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**Making it safe to speak?
A study of witness intimidation and protection in Strathclyde**
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Against a background of growing concern about serious cases of witness intimidation, Strathclyde Police established a Witness Protection Programme in 1996. The Programme provides specialist assistance for victim and non-victim prosecution witnesses of serious crimes who are at a very high risk from serious, normally life-threatening, intimidation. Although these extreme cases are rare, they often require witnesses and their families to be permanently relocated away from their home area and may also involve them in a change of identity. This requires the Witness Protection Programme, assisted by other agencies, to co-ordinate the secure management of all the financial and welfare needs of witnesses and their families. Drawing on both quantitative and qualitative research, this study examined the extent and nature of witness intimidation in Strathclyde and evaluated the response of the police both to the most serious cases of witness intimidation, normally dealt with by the Witness Protection Programme, and to less serious but more widespread cases of witness intimidation and harassment in Strathclyde.

Main Findings

- Between September 1996 and the end of July 1998, 117 cases of real and perceived witness intimidation involving 142 witnesses came to the attention of Strathclyde Police. 37 of the cases were assessed as 'Level 1* cases (High¹ or Very High' threat) and 80 were assessed as 'Level 2' cases ('Significant¹ to 'Negligible' threat).
- Level 1 cases were typically characterised by the witness having knowledge relating to a serious crime (usually murder, attempted murder or serious assault) and the involvement of several intimidators who normally lived near to the witness.
- Of the 37 Level 1 cases, the Witness Protection Programme dealt exclusively with 14 cases involving 24 witnesses and their families. Each case involved the secure management of the welfare and financial needs of witnesses and permanently relocating the witnesses and their families away from their home area. The other 23 Level 1 cases remained a divisional responsibility.
- The financial costs of protecting witnesses on the Witness Protection Programme varied greatly according to individual circumstances and the nature of the threat. Up to July 1998, the average expenditure per case was just over £2700 with the maximum spent on a case being over £11,000.
- Intimidated witnesses receiving assistance from the Witness Protection Programme generally acknowledged that they would have been too frightened to give evidence without police help. However, many had anxieties relating to the long term social and economic consequences of living in a new area with only limited contact with their family and friends.
- Intimidated witnesses who remained the responsibility of divisional police officers had more mixed feelings about the police response. Although some had been satisfied with the actions of individual officers, most witnesses were generally critical of what they perceived as a failure by the police to take the intimidation seriously and to provide much support.

Introduction

Previous research suggests that cases of witness intimidation can be categorised as falling into one of three 'rings' corresponding to the seriousness of the intimidation (1):

- a small inner core comprising individuals and their families who are at high risk of serious, even life-threatening, intimidation, typically linked to serious and organised crime investigations
- a middle ring of victims and witnesses of crime who are frightened of giving evidence but the intimidation is

<http://www.scottishexecutive.gov.iik/cru7documents/crf26-00.htm>

non-life threatening

- a broad outer ring of members of the general public whose perception of the possibility of intimidation means they are not prepared to come forward to give evidence

Until relatively recently most police forces in Britain provided only a limited and largely ad hoc response to the most serious cases of intimidation. Since the early 1990s, however, and modelled largely on schemes in the United States, an increasing number of forces in England and Wales have established specialised units to protect witnesses in cases of serious crime where there is a clear indication that giving evidence will place the life of the witness and their family in danger. In Scotland while all forces have arrangements for helping intimidated witnesses, Strathclyde Police is the only force to have established its own dedicated witness protection unit, with funding from The Scottish Office and money seized from drug crimes allocated under the Civic Government (Scotland) Act 1982. Known as the Witness Protection Programme (hereafter referred to as the Programme), it aims to provide a level of protection which is capable of withstanding determined attempts to endanger the safety of witnesses subject to life-threatening intimidation.

The aims of the present research study included assessing the need for witness protection; examining the operation of the Programme; assessing the impact of the Programme on witnesses' fear of intimidation and willingness to testify in court; and assessing the views of intimidated witnesses not provided with protection by the Programme.

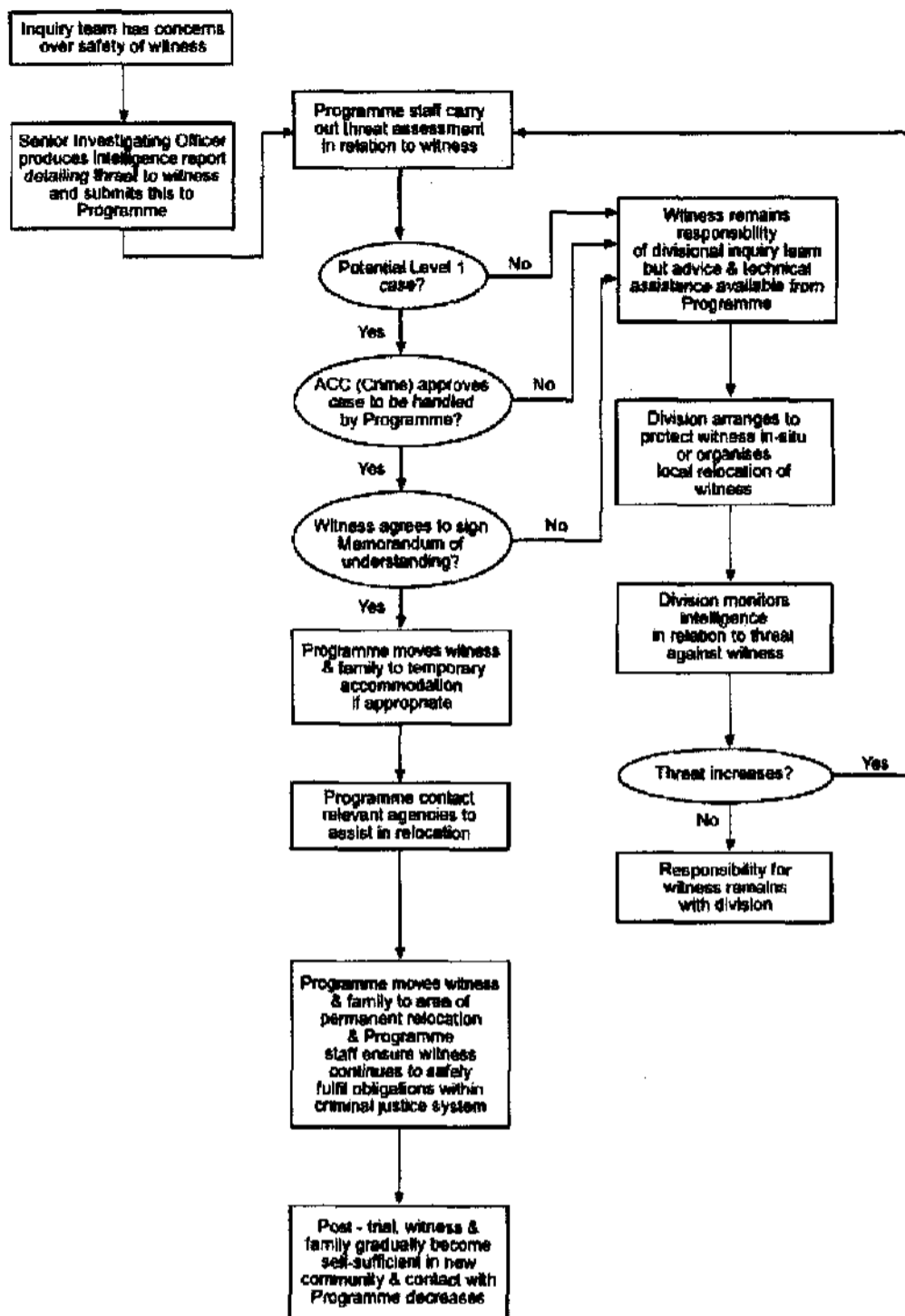
Is there a need for witness protection in Strathclyde?

Anecdotal evidence has suggested that the problem of serious witness intimidation in some areas of Britain is getting worse, frustrating the investigation and prosecution of crime. Indeed, the establishment of the Strathclyde Police Programme was largely a response to the murder and attempted murder of a small number of witnesses. Accurately measuring the problem of witness intimidation, however, is extremely difficult. Intimidation tends to be aimed at preventing the initial crime and the intimidation from ever being reported. Even when intimidation does come to police attention, recorded crime statistics are of little value because, unlike in England and Wales, there is no statutory offence of intimidating a witness. In order to overcome some of these difficulties, Strathclyde Police were requested as part of the research to record the details of all cases of witness intimidation, both real and perceived, coming to their attention between the beginning of September 1996 and the end of July 1998. While there are important limitations with these data, the exercise found:

- of 117 cases of recorded intimidation (involving 142 witnesses), 37 cases (involving 55 witnesses) were assessed by the police as having a High or Very High threat. These are referred to as Level 1 cases and constitute that 'inner core'¹ of cases of witness intimidation identified in previous research
- the main factors resulting in a Level 1 threat assessment were the violent nature of the accused, the charges against the accused and possible outcome of the case, and the previous convictions of the accused
- most Level 1 witnesses were witnesses to serious crimes, typically murders (43% of Level 1 witnesses), attempted murders (11 %) and serious assaults (15%)
- half of Level 1 witnesses (52%) had received verbal threats and one third had experienced physical violence or damage to property, some of whom had also experienced verbal threats

(1) Maynard, W. (1994) Witness Intimidation: strategies for prevention (Home Office Police Research Group Crime Detection and Prevention Series, No. 55).

The Main Stages of Witness Protection



- Level 1 cases were also characterised by the involvement of several intimidators who typically lived near to the witness either in the same street or neighbourhood (66% of cases)

Interviews with witnesses involved in Level 1 cases confirmed the seriousness of the intimidation which they suffered and the often close geographical relationship between intimidators and witnesses:

I was getting a lot of threats and someone had already tried to knock me down in a car. I had my windows smashed and my name splashed across walls in spray paints that I was a 'grass'. After that they tried to blow my house up

I have lived with the guys [the intimidators] in the same area and gone to school with them all and I ran around

with them all and was pally with them all

While this evidence tends to indicate a 'supply' of Level 1 cases in need of specialist witness protection, it is also important to acknowledge the 'demand' for witness protection among investigating officers. Interviews with senior detectives revealed strong support for a programme which effectively takes the protection and management of an intimidated witness 'off the hands' of an inquiry team, allowing detectives to concentrate on investigating the original crime and any subsequent intimidation.

The operation of the Witness Protection Programme

Located within the force CID structure, the Programme comprises a specially trained team of a Detective Inspector, two Detective Sergeants and a Detective Constable. In addition the Programme can call upon a pool of trained Support Officers. In terms of the operation of the Programme, the main stages are outlined in the diagram on page 3.

For a Level 1 case to be accepted by the Programme approval must be granted by the Assistant Chief Constable (Crime) and the witness must sign a Memorandum of Understanding agreeing to move away from the home area and have only limited contact with family and friends. If a witness in a Level 1 case decides they do not wish to move away from their home area their protection remains a divisional responsibility. Between September 1996 and July 1998, there were 37 Level 1 cases of witness intimidation of which 14 were handled exclusively by the Programme, involving 24 witnesses and their families. (In the other 23 cases, involving 31 witnesses and their families, responsibility for their protection remained with the investigating division, normally because the witnesses did not wish to be permanently relocated.) Once on the Programme, the police, assisted by other agencies, become involved in the secure management of a witness's and family's financial and welfare needs. This involves moving a witness and family to a new home of equivalent standard to that which they are leaving, and arranging for the transfer of any benefit payments, school and medical records.

How much does witness protection cost?

The financial costs of witness protection are extremely difficult to assess precisely. The costs for individual cases can vary greatly depending on factors such as whether the witness has a family which also needs protecting, a witness's standard of living, and the nature of the threat against the witness. The guiding principle in all financial matters relating to a protected witness is that the witness must neither materially benefit nor be disadvantaged by being on the Programme. In the period covered by the research, the Programme spent over £43,000 on the protection and relocation of Level 1 witnesses (excluding all staffing and capital costs). The average expenditure on a Level 1 case on the Programme being just over £2,700. Most of these costs were associated with housing, the provision of temporary accommodation typically being the single most expensive item. Given, however, that a witness protected by the Programme is assured of life-time assistance in relation to their safety it is difficult to estimate the final cost of any particular case. Compared with the costs of witness protection programmes elsewhere where expenditure on individual cases can range from £10,000 to £50,000, the expenditure of the Strathclyde Programme on individual cases seems relatively low. This appears to reflect differences in the standard of, and length of time witnesses are in, temporary accommodation, different practices in relation to the payment of subsistence and benefits to witnesses, and the fact that in Scotland cases involving serious crime normally come to trial more quickly than in England and Wales.

Assistance provided by agencies to the Programme

Before the Programme was established, police officers wishing to relocate intimidated witnesses relied on an ad hoc set of personal contacts with relevant agencies such as housing and social work departments and Victim Support. With the establishment of the Programme, however, a more formal and coherent network of contacts has been developed with agencies who undertake key tasks for the Programme when relocating witnesses, including finding accommodation, transferring medical records and benefit payments, and ensuring continuity in relation to any social work activity. Those working in these different agencies viewed the establishment of the Programme as an improvement on having to deal with separate requests for assistance from individual divisions. The views of intimidated witnesses on the Programme

Most of the witnesses who had received protection said that they would not have given evidence without the assistance of the Programme. As one witness commented:

I think we could have ended up dead. They [the police] helped us get here. I don't think we would have got as far with the court case because someone... was going to get killed and I did not want it to be me or my family.

Furthermore, for most relocated witnesses, moving house had diminished their immediate fears of intimidation although some continued to feel a general sense of anxiety and anger:

I can go out here and nothing bothers me. I can go and chat to the shopkeepers and they will get to know you. We could have a 24 hour armed protection outside and you are still going to have that fear. It is an emotion.

Nevertheless, while many witnesses appreciated the role of the Programme in ensuring their safety, most were dissatisfied with the temporary accommodation with which they were provided before moving to a new permanent home, and witnesses also commented on the enormous psychological, social and economic challenges of rebuilding their lives in new communities with little access to support from family and friends:

I have not done anything wrong but I can't even get to see my family. That tears me to pieces.

Nevertheless, some witnesses expressed concern at some of the questioning they received from defence agents which suggested that the assistance they had received from the Programme was a "reward" for giving evidence. Interviews with defence agents established, however, that they may view this as a legitimate and important area to explore with protected witnesses.

More generally, the research reinforced the findings of previous studies concerning the anxieties of many witnesses at having to appear in court to give evidence. Witnesses involved in both Level 1 and Level 2 cases of intimidation were concerned at having to face the accused and any of their associates who might be in or around the court. Interviews with Procurators Fiscal and other court professionals highlighted the ways in which the design of court rooms and layout of court buildings can make it difficult to alleviate these anxieties.

Conclusions

The research indicates that the Programme, with the assistance of other agencies, has developed an effective reactive role to ensuring the safety of witnesses in the relatively small number of very serious cases of witness intimidation where witnesses are willing to be relocated. This represents a substantial improvement in the ability of the police to respond to serious threats to witnesses compared with the situation before the Programme was established. In terms of the future development of witness protection, however, there are a number of wider questions that arise from the research:

- given that there is already demand for assistance from the Witness Protection Programme from other Scottish police forces and agencies, is there a need to expand the provision of witness protection in Scotland ?
- given that most witness intimidation falls outside that 'inner core' of life-threatening cases which require specialist assistance, what can be done to improve the response of the police and other relevant agencies to the more general problem of witness intimidation, from the time a crime is committed through to the appearance of a witness at court?
- while witness protection programmes can deal with the consequences of intimidation, what can be done to tackle the underlying causes of the problem of witness intimidation?

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The full report on the evaluation of the Witness Protection Programme will be published in the Central Research Unit series at the beginning of 1999.

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My whole life was back there: everything where I grew up, where I went drinking, the weans, everything. We were financially ruined. We had nothing: we owed the bank everything. I had to leave my job, I did not have a choice.

These longer term problems confronting witnesses are beyond the current scope of the Programme to address but raise important questions about the longer term support of relocated witnesses and who should provide it.

The views of intimidated witnesses not on the Programme

Although the Programme deals exclusively with Level 1 cases, more than half of the Level 1 cases (23 out of 37) during the research period were dealt with by divisional officers. The views of witnesses dealt with by divisions about the assistance provided by the police were more varied than for witnesses dealt with by the Programme. In some cases, intimidated witnesses were satisfied that local officers had been sympathetic to their situation and had provided both practical and emotional support. In other cases, however, witnesses felt they were not offered any assistance and that they had simply been used by the police:

I have lost everything, I mean everything and I haven't got as much as a 'Thanks for your help'. I feel as if I have been pure used by them [the police]. They have got what they wanted so that is it: 'Just leave her as long as she is out of the road and we have got what we want'.

In addition to Level 1 cases, divisions also have responsibility for all Level 2 cases of witness intimidation of which there were 80 involving 87 witnesses during the research period. Many of these Level 2 cases, however, share some of the characteristics of the more serious Level 1 cases, although there are also some interesting differences:

- intimidated witnesses involved in Level 2 cases were often also witnesses to serious crimes, including murder (28% of Level 2 witnesses), attempted murder (9%) and serious assault (15%)
- over two thirds of Level 2 witnesses tended to have a close geographical relationship with their intimidators but, unlike Level 1 cases, most of the intimidation involved just a single intimidator
- a greater proportion of threats were realised against Level 2 witnesses (35% of Level 2 witnesses) than Level 1 cases (21% of Level 1 witnesses)

Interviews with Level 2 witnesses revealed the serious nature of the verbal threats they had received and the consequences of such intimidation for witnesses' day-to-day lives:

He came up to the house and said he was tanning the house and... getting someone from Glasgow, a hit man, to shoot my husband, myself and the kids.

I was absolutely terrified. ...We don't go out drinking or anything. We sit in the house all the time. The only time we go out is when we need to go shopping.

Witnesses were generally very critical of the response of local officers to these problems because of what they saw as a failure of the police to take their concerns seriously. Furthermore, most of these witnesses claimed that the police had not provided them with any support or protection. This evidence suggests that the police response to cases of witness intimidation which fall outside the scope of the Programme needs to be addressed in terms both of the need for officers to recognise the seriousness of any intimidation to a witness, whether real or perceived, and providing practical measures to assist such intimidated witnesses.

Witnesses' involvement and intimidation at court

Information collected by the police on the involvement at court of witnesses in Level 1 cases of intimidation is summarised in Table 1.

Table 1: Level 1 Witnesses at Court

	Level 1 Programme Cases (n=14)	Level 1 Divisional Cases (n=23)
Witness gave evidence consistent with police statement	11	11
Witness gave evidence but inconsistent with police statement	1	1
Witness not required to give evidence because accused pled guilty	2	3
Witness not required to give evidence because case collapsed		1
Case not yet gone to trial		7

In relation to witnesses provided with protection by the Programme, most were satisfied with the practical arrangements made both to take them to and from the court and to ensure their safety within the court.

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