

Both sides vie for victims' support in theater shooting case

By John Ingold and Jordan Steffen

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The letter arrived in the mailbox of an Aurora movie theater shooting survivor half a year after the attack.

In its six paragraphs of carefully, sympathetically written prose, a woman offered to help the survivor communicate with defense attorneys representing the gunman: questions, concerns, disappointments.

"I would like to learn from your experiences of this case," the woman, Tammy Krause, wrote in the letter, "and share how I might best be able to assist you."

After meeting with Krause and anti-death penalty advocates, the survivor had a different impression.

"I really felt like the ... defense team was trying to use me to orchestrate a dialogue with the victims and survivors in this case to sway them towards changing their minds on the death penalty," he wrote in an affidavit filed in court last month.

In modern high-profile criminal cases, few resources are more coveted by attorneys on either side than the victims of the crime and their loved ones.

Defense attorneys — especially in death-penalty cases — are increasingly seeking victims' input and backing through special "defense-initiated victim outreach" efforts, such as the letters sent to theater shooting survivors and victims' loved ones.

"When you have a leave-no-stone-unturned kind of defense approach, one thing is to say, 'Let's see if we can reach out to the victims and see if we can get something helpful for our case,'" said Paul Cassell, a University of Utah law professor who studies victims' rights issues.

Prosecutors, who often have legal obligations to keep victims informed about cases, have also increased outreach efforts, adding victims advocates to their staff. In the Aurora theater shooting case, one prosecuting attorney is assigned full time to communicate with the victims.

The result, though, is that crime victims in high-profile cases are confronted with an array of people who offer their help but who also have underlying interests. It has left some victims feeling more alone.

"We are re-victimized by the same system that should be protecting us," said a relative of one of the slain theater shooting victims, who asked to remain anonymous so as not to attract more attention.

Because so few mass shootings result in court trials, the case against James Holmes — for whom prosecutors are seeking the death penalty — is among the most high-profile in the country. Twelve people were killed and dozens more wounded in the attack on the Century Aurora 16 movie theater two years ago Sunday.

The controversy over victim outreach spilled into the open in the theater shooting case last month. Defense attorneys accused the prosecution of interfering with their investigation by sending victims an e-mail suggesting the defense's efforts were dishonest. Counting letters from Krause and the attorneys themselves, some victims in

product or service," Arapahoe County District Court Judge Carlos Samour wrote. Advocates for defense outreach efforts say such efforts are important because prosecutors — while fighting against those accused of committing crimes — don't always represent victims' wishes.

"Defense lawyers are trying to find a way to let victims' voices be heard," said Denver attorney Iris Eytan, who represented the parents of slain corrections officer Eric Autobee when they disagreed with the way prosecutors were handling the case against their son's killer.

In Autobee's case, Eytan said prosecutors did not share developments in the case with the family after they asked District Attorney George Brauchler — who is also prosecuting the theater shooting case — not to seek the death penalty. During a pretrial hearing, prosecutors argued that the Autobees ended communications with the district attorney's office.

"We're the people most affected, yet we're tossed aside like a piece of trash and our rights don't mean anything," said Bob Autobee, Eric's father.

Brauchler ultimately offered a plea deal in the case that sentenced Eric Autobee's killer to life in prison.

Bob Autobee, who has since been honored by anti-death penalty groups, wrote a letter that a private attorney asked at least one theater shooting survivor to pass along to other survivors and victims' families. Autobee called his letter an invitation to meet and discuss his experiences, recovery and forgiveness for his son's killer.

"I'm not trying to make up other peoples' minds," Autobee said. "But they all need to know both sides of this."

The theater shooting survivor, whose name was redacted in court papers, said he was approached by anti-death penalty advocates after a speaking engagement and invited to a dinner. The survivor wrote in his affidavit that Krause, the defense's outreach specialist, was also at the dinner and asked him for help in talking with other survivors and victims' relatives.

Prosecutors in the case say Krause's outreach has created confusion among victims and that prosecutors listen sincerely to victims' voices.

"She works for the Defendant," prosecutor Lisa Teesch-Maguire wrote of Krause in the contested e-mail sent to victims, "and her goal is to try to find Victims who will help the Defendant."

In an affidavit filed in the theater shooting case, Krause said having communication with defense attorneys can improve victims' experiences with the criminal justice system. Krause has also conducted outreach for defense teams in the cases against Oklahoma City bomber Timothy McVeigh, terrorism conspirator Zacarias Moussaoui and Atlanta Olympics bomber Eric Rudolph.

"Such interactions cannot be done with an ulterior motive," she wrote.

But at least some of those contacted by Krause in the theater shooting case have not felt that way. After having two conversations with Krause, another theater shooting survivor cut off contact. That survivor, whose name was also redacted in court documents, wrote in an affidavit: "I felt like they were trying to manipulate me."