

The Sun

Lawyers' soliciting of clients criticized
Authorities seek ways to delay public release of warrants

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Client prospecting by eager lawyers has entered the computer age, provoking an outcry from police, legislators and prosecutors about a practice they say could ruin prosecutions or turn deadly.

Lawyers are hiring services to comb computerized criminal records and mail personalized letters offering representation to suspects wanted on charges including murder and theft.

Among the main records the services use are newly issued arrest warrants revealing the names and addresses of people charged with crimes. Sometimes the letters have arrived before police, giving suspects time to flee, destroy evidence or perhaps arm themselves.

In response to law enforcement concerns, the chief judge of the District Court is considering ways to delay putting those warrants on the court's publicly accessible computers until police have made arrests.

"I'm not sure that the public good in having that information is as heavy as the public benefit from having [suspects] served with warrants without having police worry about what might happen when they reach the door," Chief Judge Martha F. Rasin said yesterday.

Rasin said she should know in a few days whether it is feasible to delay the electronic release of warrants.

"If that doesn't work," Rasin said, "I'll just drop back and punt, consider other options."

Rasin's comments follow several incidents involving suspects tipped off by lawyers' letters.

On Nov. 24, Howard County police charged Kenneth Allen White, 47, with first-degree murder in the slaying of an Ellicott City woman nearly 13 years ago. But when police reached his apartment in Lebanon, Pa., the suspect was gone, said Sgt. Steven E. Keller, spokesman for the Howard County police.

Early warning

After several searches, police found White's brother, who said White knew police were looking for him because he had received an attorney's letter, Keller said yesterday.

White surrendered to police that day.

Yesterday, White waived his right to extradition at a hearing in Pennsylvania and is expected to be transported to Howard County.

But police say the case could have been destroyed or an officer -- relying on surprise -- could have been injured.

"We'll never know what [evidence] existed in that house, maybe a memento, a newspaper clipping, something" about the crime, said Maj. Wayne Livesay, deputy chief of operations for Howard County police. "I also don't want an officer hurt because an attorney wants to make some money."

Some officials want action to protect police who serve warrants.

Prince George's County Police Chief John S. Farrell said he would ask legislators to consider amending Maryland law to restrict access to warrants until they've been served. At least five times, letters have arrived before police in Prince George's County.

No evidence

In Montgomery County, a police detective tried this year to arrest a man on a fraud charge and serve a search warrant at his home.

But the detective didn't find any evidence, and the suspect said he "was expecting the visit," said Cpl. John McCloskey, spokesman for Montgomery County Police.

"The detective couldn't find anything there, no credit cards, no evidence," McCloskey said.

State Sen. F. Vernon Boozer, a Baltimore County Republican, said he would consider legislation to delay the release of warrants and other measures to curb attorney solicitation.

"I'll study it, but you have to weigh First Amendment issues before fooling around," said Boozer, who sponsored 1996 legislation restricting lawyers from soliciting criminal clients within 30 days of their arrest.

That law was struck down by a federal court that said it violated lawyers' First Amendment rights to advertise and the suspect's right to legal representation. In July, a federal appeals court upheld the lower court's decision.

Good business

Natalie M. Boehm, who owns LETS Co., the company that processes and sends the letters, brought the lawsuit challenging the law. She's been doing good business lately, she said yesterday.

Boehm vigorously defended her practice, saying she provides a valuable service that protects the rights of the accused.

"In this country, people aren't charged in secret, arrested in secret, held in secret," Boehm said. "They need a defense attorney the moment those charges are filed. Our service actually helps the court system."

Since January, LETS Co. has sent out about 10,000 letters to suspects. She promises lawyers she will mail solicitations only to those charged within the last 14 days, Boehm said.

Letters to suspects cost \$4.50 each; letters to motor vehicle law violators cost \$3.50.

Officials of the Maryland State Bar Association said their hands were tied by the court ruling that the law was unconstitutional.

"We're bound by the decisions of the court," said Paul D. Beckman, president of the bar association, which is studying the way lawyers use the computerized court records. "What [lawyers are] doing is perfectly legal."

But some legal experts said the practice of sending letters to potential clients almost instantaneously raises ethical questions.

"Any kind of solicitation should probably be controlled," said Abraham A. Dash, a professor who teaches ethics at the University of Maryland School of Law. "I think it's wrong. It's usually the family [of the suspect] who gets the mail, and they're not in a position yet to know what they want; [they] might even have the right to a public defender."

The court decision affected only criminal cases, not civil ones, for which the 30-day ban on mailing solicitations remains in effect.