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Examining the problem of witness intimidation

by Elizabeth Connick and Robert C. Davis

Threats against witnesses are a serious problem—not only for the individuals but for the courts which must rely on their testimony. Action on the part of the justice system can make a difference.

it ness intimidation — that is, threats made by defendants to discourage victims or eyewitnesses of crime from reporting or testifying—has only recently been recognized as a prevalent problem. Cases of witness intimidation brought to the public eye by the media typically are sensational and highly unusual, involving witnesses who testified against members of organized crime. Recent studies, however, have found witness intimidation to be a common problem which occurs in all types of cases.

The Institute for Law and Social Research,[1] for example, found that 28 per cent of witnesses in Washington, D.C.'s Superior Court feared reprisal. A study conducted in 1976 by New York's Victim Services Agency and the Vera Institute of Justice[2] found that a somewhat higher proportion (39 per cent) of witnesses in Brooklyn Criminal Court feared that defendants would seek revenge, and that 26 per cent of 295 witnesses interviewed had

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1. Cannavale and Falcon, WITNESS COOPERATION (Lexington: D.C. Heath, 1976).

2. Davis, Russell, and Kunreuther, "The Role of the Complaining Witness in an Urban Criminal Court" (Report of the Victim Services Agency and the Vera Institute of Justice, 1980).

Reception centers assisting victims and witnesses

Testifying in a criminal case can bea harrowing experience. For first time visitors to Brooklyn Criminal Court, one of the nation's busiest, the setting and circumstances are themselves intimidating. Crowds mill about the lobbies, shouts and arguments reverberate along the marble corridors, and defendants, police and attorneys pack the elevators and congregate in every available space.

Ten years ago, crime victims and other witnesses called to testify were merely part of the crowd. No special provisions were made for them. They had to fend for themselves in the noisy courthouse hallways, where they were at risk of being accosted by defense attorneys or defendants and their families.

To meet these needs, the Vera Institute of Justice's Victim/Witness Assistance Project (V/WAP) established a witness reception center at Brooklyn Criminal Court in 1975. The central purpose of the reception center was to provide a safe and comfortable waiting area for witnesses in order to protect them from harassment, threats and intimidation.

In the studies that led to the establishment of V/WAP, Vera researchers had come up with the finding that witness attendence at Brooklyn Criminal Court was poor (more than half of the witnesses failed to appear in court on the first court date), often leading to the dismissal of criminal charges. The Vera analysts assumed that many witnesses did not cooperate because coming lo court was inconvenient, uncomfortable, threatening, and because their needs were not being addressed.

The V/WAP programs were specifically designed to come to terms with these issues. Court date notifications and aiert programs for witnesses were establ ished to reduce unnecessary court appearances and to make appearing in court more convenient and less time consuming. Counseling, advocacy and other service programs were designed to address victim and witness needs. A restitution program was mounted to give crime victims a stake in the proceedings. And the reception center was established to provide victims and witnesses with a comfortable place to await court appointments away from the maelstrom of the court corridors, badgering defense attorneys and harassment at the hands of defendants and their families and friends.

The Victim Services Agency (VSA) took over V/WAP's operations in 1978 and has since established seven other reception centers to serve criminal and family court witnesses in the five boroughs of New York City. Today, they serve as the hub of VSA's court-based witness operations. In 1982,27,000 people came to these centers seeking help and a safe place to await their court appointments.

When witnesses arrive at the centers, they are screened before being allowed to enter. Clients must be witnesses, or families and friends of witnesses, who have business at the court. The centers are also available for use by prosecutors to interview their witnesses, or by representatives of various court and social service agencies who come to consult with their clients. Defense attorneys, defendants and others having no business at the centers are refused access. The doors of the reception centers are kept locked at all times.

Within the centers, there are waiting areas equipped with comfortable chairs, a television, reading materials, coffee and refreshments. While witnesses wait, reception center aides provide an orientation to the court, answer questions and attend to their needs. The centers have adjoining offices where counselors and victim specialists can speak privately with witnesses, manage restitution accounts and monitor the progress of cases. When witnesses are needed in other parts of the courthouse, they can be contacted at the reception center and, if necessary, court escort can be arranged. For clients with special difficulties, a cab service is available for transport home. Crime victims may also receive financial assistance, housing and social service referrals, and assistance in filing claims for crime victims' compensation. In Brooklyn Criminal Court, day care is available through VSA's Children Center. Child victims, child witnesses and children whose parents have business in the court are eligible for this service. D

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actually been threatened. The study also found that witnesses involved in more serious cases, witnesses who knew the defendant before the crime, and female witnesses were significantly more likely than others to be threatened.*

Prompted in part by these two studies, the American Bar Association Committee on Victims held special hearings on witness intimidation in June, 1979. After listening to testimony from 34 witnesses and numerous members of the criminal justice system, the committee concluded:

> There was virtual unanimity among those who testified that the criminal justice system is presently unable to respond adequately to intimidation and that action proposals are thus urgently needed___Intimidation of victims and witnesses of crime is a persistent problem with two unique aspects: It is the one crime in which only unsuccessful attempts are ever reported or discovered. It is also a crime which inherently thwarts the processes of the justice system itself. For that reason, intimidation can undermine public confidence in our legal processes.[4]

New research

The study reported on here was designed by the Victim Services Agency (VSA)[5] in 1981, to gather data about witness intimidation.[6] Although the A.B.A.'s hearings produced a consensus that the response of the criminal justice system to intimidation was inadequate, little was actually known about the nature of the problem and the effectiveness of the current response. The study sought to gather information about who is threatened, how threats are made, the criminal j ustice system's response to threats, and the impact of this response.

The research was conducted in Brooklyn Criminal Court, one of the highest volume criminal courts in the nation. Brooklyn Criminal Court has full jurisdiction over misdemeanor cases in Kings County, New York. Most felony cases are also arraigned in Brooklyn Criminal Court. After arraignment, felony cases are either reduced to misdemeanors and disposed in criminal court or presented to the grand jury for indictment and transferred to supreme court. In 1980, almost 40,000 misdemeanor cases were disposed in criminal court and an additional 5,000 felony cases were transferred to the grand jury.

Two types of interviews were conducted for the study: interviews with 109 intimidated witnesses and interviews with 11 criminal justice officials. The names of the witnesses interviewed were obtained from a list of 1,365 witnesses whose cases were disposed in Brooklyn Criminal Court between April 14, and June 13,1980 and who lived in the metropolitan New York area, were at least 16 years of age, and for whom an address or phone number was available. Witnesses were contacted and asked if they had received any threats in connection with their court cases. Those who had been threatened (109) were interviewed.[7] The interviews were conducted by telephone, an average of 2.7 months after the case disposition.

In designing and carrying out the research we recognized that it would not be possible to interview a representative sample of intimidated witnesses. Witnesses who were the most

3. Thirty-four per cent (n=59) oF witnesses in cases classified as C felonies or higher were threatened compared to 24 per cent (n=93) in D felony cases and 17 per cent (n=69) in cases classified as E felonies or lower (Pearson's r=.I5; p=.01). Thirty-four per cent (n=83) of witnesses who knew the defendant before the crime were threatened compared to 20 per cent (n=127) who had no prior acquaintance with the defendant (x*=5.25; p<-025). Thirty-six percent (n=97) of female witnesses were threatened compared to 15 per cent (n=I24) of male witnesses (x*=l!.60;p<.001).

4. American Bar Association Committee on Victims, REDUCING VICTIM/WITNESS INTIMIDATION: A PACKAGE (Washington, D.C.: American Bar Association, 1979).

5. The Victim Services Agency, a division of the Metropolitan Assistance Corporation, is a not-for-profit corporation that was founded in 1978, *lo* provide assistance to crime victims in New York City. In addition to a 24-hour hotline, the agency operates units in four criminal courts, three family courts and seven neighborhood locations. It offers a variety of services including counseling, preventive lock installation, emergency burglary repair, relocation assistance, and financial assistance. It operates victim/witness reception centers in several of the city's courts and is responsible for notifying victims of court dates. VSA maintains a small research department that evaluates agency projects and conducts studies on issues relating to victimization.

6. A fuller description of the study method and results is provided in Connick, *Witness Intimidation: An Examination of the Criminal Justice System's Response to the Problem* (A report issued by the Victim Services Agency to the New York State Division of Criminal Justice Services, 1981). The report is available for $15.00 from the Victim Services Agency, 2 Lafayette St., N.Y., NY., 10007.

7. Of the 1,256 witnesses on the original list who were not interviewed, 618 could not be contacted for various reasons (no phone, no answer, phone disconnected, witness moved, etc.) and 638 were contacted but reported that no attempts had been made to intimidate them.

frightened would probably be the most difficult to contact (because they had moved or changed their phone numbers), and would have most likely refused to be interviewed. Thus, the sample of interviewed witnesses probably represents the less severe side of the spectrum of witness intimidation.[8]

The 11 criminal justice personnel interviewed included two judges, four prosecutors, two detective investigators (members of the district attorney's office with power of arrest), and three VSA staff who worked in the Brooklyn Criminal Court witness reception center. The interviews explored the officials' perceptions of the frequency of intimidation, the criminal justice system's response to the problem, and measures necessary to improve the system's response.

The nature of intimidation

Most (72 per cent) of the 109 threatened witnesses interviewed were both victims of and eyewitnesses to the crime. Fifty-nine per cent of the cases involved allegations of violence—either assault or robbery. Approximately half of the witnesses were women and more than half were black (38 per cent) or Hispanic (17 per cent). Close to half (47 per cent) knew the defendant before the crime.

The threats received by the witnesses ranged from ominous looks or gestures, to rumors circulated around the neighborhood, to direct verbal and physical confrontations (see Table 1). The majority (61 per cent) of the witnesses were threatened more than once. Indeed, more than one-third reported they were threatened six or more times. Threats were most often delivered by defendants (80 per cent), although defendants' family and friends also threatened a substantial proportion of witnesses (21 per cent), and 16 per cent of witnesses reported anonymous threats.

Most (64 per cent) of the witnesses reported that they were threatened in a direct verbal confrontation. One of the most frequent threats made was, "I'm going to get you." Other witnesses were warned, "You'll be sorry," or even more explicitly, "I'll kill you if you go to court." Phone calls were the second most common mode of threat, occurring in 23 per cent of the cases, and half of the calls were anonymous. In 11 per cent of the cases, there were indirect verbal threats. In these cases threats were conveyed by rumors through the neighborhood or through the witnesses' friends. For example, one woman reported, "I heard in the neighborhood that he was looking for me and wanted to get back at me." Threatening looks or gestures were only reported by five per cent of the witnesses. It is likely, however, that other witnesses neglected to mention threats of this type when they were also threatened *in* more overt ways.

In order to develop strategies to combat witness intimidation it is essential to know where the threats are occurring. Eleven per cent of the witnesses reported that they were threatened at the scene of the arrest. In some of these instances it appeared that threats

8. It is likely, however, that underreporting of threats to criminal justice officials paralleled underreporting lo interviewers. Thus, although the sample is not representative of all threatened witnesses, ic probahly is fairly representative of the threatened witnesses who come to the atten lion of criminal justice officials. Since theaim of the study was to learn about the criminal justice system's response to instances of intimidation that are reported, the sample was acceptable for the task.

Table 1 How and where witnesses were threatened*
(N=109)

How	
Looks, gestures	5%
Notes	2
Phone calls	23
Indirect verbal threats	11
Direct verbal confrontations	64
Property stolen, damaged, or destroyed	17
Weapons displayed	6
Physical attacks	7
Where	
Scene of crime	20%
Arrest process	11
Courthouse	15
Home or neighborhood**	42
School or workplace**	15
Telephone or mail	25

72%

*The figures sum to more than 100 per cent because some witnesses were threatened in more than one way and/or in more than one location.
**Threats in the witness' home, neighborhood, school or workplace were excluded from this category if they occurred at the time of the crime.

could have been avoided if police had more carefully separated witnesses and defendants. For example, one witness was threatened while riding to the precinct in the same police car as the defendant. Several witnesses were threatened inside the precinct by defendants or defendants' relatives. One witness, although not threatened at this point, complained that he had had to identify the defendant in a line-up face-to-face, rather than through a one-way mirror. Similarly, although it is almost certain that VSA's witness reception center in Brooklyn Criminal Court helped to reduce the proportion of witnesses threatened there, some of the threats (reported by 15 per cent of the witnesses) occurring at the courthouse might have been averted if separate entrances and elevators were available to witnesses.

One of the most surprising and disturbing findings of this study, however, was that 72 per cent of the witnesses were threatened in their homes, neighborhoods, schools, or workplaces—areas in which criminal justice officials can exert little control. Witnesses who knew the defendant prior to the crime were more likely to experience threats in their personal domains (82 per cent) than those who did not know the def en dan t (60 per cen t). Nevertheless, the number of witnesses who were strangers to the defendant and were threatened in their personal domains was strikingly high, considering they had no prior association with the defendant. It is likely that in many of these cases the witness and defendant lived in the same neighborhood, and it took little effort for the defendant to learn where the witness lived.

Another distressing finding was the large number of witnesses against whom new crimes were commited. We had expected to find few cases in which threats went beyond mere words or gestures. Instead, 23 per cent of the witnesses were revictimized, i.e., vandalized, burglarized, threatened with a weapon, or attacked again by the same defendant. In several instances there was no warning before retaliatory acts occurred.

Vandalism included slashed tires and broken windows. In one case, the witness' door was kicked in and the defendant's initials were carved in the floor. Several witnesses reported that they were burglarized and that they believed it had been done by the defendants. In six per cent of the cases, witnesses reported that they were threatened with weapons, including guns, baseball bats, and, in one case, a sword. Physical attacks, reported in seven per cent of the cases, were in several instances serious or potentially serious. One witness reported that the defendant, his neighbor, attempted to stab him, although he evaded the attack. A 13-year-old boy was beaten up twice at school for having "squealed" on a schoolmate. Other witnesses reported having bottles thrown at them, being pushed around, being choked, and being attacked with a bat.

The criminal justice system's reponse

Sixty-three per cent (69) of the witnesses interviewed had reported the threats to criminal justice officials—police, prosecutors, judges, or VSA staff. Only seven (six per cent) of the witnesses said they did not come to court because they were threatened (i.e., were successfully intimidated), Nevertheless, as was

Table 2 Witness accounts of the system's response to their reports of threats* *(N=69)*

Type of response	
Response limited to counseling, advising, *or* reassuring the witness/ Making a note of the threat/ Encouraging the witness to attend court/ Informing another criminal justice official of the problem	36%
Admonish defendant or speak with defendant's family	61
Protect witness; Provide escort or taxi service/ Direct special attention to witness' area during police patrols/ Remove defendant from witness' house	4
Move to take away defendant's freedom; Investigation/ Arrest/ Stiffen sentence	6

*The figures sum to more than 100 per cent because some witnesses received multiple responses.

previously mentioned, cases of successful intimidation were probably underrepresented in this sample. Most of the witnesses who did not report threats said they did not want help, they were not frightened, or they could handle the situation themselves. One third of those who did not report the threats, however, said they would have welcomed help from officials, but were reluctant to ask. It seems probable that officials would have identified more cases of intimidation if they had simply asked witnesses if they had been threatened.

The primary response of the criminal justice system, occuring in 61 percent of the cases reported to officials, was to warn defendants not to harass the witnesses (see Table 2). Most often, these warnings or admonishments were issued on the court record by judges, sometimes accompanied by an Order of Protection.[9] In 15 per cent of the cases reported, the police admonished defendants informally.

Although witness intimidation is a crime, defendants were rearrested in only two (three per cent) of the cases reported to criminal justice officials. In both cases, the arrests were for new crimes against the witnesses rather than for witness tampering or for making threats. In no case did a witness report that bail had been raised or revoked, or that a case was reopened as a result of intimidation. One witness, however, felt that the defendant received a longer jail sentence because the threats had been reported-

One factor which may have accounted for the low number of arrests was insufficient evidence. Although researchers could not gather enough information regarding the circumstances of the threats for a thorough assessment of the strength of the legal evidence, clearly it would have been difficult to prove that specific defendants were responsible for certain types of threats (e.g., looks, gestures, anonymous telephone calls). In addition, even in cases where there was an overt threat by someone whom the witness could identify, it would have been difficult to prove in court unless someone else had also observed it.

Nevertheless, investigating threats and attempting to gather sufficient evidence to make an arrest did not appear to be a high priority for criminal justice officials. Only one witness reported that efforts were made to apprehend individuals in the act of committing additional threats. (The efforts in that case were unsuccessful.) Although close to one-third of the witnesses reported telephone threats, in none of these cases was a phone tap installed. In one case, however, the witness told the defendant that her phone was tapped, even though this was not true, and the defendant stopped calling her.

Officials infrequently responded to intimidation by protecting the witness. Only four per cent of those witnesses who reported threats said that they had received some form of protection. Protection that was provided included the police removing a defendant (the witness' ex-husband) from the witness' house; the police or VSA escorting witnesses to school or to court; and the police increasing surveillance *in* witnesses' neighborhoods.

More than one-third of the witnesses said that officials did nothing beyond making a note of the threat, telling them to call back if anything more happened, counseling them, or telling another official about the threats. In some instances, witnesses said they were told that nothing could be done. In other cases, officials' actions seemed to be aimed at calming or reassuring witnesses. Several witnesses were told that the defendants would probably not carry out the threats.

Is the response adequate?

After reporting threats, 22 per cent of the witnesses were again bothered by defendants. Witnesses who knew the defendant were more than twice as likely to experience further problems than witnesses in stranger-to-stranger

9. An Order of Protection is an order issued by a judge directing that an individual observe certain conditions of behavior for a specified period of time (usually one year). Under an Order of Protection, a defendant may be prohibited from verbally or physically assaulting the witness, from harassing the witness by telephone, or from visiting the witness' home or place of business. Failure to adhere to any of the terms of an Order of Protection, even if the act itself would not constitute a criminal offense, can result in the defendant's arrest. At the time of this study, Orders of Protection could be issued in criminal court only if the defendant and witness were related by blood or marriage. In September 1981, subsequent to this study, the law changed so that any witness in criminal court may receive an Order of Protection, regardless of their relationship to the defendant.

cases (30 per cent versus 12 per cent). It was heartening to find that admonishments by judges (the most frequent response of the criminal justice system) were associated with a reduction in problems, both in cases involving strangers and in cases involving acquaintances (see Table 3). (These data must be viewed cautiously, however, because admonishments were not issued randomly, as they would have been in a true experiment, nor were the differences in recurrence of problems statistically significant.) It was not possible to identify any relationship between recurrence of problems and other types of actions taken by criminal justice officials because they did not occur in a sufficient number for statistical analysis.

Table3 Impact of judges'admonishments on recurrence of problems

	Per cent of witnesses bothered by defendants after reporting threats	
	Defendant was admonished	*Defendant was not admonished*
Stranger-to-stranger cases	0% *(0 of 5 cases)*	14%- *(3 of 21 cases)*
Relationship cases	20% *(5 of 25 cases)*	50% *(6 of 12 cases)*

The majority of the witnesses (58 per cent) interviewed felt that it had helped to report the threats because the defendant stopped bothering them, or simply because the witnesses felt more secure knowing that officials had been alerted to the problem. As one witness said, "I was relieved that they [the police and prosecutor] had a record of these occurrences."

One in three witnesses, however, felt that something more could have been done by officials to stop the threats. The most frequent criticisms of the system's response were that the case outcome was not strong enough or that the defendant should have been denied bail. One witness, who was assaulted by a stranger, was told by the defendant at the time of the arrest, "I'll stab you if you press charges." According to the witness, it did not help to report the threats because, "The judge didn't take it too seriously...30 days [the defendant's jail sentence] is not enough."

Some witnesses complained that the court did not keep them informed about the case. For example, in one case the police were informed at the dme of the arrest that the defendant had threatened to kill one of the witnesses. According to another witness in the case: "[The police] said they'd take care of it at the trial and let us know. But I don't know whatever happened because no one ever called us about dates." Other actions that witnesses felt officials could have taken, but did not, included: admonishing the defendant; giving the defendant counseling; aiding the witness in relocating; keeping secret the witness' address in court; and providing police protection.

Official perceptions

The 11 criminal court officials interviewed had a good grasp of the types of witnesses who were most likely to be threatened. The types of witnesses they said were most frequently intimidated included witnesses who had a prior acquaintance with the defendant, witnesses involved in more serious cases, and witnesses who appeared especially vulnerable because they were female, elderly, or young. Their perceptions closely agreed with the empirical findings of the 1976 study conducted by the Victim Services Agency and the Vera Institute of Justice reported at the beginning of this article.

The officials, however, had less insight on the prevalence of intimidation in the court. Most (7) said they did not know what proportion of witnesses were threatened, and those who were willing to venture an estimate cited figures ranging from 3 to 50 per cent of witnesses. Officials stressed the difficulty of estimating the incidence of witness intimidation because the most frightened witnesses seek to avert danger by remaining silent.

The officials detailed a variety of assistance which could be provided to intimidated witnesses by the criminal justice system. Some of the types of help described, such as reassuring witnesses, escorting them to court, and admonishing defendants, corresponded with the witnesses' accounts. Other kinds of assistance cited by the officials apparently had not been given to any of the witnesses in the sam-

pie. These included hastening thedisposition of threatened witnesses' cases, rescinding defendants' pre-trial release, raising defendants' bail, installing phone taps, investigating allegations of intimidation, and arresting defendants for witness tampering. These actions seem to be reserved for only the most serious of intimidation cases.

Although the officials interviewed may have tended to overstate the kinds of assistance normally given to intimidated witnesses, there was virtual unanimity that witness intimidation was a significant problem and that greater efforts were needed to combat it. Only one judge said that he thought the system's current response was adequate. "The sporadic cases that come up," he said, "are handled by admonitions."

The officials listed a variety of factors that inhibit the criminal justice system from responding to witness intimidation. By far, the most significant constraint was seen to be lack of resources, including insufficient numbers of police and detective investigators, budgetary limitations and heavy caseloads. Another problem cited was lack of evidence to prove the threats. A further limitation mentioned was that the penalties for witness tampering (a maximum of one year in jail) are not severe enough. One judge brought up the problem of legal constraints at trial. During a trial, judges can only hear evidence bearing on the truth of the original charge, he explained, and intimidation is not evidence of the validity of the charge. "Often, a defense lawyer will move to disqualify the case on grounds that we've heard inadmissible allegations," he said. "It [intimidation] would be a separate charge, if it's a charge at all."

The officials offered many recommendations to improve the criminal justice system's response to witness intimidation. Legislative changes proposed included: making intimidation of witnesses a felony, rather than a misdemeanor; and making it mandatory that sentences for intimidation offenses be consecutive, rather than concurrent, with sentences for the original offense. Procedural changes recommended included: withholding witnesses' names and addresses from court papers, unless judges order that they be divulged, and improving the record-keeping of threats. Recommendations for new pro^ grams or new program elements included: notifying witnesses of the outcomes of cases on a prompt and systematic basis and forming a special police unit, or combined police and detective investigator unit, to provide assistance and protection to intimidated witnesses. Lastly, many officials spoke of the need to increase criminal justice personnel and to enhance the general performance of the system in combatting crime.

Improving the response

Without an influx of resources, it is doubtful that the response to witness intimidation in Brooklyn Criminal Court can be radically improved. But even taking budgetary constraints into account, our research suggests that certain measures could strengthen the system's effectiveness and alleviate witnesses' anxiety. And these recommendations are not only applicable to Brooklyn, but also to jurisdictions across the nation.

It is heartening that admonishments by judges were associated with reductions in recurrence of intimidation. Although the data must be viewed cautiously, since admonishments were not randomly issued, nor were the reductions in problems statistically significant, they do suggest that the measure should be more extensively used. We propose that judges should be encouraged to sternly admonish defendants in al] cases, not just those who have made threats.

The interviews with intimidated witnesses revealed that some threats occurred at the scene of the arrest and at the court. Although not al! of these threats could have been avoided, in some cases they could have been prevented if contact between defendants and witnesses had been more restricted. The findings suggest the following measures:

- Defendants and witnesses should be separated immediately upon arrest.
- A separate waiting area should be provided for witnesses at police precincts so that they do not have to have contact with either defendants or defendants' relatives.
- Witness reception centers should be provided in courthouses. (It is probable that the

proportion of witnesses who were threatened at court would have been higher if Brooklyn Criminal Court did not already have a witness reception center.)

If implemented, these practices might not only reduce the number of witnesses threatened, but also reduce the anxiety of witnesses in general, whether they were threatened or not.

One of the most disheartening findings of this study, however, was that the majority of threats were made in areas where criminal justice officials have little control over contact between witnesses and defendants, i.e., in witnesses' homes, neighborhoods, schools and workplaces. It is not clear how 60 per cent of the defendants in stranger-to-stranger cases knew how to locate witnesses. It is possible, though, that some defendants learned where witnesses lived from the court. Although defendants have a constitutional right to confront their accusers, this finding suggests that efforts should be made to maintain complainants' confidentiality as much as possible. In particular, witnesses should not be required to divulge their addresses when they testify.

A number of legislative measures to strengthen penalties for intimidation offenses were proposed by the criminal justice officials interviewed as well as by the American Bar Association's Committee on Victims, following the hearings held in 1979. The effectiveness of such measures in combatting witness intimidation is questionable, however. Many—if not most—acts of intimidation are very difficult to prove after the fact. In order to obtain sufficient evidence for convictions, efforts to catch defendants in the act of threatening witnesses are needed. Only one of the 69 threatened witnesses who reported threats said that law enforcement officials made such an effort. To have an impact, statutory changes would have to be accompanied by funds for investigative staff, and these are unlikely to be forthcoming.

Problems of legal evidence and scarce resources undermine many proposed responses to intimidation. Perhaps the most effective approach to the majority of incidents of witness intimidation is not to respond to the intimidation as a separate incident, but to concentrate instead on the handling of the original charge. The data suggest several measures could be taken to improve the way in which intimidated witnesses' cases are handled:

- Judges should be encouraged to expedite those cases in which threats are reported.
- Witnesses should be informed whenever defendants are released by the system—whether before the trial or following the case disposition.
- Prosecutors should make smaller concessions than usual in plea bargaining in cases in which witnesses are threatened. This would result in stiffer sentences for those who have attempted to intimidate witnesses. Witnesses who cooperate risk their well-being so the system can properly function. It is important that these witnesses see the system function swiftly and decisively, so that they feel their efforts have not been wasted.

This article has shown witness intimidation to be a distressingly frequent and serious problem. The fact that 23 per cent of the threatened witnesses we interviewed were vandalized, burglarized, threatened with a weapon, or attacked by defendants or defendants' associates indicates that threats of retaliation are not always idle. Although only eight percent of the witnesses did not attend court because of threats, the rates of successful intimidation and consequently unsuccessfully prosecuted cases in Brooklyn Criminal Court are almost certainly higher than suggested by *this* study. Moreover, the impact of witness intimidation cannot be assessed solely in terms of the number of threats carried out or the number of cases not successfully prosecuted. The fear and anxiety experienced by some intimidated witnesses, compounded by the trauma of their initial victimization, are difficult to quantify. The recommendations we presented here cannot be seen as solutions, but rather preliminary steps in addressing this complicated problem. Greater efforts must be focused on reducing witness intimidation, for the toll it extracts from the criminal justice system, and from society, is unacceptable. Q

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