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NATIONAL PULSE

Mass shootings prompt bar associations to offer pro bono services to survivors and victims' families

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Waltrina Middleton, right, lost her cousin the Rev. DePayne Middleston-Doctor in a 2015 shooting. Photo by David Goldman-Pool/Getty Images.

Family law attorney Rene Stuhr Dukes, a woman of faith, believes God put her at her computer the moment her local bar association sent an email seeking volunteers to help survivors and families of victims of a mass shooting in her home city of Charleston, South Carolina.

The email arrived several weeks after the June 17, 2015, killings at Emanuel African Methodist Episcopal Church, which is known as Mother Emanuel. The Charleston County Bar Association had created a committee to help survivors and victims' families, and it sought lawyers to handle probate and family law matters as well as other legal needs that could emerge.

Dukes, who regularly takes on pro bono cases, was eating lunch at her desk when the email landed, and she wrote back within five minutes, agreeing to assist with a family law matter. That speedy response led her to the most meaningful case of her career, which still makes her tear up three years later.

Dukes, a nonequity member at Rosen Hagood, helped a woman with an urgent, complicated child custody matter that took her and her legal assistant 300 pro bono hours to resolve in a yearlong battle. "It was such a blessing. They were amazing people," she says about her client and family.

The Rev. DePayne Middleton-Doctor, 49, was one of the nine victims killed inside the church by a self-described white supremacist—since convicted of federal hate crimes and sentenced to death. Middleton-Doctor had four daughters. After her funeral, her ex-husband took custody of their two youngest, ages 13 and 11 at the time. Dukes represented the girls' maternal aunt, with whom the girls preferred to live. She was able to persuade a judge to give custody of the girls to the aunt despite the law favoring biological parents in such matters as long as they're deemed fit.

It was a sad situation, but Dukes says she found meaning in helping the client's family and playing a part in their healing by carrying the burden of their legal matter.

Dukes credits the Charleston County Bar Association for creating a pro bono program for Mother Emanuel's survivors and the victims' families. "I wish we didn't have to have these pro bono organizations," she says.

THE LEGAL AFTERMATH

A wide array of legal issues arise for survivors and victims' family members in the wake of mass shootings. Probate matters are common—easier when the victim had a will, and harder with young or low-income adults who commonly don't have them. When parents are killed or debilitated by injury, they need lawyers to sort out child custody or guardianship matters. People impacted by mass shootings can get government crime

victim compensation funds but may need help navigating the bureaucracy to obtain them. They may come into money donated by the public and require attorneys to ensure they get the funds they're entitled to receive.

The frequency of mass shootings has prompted a growing web of bar associations across the nation to independently create pro bono programs to help those affected. Attorneys are flocking to volunteer. The lawyers who lead these pro bono efforts have started unofficially collaborating by sharing forms and documents, explaining what's on the horizon and sharing the best methods to deal with the grim reality.

"It's a sad state of affairs that this is such a big concern," says Kim Homer, executive director of the Orange County Bar Association in Florida, which responded to the 2016 mass shooting in Orlando's Pulse nightclub, where the shooter killed 49 people and injured 53. "After the Pulse shooting, we understood how difficult it was as a bar organization and a legal aid organization to respond to something of this magnitude, so we proactively now have reached out."

Homer is not the only one offering a lifeline or looking for one; bar and legal aid leaders are helping each other. In Nevada, lawyers called their peers in Orlando and Charleston for advice about handling the October 2017 Las Vegas Strip massacre during the Route 91 Harvest outdoor music festival, where 58 people were killed and 546 were wounded. Next, Las Vegas lawyers helped the San Antonio Bar Association to respond to the Sutherland Springs church shooting in 2017. To pay it forward, the San Antonio bar leader passed on the same resources—FAQ documents—to Houston Bar Association volunteers who helped teenagers after the 2018 Santa Fe High School shooting.

"People shouldn't necessarily have to start from scratch each time. It's even crazy this is necessary. There could be best practices pulled together so people have a guidebook rather than just responding and doing what everyone thinks is best," says Brad Lewis, director of the Nevada Supreme Court Access to Justice Commission, which jumped into action the day after the Las Vegas shooting took place.

Lewis and his colleagues created several FAQ documents explaining common legal issues that arise after a mass shooting; a legal checklist; and financial planning tools that have been passed around, edited and distributed to victims and survivors in subsequent mass shootings.

"It had a lot of great information in it of issues to look for and places to turn for help. We were able to personalize it. It was literally the starting point," says Baker Botts partner Keri Brown of Houston, who helped coordinate the bar's Houston Volunteer Lawyers to assist in Santa Fe.

READY TO VOLUNTEER

The pro bono programs that local bar associations and legal aid organizations create after mass shootings often find that lawyers flock to their cause, volunteering in droves.

Sarah Dingivan, managing attorney for the San Antonio Bar Association's Community Justice Pro-gram, says she has a 100-name list of attorneys who volunteered to help after the Sutherland Springs shooting, and she's called on half of them to help with anything from answering families' legal questions over the phone to taking on full cases.

"It made me very proud to be an attorney," Dingivan says.

Yet this work takes an emotional toll, especially on intake staff, Homer says. To help lawyers cope, she says bar associations must set up counseling—as Homer did in Orlando after Pulse.

"Even this far removed from it, it's still very emotional to me," Homer says, "I wish I pushed [counseling] harder and maybe set an example by doing it myself."

When a mass shooting hits a city, the government usually sets up a victims' assistance center. Local bar associations find their first roles in these centers.

It's critical for local lawyers to staff a booth at the center from the beginning and stay for several weeks, says Mary Anne DePetrillo, executive director of the Orange County Bar Association's Legal Aid Society, who worked at such a booth after Pulse in 2015. After those critical weeks, DePetrillo says they must create the structure for a long-term response. The legal aid society was able to establish legal malpractice insurance for pro bono attorneys.

The Orange County Bar Association focused on recruiting volunteers, attracting 223 local attorneys and 100 out-of-town lawyers.

LEGAL ISSUES VARY

The aftermath of the Pulse shooting presented a unique set of legal issues because it involved young Spanish-speaking, LGBTQ and immigrant victims and survivors, DePetrillo explains. Some of them were estranged from family because of conflict over their sexual orientation, which gave rise to disputes over which family member could collect a victim's body, or who was allowed to visit in the hospital. Also, some survivors were living in the country illegally, and lawyers helped them get crime victim U visas.

With a school shooting, such as in Santa Fe, many of the victims are children and don't have estates or significant assets, which minimizes probate issues—one of the most common legal matters when shootings target adults. Probate matters were widespread after Sutherland Springs, Las Vegas and Charleston.

Family law matters were also common in those shootings. Christine Miller, director of community initiatives and outreach at the Legal Aid Center of Southern Nevada in Las Vegas, explains that if a parent dies or is injured long-term, other caretakers need full-time custody or temporary guardianship of that person's children.

"In one case, it was a dad. He was there with his young kids, and while they weren't injured, just being in the situation, his life flashed before his eyes," Miller says about a man at the Las Vegas Strip shooting. "And he realized life can be gone in a moment's notice. He wanted to make plans."

Families of victims and survivors of mass shootings are eligible to receive crime victim funds from the government for funeral expenses and medical bills, and the public often donates large sums that provide non-earmarked money for whatever the person wants.

For example, some people impacted by Charleston's shooting have launched nonprofit foundations that assist low-income children with access to literacy or sports activities. Pro bono lawyers help their clients access these funds. Some public donation funds happen through crowdfunding websites. Sometimes cities or other entities partner with banks to handle the donation collections.

In Santa Fe, Brown, who coordinated the Houston Bar Association's response, explains that some survivors were on Medicaid, which has strict income eligibility requirements, and they feared that accepting the donation funds would disqualify them.

Pro bono lawyers created special needs trusts to accept the funds without disqualifying their clients from their health care.

One of the Las Vegas funds garnered \$31.4 million, and it was disbursed in March 2018 to 532 claimants who received funds ranging from \$17,500 to \$275,000 each, commensurate with their level of injury, according to CNN.

With such large checks coming, Miller says she and her colleagues worried about scammers. They coordinated with a professor at the University of Nevada-Las Vegas William S. Boyd School of Law to launch a network of pro bono financial advisers for their clients.

Miller says that every local bar must create a plan to respond to a mass shooting.

"When something like this happens, it's unexpected, and all of a sudden, you're faced with—not only the emotions hit—but having to jump in action to assist people," she says.

"If you have some structure, even if it's bare bones, that would be wonderful."

This article appeared in the March 2019 issue of the ABA Journal with the headline "After shot: A spate of mass shootings has prompted bar associations to offer pro bono services to survivors and victims' families."



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