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# Aid to Victims and Witnesses

## A Probation Department's Successful Program

BY DON HELBUSH AND DAVE MANDEL

*Adult Probation Department, County of San Mateo, Redwood City, California\**

AT THE MOMENT OF ARREST, Carl Tapirs was given his rights. With a butcher knife and without provocation, he had just attacked a family of total strangers. He killed a 2-year-old boy, critically injured the boy's mother, and mortally wounded the unborn child in her womb.

Tapirs had been arrested near the scene of the crime. Although hysterical neighbors wanted to lynch him and he had punched a police officer in the eye, Tapirs' rights were protected. The police treated him with restraint, and hurried him away from the area.

Within hours, Carl Tapirs, booked and charged with murder and eight other felonies, was receiving legal advice, paid for by the people of San Mateo County. In the months that followed, Tapirs received free medical attention for his drug abuse symptoms. Although in custody, he was provided with minimal comforts, nourishing meals, and courteous treatment. There was constant safeguarding of his rights and a competent attorney to serve as advocate of these rights.

For Tapirs' victims, the Garry family, there was no comparable protection. The victims had received immediate medical care, but were required to pay for it. They would eventually owe more than \$30,000 in medical bills, *beyond* what their modest health insurance would cover. At the Garrys' home, pools and splashes of blood, a caved-in wall and broken window, and bloody footprints on neighborhood sidewalks traced the killer's rampage. To all this the police added chalk circles and black, soot-like fingerprint dust.

Uninsured damage to the Garry home amounted to more than \$1,000. Then there were the funerals, for the Garrys' unborn child and their 2-year-old son.

All told, the Garry family faced more than \$10,000 in expenses as a result of the crime.

Next, the Garrys were to learn firsthand of the hardships imposed upon witnesses in criminal pro-

ceedings. Like all witnesses (including those who are not also victims), Ron and Neta Garry were served subpoenas, commanding them to appear in court at a certain date and time. The receipt of the subpoena is usually an upsetting experience for a witness. Witnesses must then cope with transportation and parking problems, difficulty in finding the office in the courthouse where they are to report, and long waits in crowded hallways. At the courthouse, many witnesses risk encountering the very persons against whom they are testifying. Although Carl Tapirs remained in custody, his associates and the idle curious were at the courthouse, using the same hallways and benches as the victims.

There are few rights for victims and witnesses in the criminal justice system, and no paid advocate, like an attorney. While Ron and Neta grieved over their losses, Carl Tapirs waited comfortably in his cell, watching a football game on his television set.

### *Victims and Witnesses Forgotten*

We have chosen a true, if dramatic, example. It is typical in many ways. The criminal justice system centers its attention on the accused person, and on the protection of his or her rights. Victims and witnesses are pawns in the complex game of prosecution and defense.

While the defendant is shielded from revenge or retribution, there is little concern for the protection of witnesses. In addition to the potential of encountering the defendant's friends at court, a witness is intimidated by the criminal justice system itself. Criminal justice agencies think of witnesses only as they are needed. As for the victim: The media sensationalize the criminal, while the victim suffers in silence and obscurity.

California has a generous victim of violent crime compensation law. Last year less than 2 percent of the State's victims of violent crime collected this compensation. The rest did not know of the law, or could not prove their eligibility.

Victims who do collect from the State find that,

Mr. Helbush is director of adult probation and Mr. Mandel is program director, Aid to Victims and Witnesses.

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since it takes 6 months to a year to receive payment, the money is not in time to avoid financial disaster. Victims need assistance immediately after a crime occurs, not months later. The application process is confusing to anyone, especially a victim of crime. There is no provision for assisting witnesses.

### *The San Mateo Program*

It was this inequity of rights that moved Chief Probation Officer Loren Beckley to establish a victim-witness program for San Mateo County in 1975.

San Mateo County has 600,000 people, living in 17 cities and towns plus unincorporated areas. The population is largely suburban; however, there are urban areas, industrial centers, and high-crime districts. The county has ghetto areas, and a crowded barrio with its shadow population of illegal aliens. Other significant minority groups include Japanese-speaking, Filipino, and Tonganese-Samoan.

Today, San Mateo County Aid to Victims and Witnesses has three victim service offices in the county, with witness waiting rooms in two municipal courthouses. A third municipal court waiting room, and a superior court waiting room will open in the near future. The program now has five full-time and two part-time employees and the indispensable assistance of more than 70 volunteers.

Space does not permit a detailed description of program operation. In brief, Aid to Victims and Witnesses receives referrals of victims of violent crime directly from the police, sometimes within hours of the crime. A 24-hour switchboard and 6-day per week operation make the program accessible. Victims may also be referred by emergency hospitals, community agencies, or friends and neighbors. Police officers on the scene provide victims of violent crime with a written notice, in simple language. The notice advises the victim of the right to apply for State compensation, and prepares the victim for contact by a volunteer from Aid to Victims and Witnesses. The program supplies these notices in English and three other languages.

Not all the perpetrators of violent crime are arrested, so that only a minority of their victims ever become witnesses in criminal proceedings. On the other hand, many citizens who are not directly victimized, but who can provide information and evidence become witnesses. These witnesses are

identified and referred by the District Attorney's offices to Aid to Victims and Witnesses, where volunteers and staff contact the witnesses before subpoenas reach them.

Witnesses receive a letter, explaining why the witness is needed and the nature of the proceeding. A map directs the witness to the local courthouse, indicates parking, and even shows the witness which entrance of the courthouse to use.

At the courthouse, the witness meets volunteer witness guides. The witness guides staff the witness waiting room, and provide free coffee or tea, comfortable seating, simple instructions, and escort services through the courthouse. Witnesses thus await their court appearances in a protected setting, where they can easily be located by court personnel and the deputy district attorneys. The witness guides make sure that witnesses receive information on the outcome of court proceedings and witness fees.

For victims, emergency cash, groceries, transportation, homemaking assistance, child care, interpreting, crisis counseling, and contact of friends, relatives and employers are provided. Bloodied or damaged homes or automobiles are cleaned and restored. Funerals are arranged. Victims are relieved of financial burdens, red tape, and pressure from creditors while they are assisted in recovering from the emotional and physical trauma of the crime.

Victims of violent crime in San Mateo County recover compensation from the State of California at a rate far exceeding the State average. Their applications are compiled, expertly prepared, and packaged by trained volunteers.

### *AVW in Action*

For the Garry family, Aid to Victims and Witnesses delivered assistance within hours of the crime. Volunteers cleaned floors, rugs, walls, appliances, and furniture throughout the Garry house. They restored and painted the caved-in wall, and repaired the broken window.

Volunteers also did what they could to blunt the impact of the Garrys' losses. Nursery furniture was packed and stored. Baby pictures were removed from the mantle. The curious, and the woman who wanted to sell newspaper clippings in a scrapbook as mementoes of the crime, were also kept away from the victims.

Aid to Victims and Witnesses also eased the Garrys' financial problems. Creditors were contacted. They agreed to hold off action while the

family recovered. The mortgage holder for the home consented to postpone mortgage and interest payments. Meanwhile, volunteers quickly prepared applications for State compensation for the expenses of the two funerals and Ron Garry's loss of income.

The Garrys' medical bills exceeded the amount the State would have been able to compensate, and the family would thus have been left permanently in debt. But Aid to Victims and Witnesses arranged for *all* the outstanding medical bills to be paid on the Garry family's behalf.

The prosecution of Carl Tapirs took more than 7 months. Key witnesses Ron and Neta Garry were transported to and from court by volunteers. They were provided with an interpreter and received a continuing explanation of court proceedings. They were reassured, escorted and protected from view by volunteer witness guides.

Carl Tapirs was convicted of second degree murder, attempted murder, and other crimes. He has been sentenced to State Prison. Neta and Ron Garry were never coached or enticed by the volunteers. However, they were better prepared and more effective in court because they had been given basic assistance and were relatively free of distractions.

The Garrys received over \$40,000 worth of services through Aid to Victims and Witnesses. Yet, this was probably less than the cost of prosecution, defense, trial, diagnoses, housing, food, medical care, and recreation provided by the taxpayers of San Mateo County for Carl Tapirs. Victims like the Garrys frequently lose their homes, fall permanently into debt, and are never again as productive or secure. The Garrys will not be so victimized, because a local, community-based victim-witness assistance program was available to help.

### *Guidelines for Local Programs*

Our experience in the Aid to Victims and Witnesses program has led us to a number of conclusions about local, community-based programs which may be of use to others.

First, a victim-witness program should help *all* crime victims. State-administered compensation programs, or programs which concentrate on a certain type of victim, such as rape victims, battered wives, or the elderly, often cannot provide comprehensive service. A program assisting all crime victims can bring more resources and more

expertise to any one victim. A comprehensive program has more clout, receives more referrals, uses its contacts more frequently, and has better continuity.

Second, a program should be interagency. Working with and on behalf of all criminal justice agencies eliminates rivalry and draws more support.

Third, a program should be volunteer-based. Although simple equity dictates that victims and witnesses receive assistance and services just as accused criminals do, the cost of the necessary paid staff would be prohibitive. Volunteers provide for economic operation of a program, and build support among all their acquaintances. Since their motivation is from the heart, they are an excellent counter to the bureaucracy and impersonal tone which pervades the system. Finally, citizen volunteers bring an independent perspective to the program, and give it a greater potency than its size would suggest.

Fourth, a *local* program is the key to real victim and witness benefits. Victims get too little, too late from State compensation funds. State compensation is not accessible to most victims. Yet, many victims, ineligible by strict State or law enforcement criteria, remain victims for the community. The victim in a family or the person injured in mutual combat may not be considered as victims, either by local law enforcement or the district attorney. A local program can take cases of this nature out of the criminal justice system and provide direction and referral into proper channels. In this way, even the self-created victim receives assistance.

Local programs avoid simply providing a *dole*. Instead, there is immediate and personal assistance to victims. The victim receives every encouragement to take as much responsibility as possible, and every effort is made to restore the same standing to the victim as before the crime occurred. Perhaps the most valuable of all services provided to victims of violent crime by the program is simple human contact and comfort at the time of the crisis. This is far more rehabilitative than a cash handout months later.

Speedy local program intervention often saves long range costs. The victim suffers less loss of productivity, less damage to credit, and less expense in interest and penalties. Services received often are donated locally.

Fifth, a local program can provide *emergency*

responses to victims when needed. These services are impossible to secure from the State.

### *A Probation-Based Agency*

Aid to Victims and Witnesses is a program of the San Mateo County Probation Department. It is the District Attorney's program, the Sheriff's program, and the program of every police department in San Mateo County as well. These agencies are represented on the program's advisory board and help direct policy. Nonetheless, there are advantages to a probation-based agency which we believe may be applicable elsewhere:

(1) *Access to criminal justice information.* As opposed to a private agency or one based outside the criminal justice system, probation has access to crime reports and other important data about victims and witnesses. There is a built-in familiarity with referral sources.

(2) *Probation understands the language and procedures of the other criminal justice agencies.* This allows for relative ease in negotiating changes in these procedures, to accommodate victims and witnesses.

(3) *Probation is countywide.* Organizations in individual cities or districts often may compete for the same resources. A countywide probation-based agency can work comfortably with a countywide welfare department, one community and three district hospitals, the three municipal court districts, the 17 cities and towns, and the other relevant jurisdictions which San Mateo County—or any other populous county—is likely to contain.

(4) *Probation knows local services and resources in each community.* This resource experience benefits a victim and witness program.

(5) *Probation is casework-oriented and impartial,* as Chief Probation Officer Jim Rowland of Fresno County has pointed out. While police or district attorney programs can be construed as pro-prosecution, probation is impartial as an arm of the judicial branch.

(6) *Volunteerism is well developed in many probation departments,* while remaining relatively unknown elsewhere in criminal justice.

(7) *Probation officers can advocate for victims.*

By evaluating serious offenders, partially in light of the harm they have caused victims, probation officers can give the courts specific information as to what a particular offense means in terms of the victim's suffering. Following the Fresno County example, Victim Impact Statements from the Aid to Victims and Witnesses program are now incorporated into presentence reports in San Mateo County.

(8) *Probation is an "official" agency.* Probation has an easier time getting funding than some private organization or ad hoc groups, and gives the victim-witness program certain authority, as when advising creditors, or seeking information from medical providers and other sources on behalf of victims and witnesses.

We do not suggest that probation is the only place for a victim-witness program to begin. What we do believe is that a probation-based victim-witness program has a good chance of success.

### *Benefits to Probation*

It should also be clear that probation will benefit from a victim-witness program at least as much as the program will benefit from probation.

Probation departments can link traditional correctional agency concern for the impact of crime on the local community with victim assistance. Providing restitution to the specific victim of a specific offender is one step from providing general services to all victims and witnesses in the community.

This is a consumer-oriented era. Consumers expect protection and equity from government and its institutions. In this atmosphere, a probation department can derive considerable benefit for its image by providing assistance to victims and witnesses at the same time it is supervising adult and juvenile offenders.

A survey of attitudes of both citizens in the community and staff of criminal justice agencies shows that Aid to Victims and Witnesses has had significant positive impact on the general perception of criminal justice and its effectiveness. The program is successful for the Probation Department and the criminal justice system as well.

**M**ANY, if not most, correctional personnel would agree that contemporary corrections is less than effective. This . . . may be due to the positivistic and deterministic philosophy of contemporary corrections which negates the offender's responsibility . . . to the victim and community for the harm of the act.—ROMINE R. DEMING

**END**