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Baltimore struggles to battle witness intimidation

The Boston Globe

Prosecutors say violence, threats hinder testimony

By Gary Gately, Globe Correspondent | February 12, 2005

BALTIMORE -- Soon after six men hurled Molotov cocktails at her house in mid-January in retaliation for her reporting drug dealing, police say Edna McAbier moved out.

A year before, four men had kicked down the door of a Baltimore apartment where a woman, her 11-year-old son, and her baby daughter were sleeping. The gunmen warned that if her fiance testified against his former drug gang associates, "We will kill you and your sister."

And in April 2003, Rickey Prince, a 17-year-old from Baltimore, was kidnapped and fatally shot in the back of the head days after agreeing to testify about a murder he had witnessed.

In Baltimore, reporting crimes or testifying in court cases involving drugs or violence can be dangerous, even deadly.

"Every day in courtrooms across Baltimore, prosecutors encounter another witness or victim too afraid to come to court, too afraid to testify," said Patricia C. Jessamy, the state's attorney for Baltimore. "And justice is silenced by an insidious culture. This terrorism must end."

At least five witnesses scheduled to testify in Baltimore cases have been shot, two fatally. And one witness, Baltimore Police Detective Thomas Newman, was killed after he testified, gunned down outside a tavern in November 2002.

Baltimore, a city of 650,000 with as many as 60,000 drug addicts and accompanying gang-related violence, has become the focal point of proposed legislation targeting witness intimidation. In January, the city saw 31 murders in 31 days, 27 of them related to drugs and gang activity.

Jessamy and other city prosecutors say witness intimidation occurs in more than 95 percent of homicide cases in Baltimore, at times leading to acquittals or cases being dropped. But witness intimidation extends well beyond Baltimore, into the affluent suburbs outside Washington.

Last month, Massachusetts legislators proposed a package of new laws to fight gang violence, including establishing a statewide witness protection program and punishing those who use grand jury testimony to intimidate witnesses.

Boston police say witness intimidation has stymied efforts to solve two-thirds of the city's 64 homicides in 2004.

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"Any time you have organized crime -- and gang activity is a form of organized crime -- you will have a code of silence and intimidation elements involved," said Jerry Estes, a member of the board of the National District Attorneys Association.

A homemade DVD that surfaced in Baltimore last fall, "Stop Snitching," graphically illustrates the violent drug culture and the code of silence on the streets. In the two-hour DVD, whose cover shows three bullet-ridden, bloody corpses and the words "snitch prevention," young men smoke marijuana, wave guns, and warn that those who cooperate with police or prosecutors will be killed.

Last week, 13 people, including a man who police said appears in the DVD, were indicted on charges that they carried out contract murders to protect a drug trade that sold more than 3,500 pounds of cocaine and heroin over a 10-year period in Baltimore.

Police said defendant George Butler, 30, appears in the homemade DVD, which has been sold on Baltimore streets for \$10 since November. In the DVD, police said, Butler pulls a gun from his waistband and says: "We don't talk about what we're going to do. We just do it."

National Basketball Association star Carmelo Anthony, a Baltimore native, appears briefly in the DVD, standing next to a man who warns that anyone who tips off police about drug deals will "get a hole in his head." Anthony does not speak in the video but appears in the credits. He has since said he will assist in a campaign against drugs and violence.

"It just seems like the whole system is gridlocked with fear," said Nicole Krivda, a Baltimore prosecutor.

Drug dealers threaten not only witnesses and their families, Krivda said, but jurors, too. Gang members sometimes sit in the back of courtrooms typing messages about testimony with their BlackBerry devices.

Efforts to silence witnesses take many forms: vandalism of houses and cars, threats against witnesses and family members, beatings, stabbings, shootings -- even murder.

A city homicide prosecutor, E. Wesley Adams, said that in the past two years, at least half the witnesses in his cases, including tough criminals, have recanted on the stand out of fear. "I have street thugs cry in my office - you know, hardened street guys," Adams said.

Adams recalled a young Baltimore man, Adrian Tony Jenkins, who witnessed an associate shoot and beat a man who urinated on gang turf in May 1999. Jenkins identified the shooter as Andre L. "Turtle" Chavis. After Chavis was arrested, he penned letters from his jail cell to associates, and included copies of Jenkins's typed statement to police. "Tony Rat . . . got to die because, yo, he can't be trusted," Chavis wrote.

Jenkins did not show up to testify at Chavis's trial, and the case was dismissed. But that did not protect him. After Chavis was released, Jenkins was killed.

Even children who have witnessed crimes have been targets of intimidation. Last July, on her 11th birthday, Tashiera Peterson testified in court about seeing her father shot in Baltimore -- even though her family knew a suspect had put out a contract, from a jail cell, to have her and her mother killed. DeAndre Whitehead, 20, was acquitted in the murder of Tashiera's father but was later indicted on federal charges for allegedly concocting the murder-for-hire scheme.

Against this backdrop of widespread intimidation, prosecutors, police, clergy, and scores of state legislators have lined up in support of the anti-intimidation bill proposed by Republican Governor Robert L. Ehrlich Jr.

The bill would make intimidation of a witness in a felony case a felony, punishable by up to 20 years in prison. It is now a misdemeanor carrying a

maximum sentence of five years. Juror intimidation in felony cases, now a misdemeanor, also would become a felony.

Intimidation, as defined by the bill, includes threats, violence, or property damage meant to keep a person from reporting or testifying about a crime. The bill also targets anyone who solicits someone else to intimidate a witness.

The bill would also allow prosecutors to introduce as evidence so-called hearsay testimony -- out-of-court statements given by a witness -- if a judge finds that the witness was scared away from testifying by the defendant.

Timothy Mitchell, president of the Maryland Criminal Defense Attorneys' Association, said the proposed legislation would violate defendants' constitutional right to confront their accusers. The hearsay exception, he said, could result in false testimony, such as statements by a rival drug dealer, a spouse involved in a divorce, or a witness seeking to destroy the reputation of a defendant.

But the bill's supporters note that federal courts allow such evidence in cases of witness intimidation.

Lynn McLain, a professor at the University of Baltimore School of Law, said 13 states and the District of Columbia allow such hearsay evidence if a judge determines that a defendant's wrongdoing prevented a witness from testifying.

In the north Baltimore community of Harwood, after the Molotov cocktail attack on Edna McAbier's house, neighbors came together, looking for ways to rid their streets of drugs and violence. In the basement of a Catholic church, near McAbier's house, about 150 people turned out on a recent frigid night for a meeting with police and prosecutors.

Leonard D. Hamm, who became acting police commissioner in November, said police are working hard to target gun violence and get drug dealers off the streets. Some residents said drug dealers have taken over corners near the home of McAbier, president of the Harwood Community Association.

"It's like this unseen place, this forgotten place, so the criminals act as if what they're doing is legal," said Michelle Blue, who runs an after-school youth center called Follow Your Dreams. "My house may be firebombed, or my family might be in danger."

"I see more police in this room than I've seen in my neighborhood for the past three years," said Emily Chalmers, another neighborhood resident. "There are no cops there watching the drug dealers."

On Wednesday, the US attorney's office for Maryland announced that a federal grand jury indicted five of the men arrested in the firebombing of McAbier's house. The sixth suspect is a juvenile. Each of the five men, ranging in age from 18 to 31, faces a maximum sentence of life in prison and \$1 million in fines.

McAbier's neighbors are thankful that she survived the firebombing and that her home sustained only minor damage. They know the outcome could have been much worse -- as in the case of Angela Dawson.

She had confronted drug dealers outside her East Baltimore home. In retaliation, a low-level drug dealer set fire to the row house, killing Dawson, her husband, and their five children in October 2002.

It pains the Rev. Iris Tucker, pastor of Knox Presbyterian Church, to see the boarded and burned-out shell of the Dawson house. "My church sits across the street from a constant and terrible reminder of the effects of witness intimidation in Baltimore," Tucker said.

"Good people are scared because criminals will retaliate against them for contacting police, and the law does not protect them. The criminals continue to take another street, take another corner, take another neighborhood, and

soon, they will take a whole city."■

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