

# Witness intimidation damages legal system

By KATIE KERWIN

On the witness stand, the victim of a Los Angeles gas station robbery suddenly balks in his testimony.

He had cooperated earlier with the prosecutor. Seated in the front row of the courtroom are two members of the defendant's youth gang. They eye the witness coldly.

No, the witness tells the judge, nobody warned him not to testify. Cross-examination continues. A few minutes later, he inadvertently mentions threats.

While the defendant was out on bail, he and his brother visited the victim, two days before the trial. They threatened to "break an arm and a leg" and "cut off his daughter's ear" if he testified.

Not an episode of Perry Mason — the incident did occur.

S. Shafter Trial recounted the story to the Oakland County Bar Association last week in Southfield.

"Crime victims are frequently subjected to callous treatment from the very system that is supposed to protect them," he told the lawyers.

Tate, American Bar Association (ABA) president, voiced concern for treatment of victims and witnesses in the criminal justice system.

"As our criminal justice system has become more complex, we seem to have lost sight of the fundamental purpose of that system — to protect the life, liberty and property of all citizens," Tate said.

"That includes both the accused and the victim."

"But the major focus of our present system is to catch, punish or rehabilitate the offender. Too often we forget the victim."

Intimidation by criminals, their families or friends is the most serious problem confronting victims and witnesses of crimes, he said.

Lawyers must act to protect these people from intimidation efforts, Tate said. The ABA will hold a hearing June 4-5 in Washington D.C. About 30 persons will testify about victim and witness intimidation.

"As a lawyer, my interest in the problem is two-fold," Tate said. "First, we need to make the criminal justice system more responsive to the needs of all those who seek access to the justice system."

"And second, the cooperation of victims and witnesses is indispensable to the system's ability to function," he continued. "We need their cooperation in reporting crimes and in helping to identify, apprehend and convict criminals."

Lack of effective laws to deal with intimidation is the most crucial problem, Tate said. State with laws protecting witnesses usually make no provision for protection of witnesses, he said. This is compounded by state court rulings that only persons under subpoena come under protection of intimidation statutes.

Some courts have even held that threatening or even bribing a victim not to press charges does not violate intimidation statutes, Tate said.

Standard police procedure is another problem area, he said. Law enforcement officials candidly admit that their standard response to terrified victims or witnesses is to say "Don't worry, we'll protect you" or to promise extra service, Tate said. But they may do nothing more than increase patrol service around that person's home.

Enforcement agencies are not without

to blame, he added. They may not have adequate resources to provide those services.

The attitude of the legal system towards the intimidated victim or witness is a third problem. Reluctant witnesses are the largest factor in prosecutors' decisions to dismiss cases, Tate said. The intimidated witness or victim serves as a release valve to reduce overloaded court dockets.

TATE GAVE examples of insensitivity of the criminal justice system to witnesses and victims.

"Victims, through no choice of their own, are suddenly thrust into a system which is both confusing and intimidating," he said. "Too often, no serious effort is made to explain to a crime victim how the case is being handled by the police or in the courts."

Many are never notified of court appearances. Rarely, if ever, are they involved in plea bargaining. Last-minute courtroom changes and postponements complicate the experience of those who are notified to appear.

Witnesses and victims also may face blatant, subtle or imagined intimidation. Because successful intimidation never is reported, few statistics are available on the scope of the problem.

But Tate cited a 1967 Law Enforcement Assistance Agency report on no-show witnesses. The study concluded that 28 percent failed to appear because of "fear of reprisals."

Threats by a criminal to "get" the victim if he calls police or help the prosecution are the most quickly recognized form of intimidation. Community or cultural pressures also may be exerted by family or neighbors. That pressure may inhibit victims from seeking

redress or witnesses from testifying, Tate said.

"The third problem, and perhaps the greatest, is perceived intimidation, in which no overt threat is ever present," he said. "Although this may be a more subtle form of intimidation, it may be just as devastating to a victim or witness as the more overt threat."

The legal profession has its own interest in encouraging victims and witnesses to step forward, Tate said. Their testimony is vital to conducting criminal cases.

The ABA will compose a package of strategies for police and prosecutors

after the hearings next month. The ABA Committee on Victims has already drawn up some suggestions, Tate said.

The committee urges creation of local victim and witness protection units. Counseling may help overcome intimidation problems, especially perceived intimidation, it said. A 24-hour hotline phone service for victims and witnesses was suggested.

Emergency relocation with safeguards could be provided when needed, the committee proposed. Security, when traveling to or from residence,

place of work, school or court, also might be arranged.

The mere existence of such provisions may encourage citizens to testify, Tate said. "There will be greater credibility and assurance, if we can tell them what will be done for them."

"While maintaining our concern for the constitutional rights of the accused, we must recognize and address the injustices suffered by victims and witnesses," Tate said.

Tate made his remarks May 24 during a press conference at the Michigan Inn. His visit was sponsored by the American Bar Association.

## Limiting health costs

### Botsford Hospital is cited

Botsford General Hospital (Osteopathic) was awarded a certificate of merit for its efforts in limiting cost increases in the delivery of health care.

The certificate, known as the Voluntary Effort of Cost Containment, was awarded by Patricia E. Ludwig of the Michigan Hospital Association.

The Voluntary Effort to Contain Health Care Costs (VECC) is a nationwide program which has proved to be highly successful. Hospitals have reduced the rate of increase in their expenditure from 15.6 percent in 1977 to 12.8 percent in 1978, which translates to a sav-

ings of \$1.48 billion last year.

The VECC goal for 1979 is 11.6 percent. In accepting the award, Gerson I. Cooper, vice president of administration for Botsford, said that credit for success in helping to reduce over-all costs of hospitalization must be extended to all employees and physicians who cooperated in the program.

"It must be understood that VECC is in fact a voluntary effort, achieved throughout the country without the burden of costly government regulations," Cooper said.

"Our success at Botsford is an indication of just what can be accom-

plished if institutions are challenged to use their own good judgment and devices."

Cooper claimed that Botsford, one of the nation's largest osteopathic teaching hospitals in the country, was able to cut costs principally through a reduction in length of stay of a patient.

This reduction was achieved through in-depth Utilization Review (UR), discharge planning and physician cooperation. UR, he explained, is a system whereby the cases of individual patients are monitored by a professional committee to ensure that the hospital facilities are being properly utilized.

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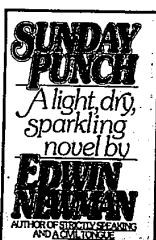


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