



Victims of The System

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Crime victims' rights. They are a staple of American politics.

Presidential candidates are pledged to it. Candidates for governor swear by it. Local state's attorneys campaign on it.

All states have some form of legal protection of victims' rights, and more than half, including Maryland, have constitutional amendments to secure them. But on Feb. 13, 1998, I learned how little all that means.

I am a lawyer who has practiced for 25 years, appearing thousands of times in Maryland and D.C. courts to represent clients in criminal and civil cases. I live and work in Montgomery County, a community with a reputation for progressive and responsive government. I thought I knew the county courts. But on that date more than two years ago, I discovered a culture of unaccountability in the Montgomery courts created by and for the prosecutors who dominate them.

On that day I learned that I was the victim of two trusted associates who came up with a vicious embezzlement scheme involving the theft of hundreds of thousands of dollars. I wasn't alone. Their victims included more than 50 people, including two severely disabled, wheelchair-bound individuals who relied upon these funds to survive. One victim's home was put into foreclosure, and suppliers of critical medical devices refused to make deliveries; another contemplated bankruptcy; all of the victims of this predatory crime faced the possibility of financial ruin. But they and their families--including my own--were ignored, misled and humiliated by the courts and the office of the state's attorney for more than two years.

During the first nine months after the crime was uncovered, dozens of requests for information from the victims went unanswered. Although both embezzlers confessed to investigators and others, the victims of their crime were discouraged from pressing for prosecution. Instead, they were encouraged to seek civil remedies because of the renowned leniency of Montgomery judges in sentencing white-collar criminals.

When the victims demanded prosecution, investigators ignored requests for search warrants to help locate stolen funds. Subpoenas went unenforced. The state's attorney referred the victims to police, and the police referred them back to the state's attorney.

Eventually the two embezzlers were convicted. One was released after spending only 30 days in the local jail; the other had a criminal record and will do more time. Neither made restitution or is likely to do so.

By law, such criminal defendants must be furnished an attorney. But in this culture of unaccountability, I slowly came to realize that no one

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represents the interests of the victims of crime.

In the fall of 1998, I began talking to victims of physical assault, robbery, sexual abuse and financial crimes in the Montgomery County Circuit and District courts. Their experiences mirrored my own. They complained that they were not told of plea negotiations and were deprived of meaningful opportunities to confer with prosecutors before deals were made with defendants. They were not informed of decisions to release criminal defendants or told why their cases were postponed.

One woman, the target of repeated phone threats, was never told that her tormentor had been released after promising to take a course in anger management. When a victim of a vicious theft learned that other victims of the same thief had been bilked of more than \$20,000, he furnished information to the state's attorney, who sat on it for more than a year. Victims failed to receive court-ordered restitution for their injuries.

Spend a day in a district or circuit court, and you'll see that most crime victims don't live in wealthy neighborhoods. They don't contribute to the political campaigns of state and local politicians. They are easy to ignore and forget.

How do you create accountability in a closed society such as the Montgomery County courts?

Sunlight, wrote Louis Brandeis, is the most powerful of all disinfectants. What is needed is a local people's counsel to monitor the treatment of victims and report to the public. This culture of unaccountability survives by disguising the truth about how crime victims are treated.

Complaints now go unrecorded and often unanswered. Courts should be required to keep records of inquiries and complaints made by crime victims so that there is a record to audit. Local people's counsels are precisely the kind of targeted public investment on which "compassionate conservatives" and the avatars of the powerless should find common ground.

In a Rockville district court last year, I was questioned by a slight, middle-aged African American woman who had been the victim of a physical assault. She asked if I knew the prosecutor and told me about unexplained continuances of her case and her unreturned phone calls to the prosecutor. Each time she went to court, a new prosecutor was in charge of her case. She had lost hundreds of dollars in wages from missing work for court appearances and was unable to pay her medical bills resulting from the assault. The prosecutor and the defendant were in plea negotiations, but no one was telling her what was going on.

As the clerk of the court called out the docket of criminal cases, I watched her sitting with her head bowed. More often than not, this is the reality of victims' rights. This woman was sad and alone and waging a losing fight without any support. The irony is that the public does not realize that her fight is one we cannot afford to lose.

--Luiz R. S. Simmons



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