

Voice of the Rocky Mountain Empire

# THE SUNDAY DENVER POST

## DYING TO TESTIFY | FIRST IN A THREE-PART SERIES

*Witnesses killed statewide*

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*The Denver Post*

POSTED: 09/30/2007 03:01:09 AM MDT



**EACH OF THESE PEOPLE HAD KNOWLEDGE OF A CRIME.  
NOT ONE WAS PROTECTED. ALL WERE MURDERED.**

Javad Marshall-Fields foresaw his future.

He had survived two bullet wounds, watched his friend die and agreed to testify against one of the gunmen who shot three people at a July 4 party. Now he was at a sports bar, where a stranger called him by name, identified him as a witness and warned, "You're a marked man."

"They are going to kill me," Marshall-Fields told his friends.

He was right. He and his fiancée, Vivian Wolfe, were gunned down the next night on an Aurora street, days before he was scheduled to testify against Robert Ray in the 2004 murder case.

Arapahoe County prosecutors knew there were reasons to worry. Six months earlier, one prosecutor had filed a motion to keep the addresses of Marshall-Fields and five other witnesses secret. All feared having their locations known.

But five court dates and nearly six months passed before that motion was finally considered by a judge. By then a defense lawyer had given detailed witness information to his client, a drug dealer associated with a dangerous Chicago-based gang.

For 12 years, Colorado has had a fund to protect state witnesses from harm.

But according to Rhonda Fields, Javad's mother, no one told him this program existed. After burying her son, she asked a prosecutor why he was never offered protection as a murder witness.

The response: "He never asked."

In Colorado, at least 16 witnesses and associates have been murdered since the state created a fund to protect the lives of witnesses. In most cases, threats preceded the murders. Some witnesses repeatedly reported those threats to police and prosecutors.

A Denver Post computer analysis found that since 1998, Colorado prosecutors have filed more than 2,000 felony

cases of crimes against witnesses - crimes ranging from harassment and witness tampering to arson and murder. Witnesses have been kidnapped, raped and shot.

Yet in a typical year, judicial districts throughout the state spend less to protect the lives of witnesses than Denver spends to plant flowers.

Many witnesses say that even after they survived a murder attempt, nobody offered protection. Some have moved thousands of miles away at their own expense. Others have invested in handguns and alarm systems and rehearsed shootout scenes with their children.

To this day, the father of a witness from a 2001 case still won't allow his children into the car until after he has started it alone.



Javad Marshall-Field, left, and his fiancée Vivian Wolfe.

### STATE, FEDERAL DIFFERENCES

In federal courts, protected witnesses gain new lives, new identities and new jobs. The U.S. Marshals Service has \$38 million this year to assist 17,500 witnesses and family members.

In state courts, witnesses are on their own. A handful of states budget \$500,000 or more for comprehensive witness-protection programs. Most states spend nothing to protect witnesses. The balance are like Colorado - a program exists but has a budget of just \$50,000, is little-used and may offer little more than a bus ticket or a security deposit for a new apartment.

“This is one of the most serious problems, as far as I’m concerned, that our nation must confront,” said Rep. Elijah Cummings of Maryland, who has tried in vain to get Congress to provide \$90 million a year to help states protect their witnesses. “We all need to have a concern about staying the course on the terror that takes place in this country every day.”

Improving state witness-protection programs “needs to be done with a sense of extreme urgency,” Cummings said. “Every time a person is prevented from going to trial because of threats, it chips away at the bricks in our system. At some point, if it continues to go on, that system will collapse.”

There are no national statistics and scant research on crimes against witnesses. When Cummings introduced his witness-protection bill, he cited a National Institute of Justice survey that said 51 percent of big-city prosecutors called witness intimidation a major problem. The survey is 12 years old.

At the same time, National District Attorneys Association chairman Paul Logli told Congress this year that witness intimidation “has become almost epidemic.” Gruesome examples abound.

In Baltimore, drug dealers retaliated against a witness by firebombing her house, killing her, her husband and their five young children. In San Bernardino, Calif., a gang member paroled from prison forced his way into a witness’ home, shot and killed him and his father, and wounded the infant boy sitting in the witness’ lap. In Philadelphia, six witnesses recanted their testimony in the trial for the murder of a 10-year-old boy caught in gang crossfire outside his school.

Colorado created its witness-protection fund after gunmen tortured and shot three people to stop a waiter, Frank Magnuson, from testifying in a restaurant robbery case.

Magnuson and another man died. Steve Curtis was shot twice in the head - and survived. After watching the defendants and their friends intimidate witnesses and jurors at the murder trial, Curtis persuaded legislators to establish a protection fund in 1995.

Today, Curtis questions whether that fund has served its purpose.

Magnuson “was the first prosecution witness, that we know, ever killed in Colorado. It’s amazing since then, how many there have been,” he said.

“If you allow prosecution witnesses and jurors to be threatened and even killed, you will have no judicial system. I have to question whether law enforcement is taking it seriously enough. How is it that they are not keeping these people safe?”

Gov. Bill Ritter, a former Denver district attorney, called witness protection critical to the justice system and said he would welcome federal help to the states.

“Any death is too many,” he said. “It undermines the very core of the system.”

Yet in his first year as governor, Ritter did not push for a significant increase in witness-protection funds, and legislators chopped the Department of Public Safety’s \$100,000 request in half. The governor said he will ask for additional money if the state fund runs low.

In the four fiscal years through 2005, the year Marshall-Fields and Wolfe were murdered, Colorado spent an average of \$29,895 statewide to protect witnesses in 22 judicial districts. Broomfield spends more than that on its Christmas light displays.

The Colorado program requires prosecutors to spend their own money to protect witnesses, then seek reimbursement from a three-member state board.

Colorado District Attorney’s Council executive director Dave Thomas, who serves on that board, acknowledges that until recently, the state did not publicize the existence of a fund to protect witnesses’ lives.

Within the law enforcement community, “a lot of people didn’t even know it existed,” he said.

Now, thanks to the mothers of Javad Marshall-Fields and Vivian Wolfe, his murdered fiancée, Colorado must provide training about the program by law. Thomas said the board has done so at conferences of district attorneys and victims’ advocates.

The 2006 law also requires the state board to create a “witness protection risk assessment” model and provide it to prosecutors and police. Fifteen months later, that hasn’t been completed. A Department of Public Safety spokesman said developing a model for a wide range of cases has proved more difficult than anyone assumed.

Thomas said that as assaults against witnesses have grown, so has law enforcement officials’ awareness that witnesses must be asked about threats and informed of resources to protect them.

“Can we be more aggressive about explaining this to victims and witnesses involved? Yes,” he said. “We have an obligation to tell them the program does exist.”

#### DRUG CASE TURNS DEADLY

In Jefferson County, Jimmy Roberts was murdered for agreeing to testify against Abe Hagos in a drug-dealing case.

For eight months, Jefferson County prosecutors and detectives knew Hagos was threatening their key witness, court records show.

But the case prosecutor doesn’t remember discussing the witness-protection program with Roberts until two days

before he died - after he survived a first murder attempt.

The warnings:

On March 4, 1998, Roberts and a detective advised prosecutor Judy Archuleta that a female had called Roberts with a message from Abe to “watch his back.”

In April, Roberts recorded phone calls from Hagos, who asked to meet him alone and threatened Roberts’ brother. He gave the tapes to police.

In May, Archuleta reported the threats in court, and Hagos’ bail was raised to \$100,000. He bonded out four days later.

In June, Roberts told police Hagos was showing up at his brother’s workplace. He also told police that Hagos warned him, “Enjoy the summer, because you’ll be dead at the end.”

On Nov. 4, 1998, Roberts escaped an attempted murder at his home that had been set up by his best friend.

The next day, Roberts appeared in court with Hagos. At a conference room window, Hagos saw Roberts and put a finger to his head. The prosecutor and a detective offered witness protection. He declined.

On Nov. 7, Roberts was killed as he went to work.

Laura Roberts, Jimmy’s mother, lived across the street from him that year. She remembers how scared he was. He was escorted by police officers in and out of the courthouse. He wouldn’t take his own car to the police station.

She said her son turned down the protection offer after the first murder attempt because he feared his brother and father would be killed instead.

“If he accepted protection and others were killed, he knew he couldn’t live with himself,” she said.

Was Roberts’ murder preventable?

Prosecutor Archuleta, now a judge in Jefferson County, can still see him sitting in front of her, rocking back and forth in a chair, silently weighing her offer to hide him in a hotel for a while.

“They know where you live. They know what car you drive. They know where you work,” she told him.

He thought it over. “No, I can take care of myself,” he decided.

It was the last thing he said to her.

Archuleta thinks that was the first time they discussed witness protection and that he did not tell her he feared for his family if he disappeared.

In the months leading up to the trial, Archuleta had advised Roberts to record any calls from Hagos and reported Hagos’ threats in court.

“I don’t think the system could have done anything different,” she said.

If Roberts had confided he feared Hagos would kill other family members if he accepted witness protection, “I would have tried to convince him harder,” she said. “The odds would be against that.”

She doubted that talking to Roberts about witness protection when the threats began would have made a difference. “He didn’t want to do it,” she said.

Denver District Attorney Mitch Morrissey, whose office regularly uses witness- protection funds, said there is one recourse if prosecutors know a witness and his family are in danger. “We’ve relocated whole families,” he said.

### THREATS, THEN BLOODSHED

Other witness murders were preceded by death threats - and claims that police were informed.

In Adams County, Natisha Gallegos obtained a restraining order against her husband, Albert, after they separated. Last November, after she refused his pleas to return to him, he was charged with violating that order by sexually assaulting her, punching her, asking “Should I kill you?” as he held a knife to her face, then stealing her car.

Police knew she was the only eyewitness in the case.

A month later, her body was found on the floor of her bedroom. She had been stabbed 67 times.

Dawn Delgado, Natisha’s pregnant sister, told police she had stayed at Natisha’s apartment two nights the previous week because Natisha “had told her that she was afraid that Albert Gallegos was going to kill her.”

Don Quick, Adams County’s district attorney, said the investigating detective does not remember mentioning the witness-protection program to Natisha.

In court records, detectives say Gallegos told them he knew Natisha had accused him of rape, and he stood outside her home for 45 minutes before deciding to kill her on Christmas Eve. He now faces a first- degree murder charge. His attorneys contend he suffers from a grave mental illness.

After Jimmy Roberts was murdered, prosecutors quickly offered protection to other key witnesses. After Javad Marshall- Fields was murdered, the same thing happened in Arapahoe County.

Rhonda Fields questions why no one thought of protecting the witnesses before Javad and his fiancée were killed.

“After the death of my son, that’s how I became aware of how broken the system was,” she said.

“It seems like prosecutors, they use you as a pawn and don’t pay enough attention to letting you know the services available. My son, if he had just been given some basic safety measures, told ‘If this happens to you, Javad, call right away.’ They never explained anything to him.”

### VIOLENCE AT JULY 4 FEST

The case began with a free barbecue and rap music contest on July 4, 2004, that suddenly turned violent at 9 p.m. when two young men pulled out guns. Three people were shot. Javad survived. His friend Gregory Vann died.

On Dec. 9, 2004, prosecutor Michael Frederick filed a motion to protect the locations of six witnesses against a 19- year- old charged as an accessory to Vann’s murder: Robert Ray.

All six “have expressed their desire that the defendant not have their current address,” he wrote, and didn’t even want



Rhonda Fields at her Aurora, CO home on Monday, September 17th, 2007. Fields’ son Javad and his fiancée were murder a couple of years ago. At right is a scrapbook and court transcripts from her son’s case.

his lawyer to know where they lived.

Ray had friends who called themselves Gangster Disciples, a gang known for killing witnesses, and allegedly told one friend he was making \$40,000 a week selling cocaine. He soon hired Harvey Steinberg, a prominent defense lawyer who has represented several Denver Broncos in court cases.

Six months and five court dates passed. On June 6, 2005, District Judge Michael Spear asked about the unaddressed motion for a protective order.

Jennifer Lundin, who had become the case prosecutor, didn't know her predecessor had filed it. "Your honor, I apologize to the court, since I did not file it, I actually didn't realize it had been filed," she said.

The judge turned to Steinberg. "What's your position?" he asked.

"Well, unfortunately, I was not aware of the pendency of that motion and it is my practice to provide copies of all discovery," Steinberg replied, and "it appears, although I can't be certain, that addresses of those individuals were provided."

Spear did the one thing he could: order "the whereabouts or current addresses" of witnesses protected from that day forward. "What's been done has been done," he commented.

Two weeks later, Javad Marshall-Fields and Vivian Wolfe were shot to death as they drove down a suburban street.

Rhonda Fields said she was unaware that a motion to protect witness locations was pending for six months before her son died. "That borders on gross negligence," she said.

Last week, Lundin said she did not remember any discussion about a motion to protect witnesses when she inherited the case. But "I should have double-checked" the records, she said.

Of the five others who asked to have their addresses protected, one was Askari Martin, the first person who led police to Robert Ray as a suspect in the July 4 shootings.

Before Marshall-Fields and Wolfe were murdered, he told detectives that two men had broken into a friend's home, armed with handguns, and demanded to know his whereabouts.

One witness became so frightened that he approached Robert Ray in the courthouse parking lot "and told him that he did not want to testify, that he had not signed any statements, and indicated that he would not cooperate in the case against Robert Ray," prosecutors allege.

In court papers, prosecutors described witnesses to Vann's murder as terrified. The pervasive fear "prevented the identification of Sir Mario Owens for over a year" as Vann's murderer, prosecutor John Hower wrote in a memo to the court.

Yet until two more people died, the district attorney's office failed to protect key witnesses.

The three young men accused of killing them - Ray, Owens and Parish Carter - had stalked Javad Marshall-Fields, staked out his home and confronted him twice on the day before he died, prosecutors allege. At a Father's Day barbecue, Ray and his friends found him. Marshall-Fields nervously told a friend he had seen the man who shot him and they needed to leave.

Hours later, they allegedly tracked him down again at a sports bar where Carter called him by name and warned him, "You're a marked man. You better watch your back, homie."

That night and the next day, Javad called his older sister. He talked about the threats to kill him. He asked her to help him move out of Colorado as quickly as possible. He confided he was afraid to testify “because Robert Ray and his associates were Gangster Disciples,” court records show.

He was killed at 8:55 p.m.

All three defendants have pleaded not guilty.

Javad had just finished college and planned to move to Virginia. His mother wishes the district attorney’s office had sent him there until he testified. “They could have done that, and he might be alive today,” she said. “I do think the system failed my son. And I think I failed him a little too, because I should not have trusted the system.”

Arapahoe County District Attorney Carol Chambers said she can’t comment on the Marshall-Fields case because of a court-imposed gag order. But, she noted, her office now attaches a notice to each subpoena urging witnesses to notify police and prosecutors of any threats, and to call 911 immediately “if you believe you are in any danger.”

That warning was added after Marshall-Fields and his fiancée were killed.

“I wish that had been on the subpoenas previously,” said Lundin, the case prosecutor. “It’s a wise precaution.”

Chambers prefers to call the Colorado program witness relocation. Witness protection “gives people the illusion that it’s like the federal witness-protection program. Those are not the resources Colorado has,” she said. “We cannot support people for long periods. We don’t have the resources to pay rent.”

At home, Rhonda Fields gazed around the empty living room of the Aurora house where her son grew up, remembering the laughing boy who loved basketball, golf and music, whose favorite meal was fried pork chops, mashed potatoes and string beans. She made it for his birthday every year.

“I miss him so,” she said.

“It’s hard picking myself up to go to work. I have to fake myself out each day to participate,” she said.

“He was busy busy busy, school events, sports events, when you have all that activity around, ‘Mom, I’m doing this, I’m doing that, come support me. ...’ The house seems so empty and quiet now. I don’t really have anything to do anymore.”

*Staff writer Nancy Lofholm, former computer assisted reporting editor Jeffrey Roberts and former research librarian Regina Avila contributed to this report.*