. (Magna Cum Laude) in Political Science from the State University of New York at Albany.

W. HAYWOOD BURNS

JUNE 15, 1940 - APRIL 2, 1996

W. Haywood Burns was a passionate advocate for civil rights, racial justice, gender equality, and equal and international human rights.

Haywood's political activism showed at age 15, when he helped integrate a swimming pool in his native Peekskill, N.Y. After graduating with honors from Harvard College and earning his law degree from Yale, Haywood served as the first law clerk to U.S. District Court Judge Constance Baker Motley. Then, while Assistant Counsel to the NAACP Legal Defense and Educational Fund, he also served as general counsel to Martin Luther King's Poor People's Campaign.

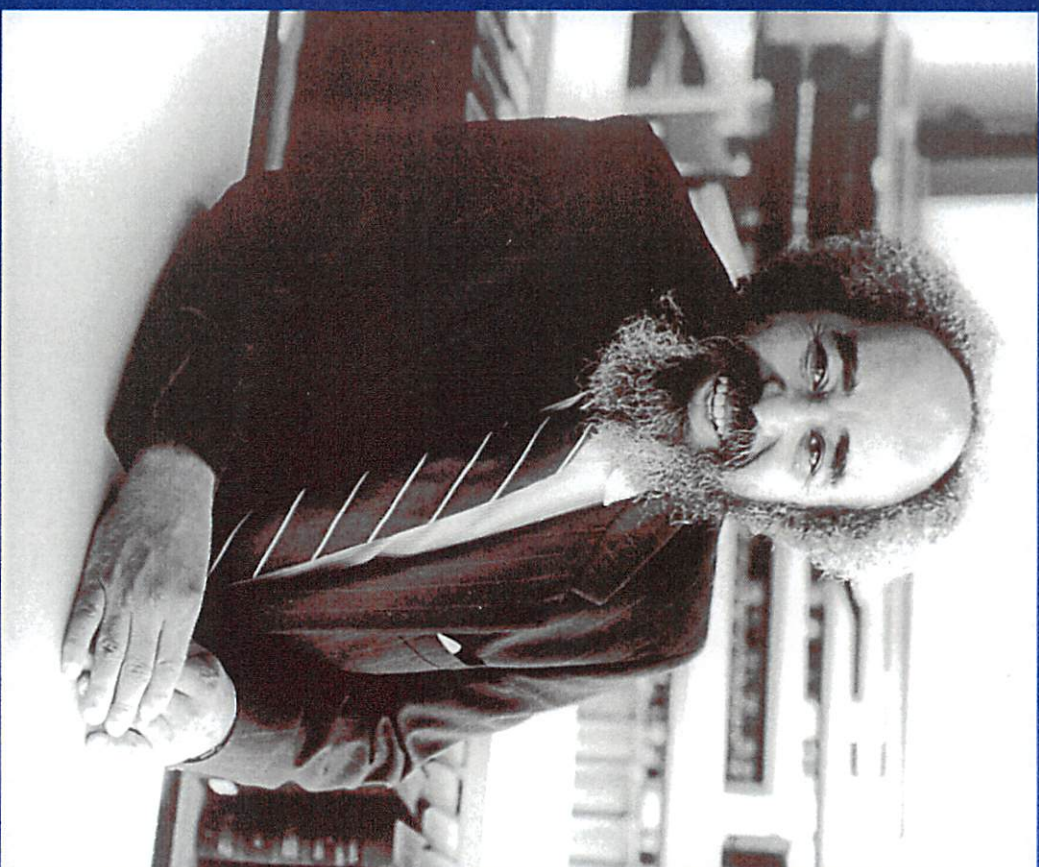
In 1969, Haywood helped found and became the first director of the National Conference of Black Lawyers. He became the first African-American president of the National Lawyers Guild. He led both organizations in championing international solidarity from Grenada to Namibia. He monitored trials in Northern Ireland and South Africa's first election, and advised on drafting South Africa's Interim Constitution.

Haywood continuously battled racism in his writing and the courtroom, from proudly coordinating the Attica prisoners' defense, to protecting the rights of lawyers of color, and opposing Clarence Thomas' Supreme Court nomination.

A recognized constitutional and criminal law authority, Haywood was founding Dean of the City College Urban Legal Studies program from 1977 to 1987. He then became the first African-American Dean of a New York law school and led CUNY Law School in gaining its accreditation, ensuring the survival of its progressive commitment to public interest law. An excellent teacher, Haywood mentored thousands of students, particularly African-Americans, fostering their entry to legal practice.

In 1995, after a year as a Senior Visiting Scholar at Yale Law School, Haywood returned to CUNY as a University Professor. The recipient of numerous awards and honors, he was President of the Nation Institute, a pillar of the Center for Constitutional Rights, a member of the Council on Foreign Relations, and numerous other organizations.

Haywood's generosity of spirit and appetite for people were unbounded; he always reached out with true emotional concern to others. His talents, passions, and zest for life were his signature: husband; father; motorcyclist;



basketball player and Knicks fan; dancer and rock 'n roll enthusiast, treating himself to a pair of blue suede shoes on his fiftieth birthday.

Haywood lost his life in a car accident, along with M. Shanara Gilbert, an associate professor at the Law School, while attending a conference in South Africa on the transition to democracy in that country.

As David Gonzalez wrote in his *New York Times* column, Haywood's "career cut across racial and ethnic lines, uniting politicians and persecutors, eager young attorneys and prosecutors, and grizzled civil rights veterans, the famous and the forgotten."