

WITNESS INTIMIDATION
STRATEGIES FOR PREVENTION

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Police Research Group: Crime Detection and Prevention Series

The Home Office Police Research Group (PRG) was formed in 1992 to carry out and manage research relevant to the work of the police service. The terms of reference for the Group include the requirement to identify and disseminate good policing practice.

The Crime Detection and Prevention Series follows on from the Crime Prevention Unit papers, a series which has been published by the Home Office since 1983. The recognition that effective crime strategies will often involve both crime prevention and crime investigation, however, has led to the scope of this series being broadened. This new series will present research material on both crime prevention and crime detection in a way which informs policy and practice throughout the service.

A parallel series of papers on resource management and organisational issues is also published by PRG, as is a periodical on policing research called 'Focus'.

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Foreword

In July 1993, in response to concern about the level of anecdotal evidence suggesting that an increasing number of people who had helped the police were being subjected to reprisals, a study was commissioned to ascertain the facts about the extent of such intimidation, and to make recommendations for reducing it. The study was undertaken between August 1993 and February 1994, and its findings and recommendations are published in full in this report.

The results indicate that whilst the problem is not widespread in the general population, the fear of intimidation on high crime housing estates is such that it endangers in some areas the development of effective co-operation between the police and the public to combat crime.

A number of changes in police procedures and practice have been recommended which if implemented would reduce the incidence of intimidation substantially. In addition, enhanced liaison arrangements with other agencies, such as local authorities, the prison service, Victim Support and the courts are seen as complementary.

The 1994 Criminal Justice Bill includes a new offence of witness intimidation. This is an indication of the level of seriousness with which all partners within the criminal justice system take this problem. Nevertheless it is hoped that the implementation of the recommendations in this report will make the need for prosecutions of the offence a rare occurrence.

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Deputy Under Secretary of State

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* primarily, to all those victims of intimidation who were prepared to talk so openly about what, for many, had clearly been very unpleasant experiences.

The Author

Warwick Maynard is a member of the Home Office Police Research Group.

Executive Summary

This study was carried out between 16 August 1993 and 22 February 1994. It was commissioned because of concern that the development of a constructive partnership between the police and the public was being hampered by the intimidation of witnesses. The purpose of the study was to estimate how widespread such intimidation actually was, and to advise on how its incidence might be reduced.

The lack of any comprehensive existing data on either the extent or the circumstances of intimidation dictated the need to carry out a large scale survey to estimate the former, and in-depth interviews to build up an accurate picture of the latter. It was considered important to select a number of forces in order to give a good spread of sizes and types, and different elements of the research were carried out variously in Avon and Somerset, Cleveland, Devon and Cornwall, Greater Manchester, Lancashire, Northumbria, Suffolk, West Midlands and the Metropolitan Police.

The main findings of the research can be grouped into two areas. Firstly, on the extent of intimidation, we can say that:

- * on high crime housing estates, 13% of crimes reported by victims and 9% reported by witnesses lead to subsequent intimidation. However, 6% of crimes not reported by victims and 22% not reported by witnesses go unreported due to fear of intimidation.

Secondly, on the circumstances in which intimidation occurs, we are able to say that:

- * in many cases, before a suspect is apprehended, intimidation of the victim is difficult to prevent where the offender knows the identity of the victim;

- * minor changes in the way the police respond to an incident or proceed with the investigative process would reduce greatly the intimidation of (non-victim) witnesses. This conclusion was reached only after ascertaining that in a large number of cases, intimidation began immediately after police contact with the witness;

- * disclosure may be a problem in very serious cases, but the commonly held view that disclosure is the cause of the type of "low-level" witness intimidation found on high-crime estates may be a red herring. In none of the cases for which we conducted in-depth interviews was the timing of the intimidation linked to the disclosure of case material to the defence:

- * other agencies - such as the courts, the Crown Court Witness Service, the Crown Prosecution Service, the prison service, Victim Support, and local authorities - have roles to play in reducing the incidence of intimidation. Effective

working relationships between these agencies and the police service must be strengthened, and good practice must be disseminated and adopted.

Full recommendations are contained in Chapter 4 of the report.

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BACKGROUND AND TERMS OF REFERENCE

1. Background and terms of reference

Background

The concern to develop a constructive partnership between the police, other agencies and the public in tackling crime has focused attention on the consequences for members of the public of reporting crime to the police, or helping the police with their enquiries. The intimidation or harassment of victims of, or witnesses to, crime is thought to be a particular problem in this respect. Television programmes as diverse as 'That's Life' and 'Panorama' have provided anecdotal evidence of such intimidation, but no serious assessment of the problem had ever taken place. Discussions with the metropolitan forces, where witness intimidation was thought to be most severe, revealed three different tiers to the problem:

- a small inner core of individuals who needed the high level protection afforded by schemes such as those operated by the Metropolitan and Greater Manchester Police;
- a middle ring of victims of and witnesses to crime, and those who had helped the police in other ways, who had subsequently suffered non-life threatening intimidation or harassment;
- an outer ring, comprising members of the general public whose perception of the possibility of being threatened or harassed was such that they were not prepared to come forward with evidence to the police, even when they themselves were the victims of crime.

The traditional view of witness intimidation has tended to centre on the problems of looking after the "inner core", who need high level protection, often involving a change of identity. Three UK forces have set up witness protection units - Greater Manchester, the Metropolitan Police and the Royal Ulster Constabulary - though others have officers dedicated to dealing with protecting witnesses. The number of "clients" protected is very small. The exact numbers involved, and the number of dedicated officers committed to providing this resource are not publishable, for reasons of security.

Other forces are currently able to ask the Metropolitan Police for advice, or to help in relocation and/or a change of identity. The Metropolitan Police, with the support of the Home Office, is currently reviewing its witness protection programme to consider ways in which it can be made even more effective.

Clearly, the police can go to great lengths to protect witnesses whose lives may be in danger - those in what we have termed the inner core. Changing the identity or relocating an individual and his/her family is not, however, a practicable solution in the vast majority of cases of less serious intimidation. Few witnesses would agree to undergo such a process, and the resource implications, in terms of both direct costs

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and police personnel, make such a response prohibitive. Thus, in order to develop policy and operational strategies in which the police and other agencies can deal with the relatively less serious problems of the "middle" and "outer" rings, the nature and extent of less serious intimidation needed to be established. The research therefore set out to provide a robust assessment of the situation, by establishing:

- the number of people who report crime to the police who are subsequently harassed or intimidated;
- the nature of the intimidation and the circumstances in which it takes place;
- the extent to which members of the public who allow the police to use their premises for surveillance operations or assist the police in other ways are safeguarded from the possibilities of being subjected to harassment as a result;
- the extent to which members of the public have felt too intimidated to contact the police when they have been witnesses to, or even victims of, crime;
- how many acquittals occur due to the intimidation of witnesses.

The research

In order to address these issues a number of separate exercises were carried out:

To establish some estimates of the extent of intimidation:

- a review of existing data sources, including reported crime statistics from the police service, Crown Prosecution Service (CPS) data on acquittals, and data from the 1992 British Crime Survey (BCS);
- a random house to house survey of some 1,100 respondents on five high crime housing estates, where the problem of non-reporting of crime due to intimidation might be expected to be most prolific;
- a postal survey of some 4,000 victims of and witnesses to reported crimes in five police sub-divisions.

To ascertain the circumstances in which intimidation occurs:

- some 50 in-depth face to face interviews with victims of intimidation in four of the five sub-divisions;
- interviews with force heads of CID and with sub-divisional commanders (or their deputies) in four of the five sub-divisions.

The study was designed to provide a clearer understanding of the nature and extent

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of intimidation, particularly the "lower level" intimidation affecting what we have termed the "middle" and "outer" rings, of victims of and witnesses to crime which prevents them from aiding the police; to identify any police procedures or practices for dealing with crime which might reduce the incidence of intimidation; and to catalogue current police and other agencies' practice in attempting to prevent or deal with intimidation, and distil elements of good practice.

ESTIMATING THE EXTENT OF INTIMIDATION

2. Estimating the extent of intimidation

Estimating the extent of intimidation which occurs in order to prevent the reporting of crime is fraught with difficulties. Clearly, if the intimidation is effective, neither it nor the initial crime will be reported! Nevertheless, it is worth reviewing existing evidence from which inferences about the extent of intimidation might be drawn, before going on to consider the results of the two surveys undertaken as part of this research.

Recorded crime statistics from the police service

In England and Wales, 5.6 million offences were recorded by the police in 1992, a crime rate of around 11 offences per thousand population; 1.4 million (26%) of these were cleared up. There is currently no specific offence of witness intimidation, but 2,345 cases of perverting the course of justice were recorded; 2,220 (95%) of these were cleared up. Of these, 235 offenders were cautioned, and a further 816 found guilty in court.

Leaving aside the fact that some offences of perverting the course of justice dealt with in 1992 will refer to initial offences recorded in 1991 (or even earlier), this gives us a rate of only around 17 recorded cases of perverting the course of justice for every 10,000 initial offences cleared up.

Clearly this is an extremely low incidence. It is highly likely that this is an underestimate of the extent of witness intimidation: the under-reporting and under-recording of crime in general is well-documented, and is discussed briefly in the context of the British Crime Survey below. It is, therefore, probable - given the anecdotal evidence - that much intimidation goes unreported to the police. Whilst not all perverting the course of justice offences will concern witness intimidation, other cases of witness intimidation may often be prosecuted under other headings - assault, criminal damage, etc.

Crown Prosecution Service data

The Crown Prosecution Service conducted a survey of all cases which had reached the Magistrates' Courts, but which the Service discontinued in the month of November 1993. The results of the survey provide useful information on the reasons why Crown Prosecutors discontinued cases during the month. The survey was conducted in order to demonstrate the CPS's commitment to the principle that only fit and proper cases should proceed to trial. The CPS's aim is to work with the police, through close co-operation and training, to reduce the number of cases which need to be discontinued. In all cases in which the CPS concludes that the case should be discontinued, it consults the police wherever possible before the discontinuance is effected. This enables the police to comment on the proposal to discontinue and to provide any possible additional information or evidence.

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In the twelve months to the end of September 1993, the CPS received approximately 1.5 million cases and discontinued approximately 185,000. The survey was conducted in respect of all cases discontinued in November 1993, and 10,782 cases were analysed by requiring Crown Prosecutors to complete a form whenever a case in the Magistrates' Courts was discontinued. A case was only treated as discontinued if no charge against a defendant was proceeded with.

The form identified fifteen possible reasons for discontinuing each case which were aggregated into four main groups. The main findings of the survey are displayed in table 1.

Table 1: Reasons for prosecutions discontinued in magistrates' courts		
Insufficient evidence to provide a realistic prospect of conviction	4,593	43%
Prosecution unable to proceed	1,870	17%
Defence produced documents for the first time in court	938	9%
Not in the public interest to prosecute	3,381	31%
Total	10,782	
Source: A survey of cases discontinued in the magistrates' courts in November 1993. CPS, 1994.		

There may be hidden stories of intimidation within any of these categories; however, it is the 1,870 (17%) cases in the survey which are identified in table 1 as those "discontinued because the prosecution was unable to proceed" that are of most potential interest here. 1,401 (75% of cases discontinued for this reason; 13% of all discontinuances) are accounted for because "an essential witness was missing or refused to give evidence". In such cases, a witness would have been available and willing to give evidence when the proceedings were instituted by the police, but would subsequently have been uncontactable, unavailable or unwilling to attend court. Whilst there is no indication of the seriousness of these cases, it is worth noting from table 2 that more than half of the 1,401 cases (765) were in the relatively more serious categories of theft/handling and other indictable offences or offences triable either way; and that 87% of other indictable or either way offences where the prosecution was unable to proceed were due to missing witnesses, as opposed to 75% of all offences.

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Table 2: Analysis of reasons for prosecutions unable to proceed in magistrates' courts						
Prosecution unable to proceed	Moving motoring	Stationary motoring	Other summary	Theft/handling	Other indictable/ either way	Total
Case not ready/ adjournment refused	66 24%	79 25%	23 8%	24 8%	36 5%	228 12%
Offence taken into consideration elsewhere	28 10%	24 8%	18 6%	117 38%	54 8%	241 13%
Witness missing or refusing to give evidence	180 66%	212 67%	244 86%	170 55%	595 87%	1401 75%
Total	274	315	285	311	685	1870
Grand total (all reasons)	1867	2512	1505	1937	2961	10782
Source: A survey of cases discontinued in the magistrates' courts in November 1993. CPS, 1994.						

It would be misleading to imply that all (or even most of) these cases were due to witness intimidation as there are many reasons why a witness may be missing: however 1,401 cases in one month grosses up to over 16,800 cases annually which are discontinued due to witnesses missing or refusing to give evidence, or just over 1% of the 15 million cases received annually by the CPS.

Data from the British Crime Survey

The British Crime Survey (BCS) has been carried out in 1982, 1984, 1988 and 1992. By comparing information from the BCS with police statistics, estimates can be derived of the proportion of crimes which go unreported to the police. The 1992 BCS reveals that a large proportion of incidents go unreported for all categories of crime except vehicle theft (1%) and burglary with loss (8%). Particularly low reporting rates emerged for vandalism, common assault and other household theft: only around a quarter of these were brought to police attention.

All four sweeps of the BCS have contained questions on the reasons why many victims do not bring their offence to the attention of the police. They have not, however, asked for comparable information from witnesses. In the 1992 BCS,

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victims of incidents which went unreported were asked why the police had not been involved. Table 3 shows the breakdown of reasons for not reporting by crime type.

Table 3: Reasons for not reporting by type of offence: percentage of unreported incidents in the 1992 BCS									
	Assault	Robbery /theft person	Burglary	Auto theft	Bicycle theft	Other household theft	Other personal theft	Vandalism	All offences
Reasons for not reporting	%	%	%	%	%	%	%	%	%
Too trivial /no loss	40	53	64	58	55	62	49	63	55
Police could do nothing	11	26	25	36	27	24	27	27	25
Police would not be interested	8	16	9	15	17	13	12	16	13
We dealt with matter ourselves/ inappropriate for police	40	10	6	4	14	8	3	61	12
Reported to other authorities	4	8	5	1	2	3	23	2	6
Inconvenient to report	5	5	2	4	1	2	5	2	3
Fear reprisals	9	-	1	-	-	-	-	2	2
Fear/dislike police	3	-	2	<1	1	-	2	<1	1
Other	5	3	9	2	-	4	4	3	4
Unweighted Number	242	98	187	760	74	529	233	768	2,905
Note: Based on all incidents not reported to the police. 'Vague/not stated' responses are excluded from the base. More than one answer allowed. Source: 1992 BCS (weighted data). Incident-based analyses.									

Most common explanations were that the incident was too trivial or involved no loss (55%) or that the police could do nothing (25%). Fear of reprisals was rarely

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cited as a reason for not reporting, and accounted for only 2% of all cases, although this rose to 9% of assaults. This may be partly explained by the fact that a larger number of perpetrators and victims of assault are likely to know each other, making the opportunities for intimidation greater.

To date, the BCS has not asked questions about the occurrence of intimidation allowing the reporting of an initial crime, neither has it asked witnesses - as opposed to victims - about reasons for non-reporting of crime. The 1994 sweep includes some questions on intimidation, whilst the 1988 BCS included some questions using hypothetical scenarios and asking respondents whether they would report them, and if not why. Analysis of the former will start to become available in 1995.

The house to house survey

Existing data sources appear of limited value in establishing a robust estimate of the extent of intimidation. What was needed, therefore, was a survey which would attempt to establish such an estimate. Neither the time nor the resources were available to conduct a large scale survey which would be representative of the general population (but see the discussion at the beginning of chapter 3 below), and so the decision was made to conduct a house to house survey in areas where the problem was thought to be most prevalent. To this end, five estates were selected from within Home Office designated Safer Cities areas which were typical, rather than the worst examples, of high crime housing estates. This would establish at least the upper limits of the problem. The estates were located in Bristol, Coventry, Salford, Hartlepool and Middlesborough.

Research Surveys of Great Britain (RSGB) were awarded the contract to undertake the survey. An achieved sample of 1250 respondents was wanted - a total of 250 on each estate. It was seen as essential to obtain as high a response rate as possible so that non-response would bias the sample as little as possible. In the end, 1077 interviews were achieved out of a total of 1766 addresses attempted by interviewers (61%). This was not as high as the 70% response rate hoped for. A mix of different household types and ages of respondents was seen as desirable; households were selected using a random start/fixed interval procedure (whereby, say, every fifth or every tenth household was called upon, depending on the size of the estate), and individual respondents within households according to the 'Birthday Rule' (whereby the person living in the household whose birthday was next was interviewed, irrespective of age). 14 and 15 year olds were included in the sampling frame. Table A.1 shows the sample sizes achieved and some basic information on the sex, age and marital status of respondents at each location. There were not enough respondents from ethnic minority backgrounds to be able to give a breakdown on this basis.

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There was some variation in sample sizes achieved over the five areas. In Salford the survey was aborted before the end of the survey period because of threats to an interviewer and abusive behaviour to residents known to have been interviewed. This in itself gives an insight into the problems faced by residents living on some of these estates. Despite this slight shortfall in the response rate in some areas, we can be fairly confident that the data are representative of the extent of intimidation on high crime housing estates and thus represent the upper limits of estimates of its extent in the general population. Tables 4 and 5 show the incidence and prevalence of crime to which respondents had been victims and witnesses respectively.

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Table 4: Respondents who were victims of crime in last year

Crime type	Number of incidents	Number of victims of crime	Number of times a victim/percentage of whom were a victim				
			once	twice	3 and over	too many times to remember	don't know
Rape/ indecent assault	-	-	-	-	-	-	-
Wounding assault/gbh	24	20	17 85%	1 5%	1 6%	1 4%	-
Burglary	200	148	96 65%	32 22%	15 10%	3 2%	2 1%
Robbery	15	12	7 64%	2 14%	1 9%	* 3%	1 9%
Theft from building	10	10	10	* 96%	- 4%	-	-
Theft of motor vehic	63	57	43 76%	10 17%	3 5%	-	1 2%
Theft from motor vehic	86	69	49 71%	9 13%	7 10%	3 5%	1 1%
Theft bicycle	54	48	38 80%	6 12%	4 8%	-	-
Vandalism	81	56	22 40%	12 21%	11 19%	10 18%	1 2%
Fraud	8	3	-	1 50%	-	1 50%	-
Other	27	27	15 56%	-	1 2%	4 17%	7 25%
All crimes	569	340	182 53%	71 21%	56 16%	18 5%	13 4%

Notes: Total respondents = 1,077

Total victims = 340

Minimum number of incidents = 569

Percentages may not add to 100 due to rounding/weighting.

Technical note: The number of incidents displayed will be an under-estimate. This is for two reasons:

(i) respondents will tend to undercount the number of incidents they have suffered within a particular period for a number of reasons, eg incidents are not thought of as 'real crimes', incidents are simply forgotten, incidents are remembered, but thought to be outside the time frame; and

(ii) the structure of the questionnaire allowed respondents to identify a maximum of three incidents in each crime type - thus, a respondent who answered that he or she had been burgled "three or more times" may have been burgled significantly more than three times in the last year.

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Table 5: Respondents who were witnesses to crime in last year						
Crime type	Number of witnesses to crime	Number of times a witness/percentage of whom were a witness				
		once	twice	3 and over	too many times to remember	don't know
Murder	1	1 100%	-	-	-	-
Rape/child abuse	2	1 60%	-	-	-	1 40%
Wounding assault/gbh	24	18 75%	1 5%	1 5%	1 4%	3 11%
Prostitution/pimping	7	1 14%	2 18%	-	3 36%	2 32%
Burglary	53	27 51%	15 29%	7 13%	3 6%	1 2%
Robbery	11	5 43%	2 14%	2 15%	1 10%	1 18%
Theft from building	29	9 31%	9 31%	6 21%	2 8%	3 9%
Theft of motor vehic	90	31 34%	8 9%	17 19%	25 28%	8 9%
Theft from motor vehic	60	15 25%	14 23%	17 29%	7 11%	7 12%
Theft bicycle	16	10 63%	3 18%	2 13%	1 3%	1 3%
Vandalism	91	21 24%	5 6%	15 16%	47 51%	3 3%
Handling stolen goods	28	6 20%	3 12%	6 21%	11 39%	2 7%
Drug dealing/possession	45	3 5%	5 7%	7 15%	29 62%	5 11%
Fraud	19	3 24%	1 3%	5 22%	8 37%	3 15%
Other	25	13 51%	3 11%	1 5%	4 16%	4 17%
All crimes	267	78 29%	32 12%	47 18%	78 29%	32 12%

Notes: Total respondents = 1,077
 Total witnesses = 267
 Percentages may not add to 100 due to rounding/weighting

Technical Note: There may be a large element of double-counting of incidents since a single incident may be counted in the survey by the victim and by one or more witnesses. The number of incidents to which respondents were witnesses is, therefore, not calculable

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Of our 1077 respondents, 340 (32%) had been the victims of crime during the last year and 267 (25%) had witnessed crime. At first glance, these findings - particularly regarding victims of crime - might be thought to be somewhat spurious. Farrell and Pease's (1993) analysis of the 1992 BCS, for example, found that 40% of respondents had been victims of crime in the last year, whereas our survey reveals a comparable figure of only 32%, and on housing estates selected because of the apparent likelihood of a higher incidence of criminal activity! Some of this will be a function of the different definitions employed by the two surveys. Another explanation is that crime is likely to be more concentrated on a smaller number of victims in high crime areas : table 4 supports this argument by showing that 43% of victims had been victimised more than once.

Even more interesting in table 5 is the fact that 59% of witnesses had witnessed more than one crime during the course of the year making the likelihood of being a repeat witness extremely high. This is particularly marked when looking at certain crime types - for example thefts from cars, vandalism, handling stolen goods, and drug dealing and possession - the first and second of which are, almost necessarily, conducted in public. The implications of this for determining the most effective police response to intimidation are discussed in chapter 3 below.

Additional information was collected from respondents about up to five incidents they had been victims of, and up to (an additional) five they had been witnesses to. This does not - as the technical note to table 5 explains - add up to a total number of incidents committed on the estates. Respondents reported 397 (70%) of those incidents of which they had been victims to the police, but only 172 (29%) to which they had been witnesses. Respondents were asked: "Did you or your family suffer any intimidation or victimisation as a result of reporting this crime to the police?" 50 incidents (13% of reported crimes) reported by a victim led to subsequent intimidation; only 16 (9% of reported crimes) reported by a witness led to subsequent intimidation. However, actual intimidation suffered is not the whole story. Of 169 incidents which victims had not reported to the police, only 11 (6%) went unreported due to fear of intimidation. But of the 412 incidents which witnesses had not reported, 90 (22%) went unreported due to this fear. It is possible that "fear of intimidation" is a useful post-hoc excuse for witnesses' non-reporting. Nevertheless, these data do suggest that fear of intimidation deters a greater number of witnesses than victims from reporting, whereas actual intimidation is visited on more people who have been the victim of an initial crime than a witness to one. It is impossible, however, to determine whether this is because the latter group are initial victims, or because they are reporters - a greater proportion of victims than witnesses reported, and thus one may expect a greater proportion of them to have been intimidated than witnesses.

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The distribution of intimidation and fear of intimidation by crime type is shown in table 6 below.

Table 6: Intimidation suffered or feared by victims of (V) or witnesses to (W) crime in last year								
Crime type	Total incidents asked about		Incidents reported to police		Intimidation			
	V	W	V	W	suffered after reporting		prevented reporting	
					V	W	V	W
Murder	-	1	-	-	-	-	-	-
Wounding assault/gbh	24	19	13 56%	2 12%	2 9%	-	4 15%	6 30%
Prostitution /pimping	-	5	-	-	-	-	-	-
Burglary	200	62	183 91%	44 71%	29 15%	3 4%	1 *	3 4%
Robbery	15	12	10 69%	7 56%	-	-	-	1 10%
Theft from building	10	31	7 63%	9 30%	-	-	-	4 12%
Theft of motor vehic	63	114	54 85%	28 25%	1 2%	1 1%	-	8 7%
Theft from motor vehic	86	65	49 57%	23 35%	3 3%	1 1%	-	6 9%
Theft bicycle	54	10	25 46%	4 40%	3 5%	-	2 3%	3 25%
Vandalism	81	116	42 51%	39 33%	9 12%	10 8%	4 4%	8 6%
Handling stolen goods	-	38	-	3 8%	-	1 3%	-	25 65%
Drug dealing /possession	-	67	-	2 4%	-	-	-	21 31%
Fraud	8	15	3 33%	-	-	-	-	5 37%
Other	24	28	11 48%	10 35%	3 14%	-	-	2 7%
All crimes	566	584	397 70%	172 29%	50 9%	16 3%	10 2%	90 15%
Notes: Totals may not sum due to weighting. All percentages are calculated on a "total incidents" base. This base figure is total number of incidents asked about, and not an estimate of the total number of crimes committed on the estates								

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The table shows that the overall figures mask significant differences between crime types. 15% of all burglaries (16% of those reported to the police) suffered by victims were followed by intimidation, but fewer than 1% went unreported due to fear of reprisals. Conversely there were no assaults reported by witnesses which were followed by intimidation, but 30% went unreported due to fear of reprisals. Similarly, 31% of incidents of drug-dealing and 65% of handling stolen goods were unreported due to fear of reprisals.

The results of this survey, then, reveal a far higher level of intimidation taking place when a crime is reported whether by a witness (9%) or a victim (13%) than the 17 per 10,000 cases of perverting the course of justice recorded by the police, or the 1% of prosecutions discontinued by the CPS due to missing witnesses. It also reveals a higher proportion of incidents not reported by victims due to fear of reprisals (6%) than the 2% found by the British Crime Survey; 22% of incidents went unreported by witnesses due to fear of reprisals.

Clearly, much of the disparity between these data is explained by the fact that the survey was conducted only on high crime housing estates where the incidence of intimidation was expected to be far greater than in the general population. However, it should be noted that these five estates are representative, rather than the very worst examples, of the high crime housing estates which have attracted Safer Cities' funding. There is, then, evidence that harassment and intimidation in such areas is affecting the behaviour of the population. The implications for policing these areas are discussed in chapter 3 below.

3. The circumstances in which intimidation occurs, and strategies for prevention

The case study interviews and sub-divisions

Although it seemed sensible to confine the house to house survey reported at the end of chapter 2 to areas where intimidation was likely to occur more often, it was essential to conduct some of the research in areas more typical of the general population. The best way to identify individuals with whom to conduct in-depth interviews about the circumstances of intimidation (given the low incidence of reporting and recording offences of perverting the course of justice) was to issue a postal questionnaire to a large number of victims of and witnesses to initial crimes recorded by the police in five sub-divisions across the country. The questionnaire asked respondents whether they had suffered any intimidation as a result of their reporting the initial crime and/or whether at any time they had feared it. These replies were matched with the basic crime details which had been provided by the police, and a number of respondents were selected for in-depth face to face interviews. The results of the interviews are discussed below.

One of the main objectives of the research was to ascertain the circumstances under which intimidation occurs, and in particular its timing, so that its immediate trigger could be identified. To this end the research adopted a case-study approach, in which all interviewees were asked if they could recall the sequence of events starting with the initial crime, cataloguing the intimidation and including all subsequent contact they had with the police and other agencies.

A little needs to be said about the methodology of the survey before discussing the results. Five subdivisions - Preston Central (Lancashire), Newcastle West (Northumbria), Plymouth Devonport (Devon and Cornwall), Ipswich (Suffolk), and Battersea (Metropolitan) - provided basic details of all crimes reported and recorded in the calendar month of April 1993. The number of crimes exceeded 5,000. All "victimless" crimes (such as possession of prohibited drugs) and those with a corporate victim (such as shoplifting) were excluded. In late September 1993, questionnaires were distributed to every victim and witness of the remaining crimes. Some were returned by the post office, due mainly to potential respondents having moved or the address on police records being insufficient, and a total of 4,181 were, so far as we know, successfully delivered.

Sixty people were selected from the 988 who returned questionnaires to include most of those who said that they had suffered intimidation, and some of those who said that they had at some stage feared it. There were 154 people in these two groups altogether. Time constraints mitigated against our conducting interviews in all five sub-divisions, and no face-to-face interviews were conducted in Battersea. The requirement to cover a spread of different types of crime aided the selection. Sixty respondents were approached by telephone (where available), or by letter, to enquire whether they would be willing to take part in in-depth interviews. None

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refused, although five were uncontactable, and two absent when we called to interview. Fifty-three interviews were conducted; table 7 shows their locations by sub-division, and by crime type. Intimidation, then, occurred in all areas, and across a wide range of crime types.

Table 7: Face-to-face interviews by location and crime type

Crime type	Preston	Newcastle	Plymouth	Ipswich	Totals
Assault	3	1	4	2	10
Rape	0	0	0	2	2
Robbery	0	2	0	0	2
Burglary	7	4	2	0	13
Car crime	3	2	3	2	10
Other theft	1	0	1	0	2
Criminal damage	0	5	7	2	14
Totals	14	14	17	8	53

In order to place the case studies in the wider policing context, it was important to talk to both force headquarters CID and sub-divisional commanders before interviewing and then again to sub-divisional commanders when interviewing had finished.

It is worth saying a little about the areas which the four sub-divisions cover. Preston and Ipswich sub-divisions cover the centres of their respective cities, as well as various residential areas around. Within these two sub-divisions there is, therefore, a range of different housing types, covering high, medium and low densities, and public and private sectors. Though not relevant to our study - since shop-lifting and other crimes with a corporate victim were specifically excluded - the fact that these sub-divisions cover large city centres places additional and different burdens on the police service.

Newcastle West and Devonport, on the other hand, adjacent to but not covering the centres of much larger cities, were more uniform in character. Both consist of large areas of medium density, mainly local authority housing, interspersed with local retail facilities. These two sub-divisions are also generally less affluent than either

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Preston Central or Ipswich, but neither have the additional problems of large city centres to police. It is worth noting that Newcastle West and Devonport were due to become parts of Basic Command Units (BCUs) in early 1994. Ipswich was already a BCU at the time of our visit.

Intimidation or repeat victimisation?

The postal survey attempted to ascertain whether respondents had suffered harassment as a direct result of having contact with police concerning an initial crime. However, we found on conducting face-to-face interviews, that a number of those who had indicated that such harassment had occurred, had in reality been the victims of repeat crimes rather than of reprisals or attempts to stop them from helping the police. For example, one victim - a lone adult living with two children - had been burgled four times in the nine months prior to our visit. The victim had not, in our view, been subjected to intimidation in order to stop her from reporting the crime or giving evidence, but was a victim of repeat burglary. This is an important distinction to make, since even if the same offenders were responsible for all four events they could not accurately be charged with attempting to pervert the course of justice, or with the new offence of witness intimidation. The motives for the subsequent three burglaries were the same as for the first - acquisitive - rather than to intimidate the victim into not co-operating with the police.

However, with other types of crime the distinction may not be quite so clear - particularly with, say, assault or criminal damage. One interviewee, an Asian, had been the victim of an assault, and within a few days - by the same offender - of criminal damage. It was not clear to him, or to us, whether the second incident was to prevent him from taking forward action over the first, or whether this was a case of continuing racial harassment.

The nature of the intimidation suffered was fairly wide-ranging among the 53 interviewees. Physical attack was suffered by 9 people, verbal abuse and threats by 16, and damage to property by 23. Much of this type of harassment is typical of the repeat victimisation also found to be visited on vulnerable members of the community in high crime areas (Farrell and Pease, 1993).

One victim was interviewed whose property had been repeatedly targeted for criminal damage probably because he was supplying information to the police by videotaping a local gang of youths taking part in petty crime. Such causality, however, would be difficult to prove. The importance of the overlap is that intimidation and repeat victimisation may have similar effects on their victims since they both result in the experience of a "process" of intimidation, rather than a series of discrete events. Both are also sometimes suitable for similar problem-reduction strategies: these are discussed in full in the section on **protection and support for**

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witnesses below. For further discussion of repeat victimisation, see Farrell and Pease (1993) and Phillips and Sampson (1994, forthcoming).

Initial response and investigative procedures

The received wisdom on witness intimidation prior to this research has been that it is linked to disclosure: that is, it occurs subsequent to the identities of witnesses being revealed via defence counsel to the suspect in the case documents put together by the police and the Crown Prosecution Service. Undoubtedly, this is the case when (organised criminals make use of disclosure requirements in order to identify and find witnesses, but there is little evidence that this had happened in any of the cases we looked at. Either the intimidation occurred soon after the initial crime, and months before disclosure had taken place, or it occurred at the time of the court appearance. The issue of disclosure is clearly beyond the scope of this research.

The number of cases we looked at was relatively small - only 53 in total, representing fewer than 1.5% of the 4,000 victims and witnesses in the five sub-divisions who were originally delivered a postal questionnaire. This means that we cannot draw inferences about the general population from our sample in terms of numbers of people experiencing different types of intimidation in different circumstances. It also means that there is no point in identifying which sub-division particular events took place in, since the experience may be entirely untypical of the general police response in that area. Sub-divisions where particular experiments or initiatives have taken place have however been identified in the interests of dissemination of good practice. However, this does not invalidate the fact that in a number of cases it appeared to be the way the police responded to an incident or carried forward the investigative process that triggered the subsequent intimidation. This does not imply the attachment of any "blame" to the running of the sub-divisions in which we undertook our research, still less to the officers involved in individual cases. Officers were, in fact, simply following - or in one or two cases not following - procedures which had not adequately taken account of the possibility of intimidation. The remainder of this section catalogues a number of cases of witness intimidation which - it appears to us - occurred as a direct result of police action in dealing with the initial crime, and recommends amendments to procedures in order to reduce its occurrence.

Communications

One of our interviewees lived opposite a busy road junction. He had witnessed, on four separate occasions, lone female drivers who had pulled up at the junction having their car windows smashed, and their handbags taken. On each occasion he had immediately telephoned the police to report the crime, and had given a description of the offender(s), as well as his own name and address. Approximately

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two days after each occasion, his house had been subjected to criminal damage or attempted burglary, and on one occasion a lodger had been assaulted. In total, seven incidents occurred seemingly as a result of his reporting the four robberies. The police response had not, however, on any occasion, involved visiting the witness.

It is standard procedure to give the name and address of any witness over the radio to the crew being asked to respond to the incident, and this is how the witness surmised his identity had become known to the offenders on each occasion. This view was corroborated by the sub-divisional commander, who was aware that offenders were known to be listening in to police radio frequencies so as to know how quickly they needed to make their escape. Although advances in information technology have already resulted in some officers being equipped with scrambled radio equipment, reliance on such technology staying ahead of that used by potential interceptors is not an ideal solution. Alternative methods of communication - such as equipping incident cars with mobile data terminals (MDTs) - may be some way off for all forces. The recommendation is, therefore, that the minimum information necessary be given to officers over the radio to allow them to respond to an incident, and that this should not include details of the name and address of any witness, unless it is essential that he or she be visited in order to respond effectively.

Police visits to witnesses

Another witness had telephoned the police having seen a neighbour's house being burgled. Her property was one of a number from which a clear view of the rear of the burgled property was possible. In the event, by the time the police arrived, the burglars had left the scene of the crime. The police then called at the witness' premises in order to take a statement. Six hours later, a brick was thrown through her window. Clearly the police needed to take a statement from the witness in order to pursue the inquiry; equally clearly - in the opinion of the witness - it was their visit to the witness' home that was the direct cause of the subsequent harassment. This sequence of events implies that if a visit from the police to a witness immediately following a crime is not absolutely necessary, it should be avoided. This is particularly important on medium to high density estates, where the offenders or their associates are able to observe police visits taking place. This suggests that a viable alternative to visiting the witness' premises immediately following the initial crime is always considered even though a visit to the victim may out of necessity occur immediately as a matter of course in order to formulate charges.

Alternative procedures that could be considered are (i) inviting the witness (by means of a telephone call) to visit a police station in order to make a statement, or (ii) delaying the visit to the witness' premises until the next day, preferably by a plain clothes officer, or (iii) conducting a number of house-to-house calls on adjacent properties, so that the witness would not be picked out. Wherever possible,

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the choice should be left to the witness. The first of these procedures would, incidentally, make a fundamental reduction on the demands placed on patrol officers, if the statement could be taken by another officer (or civilian) at the station; the second is directly opposed to the single visit philosophy proposed by the Audit Commission and in any case suffers from the problem that in the areas where intimidation is most prevalent, plain clothes officers seem to be easily identified; the last would increase the resources expended on each incident, and could even lead to more people being intimidated.

Witnesses' visits to police stations

The implementation of the first of these possible alternatives needs, however, a degree of planning. We interviewed one witness who had indeed visited the police station - at the investigating officer's request - to give his statement the morning after an assault had taken place. He was a tenant living in the same house as the victim, and was acquainted with the suspect. The suspect had been detained in police custody overnight, and his bail conditions included the requirement that he keep away from the victim's - and thus the witness' - home. Unfortunately the termination of the witness' interview and his leaving the police station coincided exactly with the release of the suspect. This resulted in a confrontation taking place in the station car park and the suspect attempting to "persuade" the witness not to give evidence. There can be no certainty, of course, that the suspect would not have broken his bail conditions, or that he would not have had a subsequent chance encounter with the witness (or indeed the victim) at some other time prior to the hearing. The incident was obviously just a case of bad luck, so far as the timing was concerned. However, in order to ensure that it is unlikely to happen, it is recommended that the custody officer and the investigating officer liaise more effectively, so that a suspect is not released from custody at the time a victim or a witness is likely to be in the vicinity of the police station. This is, perhaps, a good example of the need for uniformed and CID officers to work together and supports the argument that there are huge advantages to the continuing trend of their being placed under a single command structure.

Identification procedures

In two cases the procedures used in asking witnesses to identify suspects placed - or would have placed - the witnesses in a vulnerable position. In the first case, the witness saw two suspects hiding what turned out to be stolen goods on some public ground opposite his house. The police response to his telephone call was very quick, and the suspects were caught literally "in the act". The police then called on the witness, and a group identification was organised on the street a few yards away. The witness was accompanied by an officer and asked to walk past a bus queue where the suspects were standing alongside several other members of the public. A positive

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identification was made. A few days later, the witness' bicycle was damaged; soon after that he was subjected to verbal abuse in the street. In the second case, two females witnessed a burglary taking place in a house opposite their place of work. Again, the police response to their call was very quick, and again the suspects were apprehended attempting to make away with the stolen goods. The two witnesses were then requested to look into the police van where the suspects were being held, confront them and identify them. Fortunately, the witnesses refused, saying that they feared reprisals if the suspects saw who they were. In this case, not only would the conduct of the identification by means of a confrontation have placed the witnesses in a vulnerable position, but it would have been less acceptable for evidential purposes.

Additional research bears out the thesis that identification parades can be a worrying experience for the witness. Slater (1994) attempted to interview all 177 witnesses who took part in identification parades during July 1993 at Birmingham, Telford and Wolverhampton police stations. Of 159 respondents (18 refused to take part in the survey), 30 (18%) were either afraid or very afraid of meeting the suspect, and a further 41 (26%) were worried. Women were far more likely to be afraid or worried than were men. Table 8 displays these breakdowns.

Table 8: Fear of meeting suspect at identification parade

	Men	Women	Total
Very Afraid	2 3%	10 12%	12 7%
Afraid	6 8%	12 14%	18 11%
Worried	13 18%	28 33%	41 26%
Not Afraid	45 60%	29 34%	74 46%
Unsure	8 11%	6 7%	14 9%
Total	74 100%	85 100%	159 100%

Source: Alan Slater, Identification Parades: a scientific evaluation, 1994.

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Clear procedures exist governing the conduct of identification parades, confrontations, and group identifications. These are contained in Code of Practice D to the 1984 Police and Criminal Evidence Act (PACE) which states at paragraph 2.2 that "the arrangements for, and conduct of, these types of identification shall be the responsibility of an officer. . . . who is not involved with the investigation." From the timing, it appears that these procedures were not followed in either of these cases. The Royal Commission on Criminal Justice (1993, Cm 2263) proposed several amendments to PACE Code D, and at paragraph 2.12 "noted that in some police forces purpose-built suites [which include screened facilities] are in use for the conduct of identification parades. These greatly assist the police in ensuring that the requirements of Code D are met, which in turn ensures that identification evidence is as reliable as possible. We recommend that this development be extended to all major urban areas."

There seems to be no evidential disadvantage in conducting an identification parade using screens; the advantage in not having to reveal the identity of the witness at this stage - or not at all, should the suspects plead guilty - is obvious. Thus the recommendation of this report is that screened facilities should be universally available and offered to witnesses as a matter of course if they are requested to take part in a parade. To this end, purpose-built suites should be introduced into every PACE station. An interim solution, adopted by Durham Constabulary, is to have a mobile identification parade suite, so that facilities are available throughout the force area on a rotating basis. This solution, of course, would be worthless if the trend of the suspect providing a "friend" (rather than a solicitor) to represent them on the witness side of the screen is allowed to increase. A more radical solution would be to replace existing procedures with a library of videos which could be shown to the witness, along with video footage of the suspect. The defence solicitor would be present during the screening to ensure compliance with procedures. This approach may, however, be too complex evidentially, and resource intensive, though sub-divisional commanders thought these problems, on balance, well worth overcoming.

Information and reassurance to witnesses

Finally, in terms of initial response and investigative procedures, many of our interviewees expressed dissatisfaction at the information or advice they were given at the time of the incident, and/or as the case proceeded. In one case the victim of an assault had been deterred from pressing charges by the officer who first attended the scene of crime. The victim knew who the suspect was; the suspect was also known to the police. The officer gave the opinion that subsequent reprisals would result in worse injuries to the victim than had the initial assault. The sub-divisional commander defended this course of action, by stating that it was the duty of the

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police to stop members of the public from placing themselves in (further) danger. Whilst the police need a strategy to cope with incidents where reprisals are likely, and victims and witnesses should be alerted to the possibilities of such reprisals taking place in order to appraise them of what action they should take, it is not acceptable that this is done in such a manner as to deter the pressing of charges or the giving of evidence. Clearly - and particularly for inexperienced officers - this is a difficult balance to strike, and there may be a need for more training in how to support and reassure witnesses that an appropriate response to any subsequent intimidation will be made available, as well as in how to gather information from them.

Continuing with the information theme, there was a great deal of dissatisfaction with the amount of information given, or obtainable on request, concerning case progress. There is a discussion later in this chapter about suspects' behaviour on remand, and we found that many victims - let alone witnesses - were unaware whether a suspect had been granted bail or was being held on remand. In some cases, even the investigating officer had not been informed. Many interviewees expressed frustration at not being able to speak to the officer involved in the case, and had not been given an alternative contact to the investigating officer. Shifts - and particularly the increasing adoption of the Ottawa shift system where officers are not available during the hours a member of the public is likely to want to contact them for up to a fortnight at a time - make the availability of individual officers at best a hit and miss affair. Many interviewees simply felt worried, and a word of reassurance from someone who knew about case progress would have been all that was needed. One sub-division - Newcastle West - had experimented with having a dedicated "witness liaison officer", and was about to create a (civilian-manned) crime desk which would deal with all aspects of prevention, detection, and victim support. The crime desk was to be manned on a daily basis from 8 am to 8 pm. It is recommended that innovative ways of handling enquiries from the public on case progress - including dealing with worries about intimidation - are introduced more widely, and that their effectiveness is measured through customer satisfaction surveys. Eventually it is hoped that this service should be built in to the routine procedures of the crime desk.

Surveillance operations

Another type of police activity that can lead to the placing of members of the public in a vulnerable position is the surveillance operation. The encouragement to move away from reactive and towards proactive policing will make it increasingly important to ensure that the public's co-operation with such operations does not result in intimidation. The problems that can be faced by individuals who allow the police to use their premises for surveillance-type operations, should the fact become

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known, will be similar to those encountered by members of the public who report crime and are subsequently subjected to reprisals.

For reasons of preserving the confidentiality of their operations, forces - and even divisions and sub-divisions - do not tend to collect data centrally on surveillance operations. There is also a definitional problem. The 'spontaneous' use of a private home for a few minutes as an observation point would be classed by few officers at a "surveillance operation", yet it could potentially place the member of the public in just as vulnerable a position as a well planned operation lasting many days or weeks. Thus selecting a structured sample of members of the public whose properties have been used for surveillance purposes to interview is not possible.

All the forces visited had guidelines on the use of observation posts, based on those set out in Regina v Johnson (Court of Criminal Appeal, July 1988) which state that "the officer in charge of an observation post should usually be no less a rank than a Sergeant and that this officer must be able to give evidence at the subsequent trial that he/she visited the premises to be used beforehand and ascertained the attitude of the occupiers in respect of possible disclosure which could lead to the identification of the premises and the occupier. A Police Officer of no lesser rank than Chief Inspector must, immediately before the trial, visit the premises used and ascertain the attitude to the possible disclosure of the use previously made of the premises and of facts which could lead at the time to the identification of the premises and the occupier."

Guidelines also referred to Regina v Rankine (Court of Criminal Appeal, March 1986) which upheld the view that "Officers should not be compelled to answer any question if they considered that to do so would imperil the person (s) who had afforded co-operation in the provision of the premises used [since] it is in the general public interest that nothing should be done to discourage members of the public from coming forward to provide information to the Police. The reasons which give rise to the rule that an informer is not to be identified, apply with equal force to the identification of the owner or occupier of premises used for surveillance and to the identification of the premises themselves." A number of recent judgments have, however, not followed this ruling.

We spoke to all four Force CIDs and sub-divisional commanders about surveillance operations. All agreed that use of vacant property, commercial premises or police surveillance vehicles were preferable options to the use of occupied residential premises, but that there was often no alternative. All agreed, however, that the safety and anonymity of the member of the public were paramount, and that the guidance that a case be dropped rather than disclose the location of a surveillance point was necessarily adhered to. The Association of Chief Police Officers is monitoring the number of cases where this has been necessary.

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Suspects' behaviour on remand

One way of preventing intimidation between the time a crime is committed and subsequent court appearances is to hold the suspect on remand. There are, however, problems with seeing this as an all-embracing solution: (i) there might very well be a delay between the crime being committed and arrest, sufficient for the suspect to approach the victim or witness; (ii) very often the family or other associates, rather than the suspect himself, will be involved in the subsequent intimidation; (iii) the supposed restrictions on suspects' behaviour on remand do not always seem to operate effectively. It is this third problem which is considered in the remainder of this section.

Of the total of 53 interviewees, only four were aware that the suspect had been held on remand. (It should be noted, in the context of the discussion on **information and reassurance to witnesses** above, that whilst this low number will reflect the small number of incidents in which a suspect was identified and arrested by the police, it is also probably a function of lack of information about case progress being given to the witness.) Of these, two had been contacted by the suspect by telephone whilst being held on remand, and one - the wife of the suspect in a domestic violence case - had subsequently decided to withdraw charges and refused to give evidence in court as a direct result of this. This case was discontinued.

Guidance currently exists for the prison service outlining inmates' permitted use of telephones in Section G of Standing Order 5 and Circular Instruction 21 of 1992, both issued by the Home Office. The former is, however, unsatisfactory when it comes to domestic cases where "inmates are not allowed to telephone a victim of their offences unless he or she is a close relative". The research points to the need to consider discontinuing this exemption, so that inmates are not allowed to telephone victims of or witnesses to their offences, even where he or she is a close relative, if the victim or witness chooses not to maintain contact. Whilst this might mitigate against the prison service's policy on the use of telephones in order "to encourage prisoners to take more responsibility for maintaining close and meaningful family ties", the potential for intimidation in domestic cases is such that it seems a necessary measure.

The guidance in Circular Instruction 21 of 1992 also facilitates the monitoring of calls or withdrawal of access to a telephone throughout the pre-trial period on request from the police. (Guidance was issued to Chief Constables by the prison service in April 1992 on how to make such requests, although how many police officers are aware of this facility is not known.) One of the two more likely circumstances is where "a remand or appellant prisoner, or one facing further charges, is likely to interfere with a witness or otherwise pervert the course of justice". Whilst the power to make such requests is of obvious use, the guidance

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does rather put the onus on the police service to identify cases where this is likely to happen. This will inevitably lead to some calls slipping through the net - as with those to our two interviewees - and intimidation occurring. The Circular specifies that "monitoring of most prisoners calls will take place on a selective basis where there is a justifiable suspicion of abuse, supplemented by random monitoring to the extent which it is operationally necessary and as staff resources permit". Given that suspects are refused bail and placed on remand for a particular reason, it is recommended that the prison service should be more generally aware that remand prisoners in particular are likely to abuse the use of telephones in this way, and deploy staff resources in a way which increases the random monitoring of calls made by these prisoners.

Another area where liaison could be improved between the prison service and the police concerned release. Sub-divisional commanders said they were seldom informed when a prisoner was likely to be coming back to the area on, say, weekend release. Admittedly, unaccompanied release is not a feature of the remand system, but this applies to convicted prisoners visiting reprisals on witnesses. It would be helpful if this information were passed from the prison service (or, where it is involved, the probation service) to the appropriate sub-division in future, and that the witness liaison officer or the crime desk mentioned above should consider informing both victims and witnesses of such a release, though a balance needs to be struck between a sensible forewarning and unnecessarily alarming the witness. In any case, the police should take preventive action against any potential intimidation should this appear necessary.

Intimidation in and around the court

Five respondents were selected for interview on the basis of their having been intimidated either in the courtroom itself or in and around the court buildings. The circumstances of that intimidation varied little from case to case; all appeared to have been opportunistic acts - although verification of this impression is problematic - brought about by the physical layout of the courtroom itself, or of the court buildings.

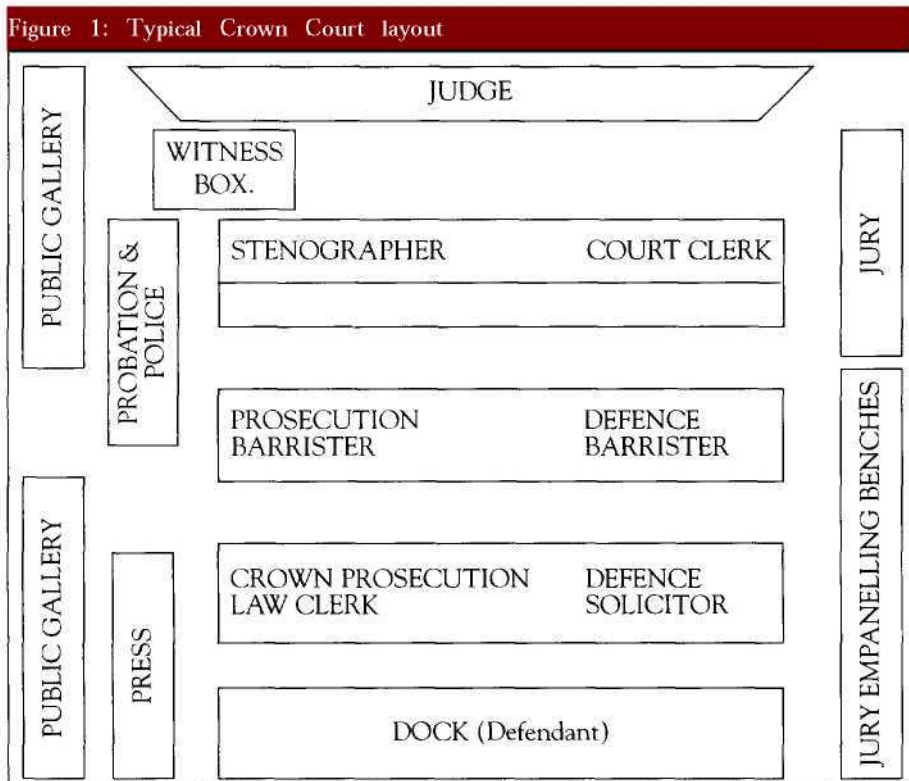
Intimidation in the courtroom

Three interviewees had felt intimidated whilst giving evidence in the witness box, in either Crown or Magistrates' Courts. The intimidation ranged from verbal abuse and threats being shouted from the public gallery, to mere staring at the witness by the suspect. In cases involving juvenile witnesses, use is commonly made of a live television link between the courtroom itself and a separate room where the witness, accompanied by a court usher, is situated. In other cases, where the identity of a witness had thus far been preserved, and the judge is convinced that its revelation

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could result in danger to personal safety, screens and voice distorters have been used, allowing judge, counsel and jury to see the witness, but not the suspect or those in the public gallery. The use of these facilities is at the court's discretion, and this study suggests that their use be considered in a wider range of cases in future.

Less radically, the Royal Commission on Criminal Justice (1993, Cm 2263) recommended, at paragraph 108, that in order to "make the identification of individual jurors more difficult, and to protect jurors from threatening behaviour from spectators, jury boxes should wherever possible not be sited opposite the public gallery". The Royal Commission did not extend this recommendation to the siting of witness boxes as well, but the findings of this research support such a move. The latest courtroom Design Guide, issued by the Lord Chancellor's Department (LCD, 1993), recommends that public seating should no longer be sited adjacent to the witness box, but at the rear of the court, to the left of the dock. Figure 1 shows the typical layout of a courtroom at present, which reveals the existence of these problems. Fuller discussion of intimidation in the courtroom is contained in Rock (1993) and Black (1995, forthcoming).



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Intimidation in the waiting areas of court buildings

A potentially more violent area of confrontation - and one in which all five interviewees who had been to court had felt intimidated - is in the waiting areas of court buildings. Again the circumstances in each case were similar, the intimidation being a direct result of the proximity of the suspect and/or his family and associates, with the victim and witnesses and theirs. The variation in the nature of intimidation ranged from staring, through verbal abuse and threats, to one case of physical assault. Discussions have taken place between the Home Office and the Lord Chancellor's Department about this problem, and the latter has issued a Design Guide, recommending that separate waiting facilities should be designed into all new and refurbished Crown Court buildings (LCD, 1993). This does not, however, cover Magistrates' Courts.

Again, the Royal Commission on Criminal Justice (paragraph 108) recommended that "so far as practicable, jurors should not have to wait or eat in areas to which ordinary members of the public have access and, to the extent that the design and layout of the court centre allows, separate areas should be set aside as waiting rooms and restaurants for jurors". This report suggests that similar provision is made for prosecution witnesses.

This does nothing to prevent the problem occurring in existing buildings, and it is here that liaison between agencies concerned with the criminal justice system is most needed since the provision of new buildings, or even refurbishment, may be a long time coming. There is a view that the role played by Victim Support could usefully be widened, to cover witnesses as well as victims, and this is discussed in the section that follows this. They do not appear to have a role to play in the prevention strategies discussed above. However, the presence of the Witness Service in the courts facilitates an inter-agency approach to prevention, particularly where existing court buildings cannot be adapted to provide separate facilities for prosecution and defence witnesses.

One sub-division we visited - Newcastle West - was preparing to instigate an experiment designed to separate witnesses in the absence of two waiting areas:

- (i) "vulnerable" witnesses are identified by Victim Support who provide preparatory counseling and accompany the witness throughout the proceedings;
- (ii) the witness is to be provided with a Telecom paging device and on the day of the hearing will be available in reasonable proximity to the court with the pager switched on;
- (iii) as the witness is about to be called, the court usher telephones the contact

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number to activate the pager and thereby summon the witness to the court building.

Whilst this would involve initial expenditure on equipment, and the rental of pager lines, it is a relatively cost-neutral solution to the problem of intimidation around the court. This experiment suggests that, where the provision of separate waiting areas is impracticable, innovative devices such as pagers should be experimented with.

The Home Office has recently agreed to the funding of Witness Service schemes in all Crown Courts, and these should be implemented by 1995. A scheme already up and running - at Norwich Crown Court - was visited as part of this research. It is apparent that the moral support, dedicated waiting areas, and semi-official presence afforded by Witness Service staff and volunteers, backed up by the presence of security guards and uniformed police officers if needed, forms an effective solution to intimidation within court buildings. At Norwich, the Norfolk Constabulary Administration of Justice Unit is located within the Crown Court building, facilitating a permanent police presence which is both visible and immediately available should physical assistance be required, but which does not involve officers maintaining a presence in court buildings whilst doing nothing else. The 45 incidents requiring the exercise of police powers which occurred during the last calendar year at Norwich were dealt with effectively due to the location of the Administration of Justice Unit within the Crown Court building. This solution must, however, be seen in the context of lack of space in most court buildings and the increasing civilianisation of Administration of Justice Units in most forces.

There is a view that a permanent presence in the courts is not a core function of the police service. However, consideration of the provision of a uniformed presence by way of private security employed by the Courts, given the potential for violent acts against witnesses, seems to be necessary to guarantee effective witness protection in court buildings.

Protection of and support for witnesses

Until now the prevention strategies advocated in this report have concentrated on the procedures employed by the police and other agencies in investigating crime and in processing the suspect through the criminal justice system. Much of this has been concerned with preserving the anonymity of the witness for as long as possible. There will be some circumstances, however, where the identity of the witness was known by the suspect at the outset, and other circumstances where preservation of initial anonymity is an impossibility. It is also more likely than not that the suspect will know the identity of the victim of the initial crime from the outset.

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Under these circumstances the most obvious way of guaranteeing the safety of those willing to bear testament is by formal witness protection. Providing victims or witnesses with new identities, relocating them, or providing constant police protection would be - in the vast majority of cases - an inappropriate level of response, particularly in the sort of cases described in this report where the intimidation is not life-threatening. However, it must be acknowledged that some form of high level protection will be necessary on occasion, especially in serious cases involving organised criminals - those described as being part of the "inner core" in chapter 1. It is less serious cases, not requiring a change of identify and fully protected status that currently present problems for the police service. These are dealt with in force on an ad hoc basis, and it seemed to the few officers we talked to who had become involved in dealing with these circumstances that there is a need for guidance on how to handle such cases.

It is difficult to be prescriptive in suggesting how the police service might deal with this problem, but this research does provide some pointers for possible action. The question of whether some incidents which interviewees had identified as intimidation subsequent to an initial crime were in fact examples of repeat victimisation rather than attempts to deter reporting, or reprisals for having reported was raised earlier. Preventing repeat victimisation requires that prevention strategies should be targeted on the victim. It therefore seems plausible that strategies which could be employed in preventing repeat victimisation could also help to prevent witness intimidation; the common element is the identification and protection of vulnerable groups.

Lloyd, Farrell and Pease (1994) identify rapid response alarms as "an effective short-term measure for victims of domestic violence", but go on to suggest that the scope for their utilisation "extends far beyond domestic violence. It could be an element in witness or juror protection programmes." In general, the sub-divisional commanders we spoke to about rapid response alarms were keen to use them. However, equipment allocations policy must reflect ability to provide a rapid response. One answer to this is to increase the ability to predict who will genuinely be most at risk.

An alternative agent recommended by the Royal Commission on Criminal Justice to play an enhanced role in this area is Victim Support. Their role in and around the court has already been identified, and the research points to the need to employ their services more generally. It is likely that if they build up a relationship with victims and witnesses in the community, they may be able to provide a level of support sufficient to allay the fears of many who witness and report crime. An additional function - through closer liaison with the police service than at present - might be the provision of an "early warning system" so that the police are made

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aware of witnesses who are worried that intimidation might occur. It is important, however, that any additional role in relation to the criminal justice process and the courts should be adequately resourced, and should not in any way prejudice Victim Support's main work in providing support to victims of crime. It would be inappropriate for the criminal justice system to rely on Victim Support for safeguards whose provision ought to be shared by all the relevant agencies.

If the focus of support is the victim and the witness then a positive message about agencies taking an active interest in the concerns of members of the public is achieved. This could have beneficial effects on the fear of crime in high crime neighbourhoods by building residents' confidence in agencies' willingness to support them effectively when they are victimised. If fear is lessened then the climate in which intimidation and offending thrive could be positively changed, and the level of crime in an area can be reduced in the longer term.

In addition, as the National Board for Crime Prevention (1994) pointed out "A history of victimisation against a person or place provides the police with an opportunity to combine their investigative and preventive tasks to improve detection rates and victim protection. By pointing to the most probable times and places of future offences, repeat victimisation also helps identify the times and places where offenders may be found and apprehended. There is potential for the development of a symbiotic relationship between crime prevention and offender detection".

The debate can usefully be widened to consider how to police areas where intimidation or fear of it is likely to be a problem, and it is likely that the police need to adopt a proactive strategy. In addition to focusing on victims this might involve promoting and making more use of anonymous phone lines such as the Crimestoppers scheme, or a serious attempt to cultivate more informants, or mounting operations based on the collection of intelligence. Such a strategy might also, in some circumstances, relieve witnesses from the burden of having to provide possibly the only source of evidence.

In conclusion, it must be right that the police service acknowledges that the protection of victims and witnesses from repeat victimisation and intimidation is a primary aim which warrants an effective prevention strategy. The level of response must, of course, be commensurate with the potential threat, and could cover any measure from the provision of basic information and reassurance, through the provision of temporary measures such as rapid response alarms, to relocation and a change of identity in the most serious cases.

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A role for local authorities

Sub-divisional commanders in all four forces where the case study interviews were carried out mentioned the degree of co-operation which existed between themselves and local authority housing departments. Generally, effective liaison arrangements existed between the police service and the local authority; meetings of tenants associations also took place which both attended. Specific liaison on individuals occurred at between a daily and a fortnightly basis across the four areas, when corroboration from police records was sought for a tenant's assertion that he or she was being harassed or intimidated. Little information passed in the other direction, however, and it is the potential for local authorities to play a role in dealing with intimidation that the remainder of this section is concerned.

One particular authority, the London Borough of Hackney, was experiencing a large scale problem in early 1993 on the Kingsmead Estate, Hackney, which had suffered badly from vandalism, other property crime, assaults and harassment. Victims (both tenants and staff) were able to identify the suspects but were unwilling to bear witness in a criminal case due to fear of retribution. The police kept the estate under surveillance and charged some of the suspects who were not all tenants; some were minors. The uncertainties of the outcome of criminal action (especially against the minors), the difficulties of managing complaints from tenants and the cost of repairing the damage led Hackney to consider, with tenants and police, seeking an injunction under section 222 of the 1972 Local Government Act. This gives local authorities the power to prosecute or defend legal proceedings where they "consider it expedient for the promotion or protection of the interests of the inhabitants of their area". A preliminary court hearing was held in March, which resulted in a draft injunction. Hackney put a great deal of time into further investigations during which 200 people gave evidence and some agreed to be named. A second hearing was held in May, at which three injunctions were obtained against the adults involved. The injunctions covered such areas as prohibiting damage, entry to flats and assault. Criminal actions resulted and Hackney followed up by re-possessing the properties involved. The Borough is considering taking similar action on other estates where problems of vandalism and racial harassment are particularly severe. Hackney say that levels of burglary, vandalism and loitering on the estate have dropped dramatically since this action. It is too early to tell if it will encourage people to move on to the estate. The action has also resulted in moves to improve social and community facilities at Kingsmead - the police, the local church and local authority are all putting resources into this. In short, the injunction route has been successful although it has involved a great deal of effort on the part of all concerned. It does, however, raise the wider question of where the offenders will go, and the general question of displacement.

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An associated course of action which has been experimented with by several local authorities is the employment of "professional witnesses" who can be called upon to witness criminal acts. The professional witness would usually not live in the area, and not be likely to be vulnerable to intimidation. He or she would be available to witness an incident, and give evidence in court in the normal way, thus relieving the public of the burden of doing so.

In order to develop a consistent policy on these issues the Association of Metropolitan Authorities (AMA) and the Association of District Councils (ADC) have been collecting relevant material from member authorities, including information on practices, procedures, issues and problems, and established working parties of advisers to analyse it and make recommendations. The Associations looked specifically at disputes, nuisance and crime on council estates or involving council tenants in order to examine:

- (i) the local authority's role as landlord, as distinct from its other roles as a planning, environmental health or social services authority, and the enforcement of tenancy conditions, rather than other methods of enforcement;
- (ii) the local authority landlord's role as enabler and coordinator of the multi-agency response necessary to tackle recalcitrant problems on many council estates;
- (iii) the scope and limitations of existing legal powers to encourage or enforce compliance with tenancy conditions, alongside the innovative use of other, non-landlord, powers, such as injunctions, and whether additional powers are needed.

The ADC'S (1994) report recommends that "Local Authorities should seek to use the influence and involvement they do have through the police authority and local police divisional structures to:-

- Ensure that the police are publicly committed to the anti-social/community safety strategy.
- Make the appropriate police resources available, and help ensure that they are directed at both the strategic and operational levels in support of the strategy.
- Ensure that police co-operation is maximised in terms of:
 - Provision of information/data on crime/incivilities and associated costs where known.
 - Seeking appropriate bail conditions.
 - Using police evidence and officers as witnesses particularly in respect of Housing Act cases.

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- Securing police support to the wider community on crime prevention, personal safety, architectural liaison, and residents' meetings, is focused as part of the anti-social strategy.

Securing greater liaison and co-operation between the police and the local authority operational, estate or area based staff.

- Local authorities should press the police to use their Public Order powers more obviously and extensively to deal with violence, threats of violence or abusive behaviour."

It is not within the scope of this report to recommend changes in the role of local authorities in order to make it easier to bring civil actions, and to dispense with the need for criminal prosecutions involving the police and the CPS. Should the local authority associations bid for an extended role and greater legal powers of enforcement, and this is agreed by the Department of the Environment, it would seem sensible for the police service to support local authorities' efforts in this area. Successful civil actions present a valid alternative to criminal prosecutions and highlight the effectiveness of the legal system as a whole. The prevention of harassment and intimidation which is likely to result from the removal of those perpetrating it (an oft quoted view by those interviewed as part of the research) and the consequent reduction in the number of criminal proceedings is likely to result in some saving of police time in dealing with incidents which would otherwise have been reported. This is unlikely to be outweighed by the additional effort which may be requested by local authorities in surveillance operations and injunction enforcement in order to support such civil proceedings.

4. Conclusions

Main Findings

This study has attempted to provide the answers to two questions:

- (i) whether the wave of anecdotal evidence suggesting that witness intimidation was widespread could be substantiated. This was achieved by an assessment of existing data sources, and by conducting two surveys as part of the project;
- (ii) whether the circumstances leading to intimidation could assist in identifying areas for action. This was achieved by interviews with witnesses who had been intimidated, and by soliciting the views of the police service and the other agencies involved.

The first conclusion concerns the level of intimidation. On high crime housing estates where intimidation was expected to be more prevalent, 13% of crimes reported to the police by victims and 9% reported by witnesses resulted in people being intimidated. Intimidation includes threats and verbal abuse, as well as damage to property and acts of physical violence. 6% of unreported crimes were not reported by victims, and 22% not reported by witnesses due to fear of reprisals. It is, therefore, reasonable to conclude that witness intimidation is a very real problem on the type of high crime housing estates where the house to house survey was undertaken.

The survey also showed a general unwillingness of the public to come forward as witnesses, particularly where they were not the direct victim of a crime; respondents had reported only 29% of crimes they had witnessed. Clearly the reasons for non-reporting of crime are very much broader and more complex than the fear of intimidation or reprisal. Nevertheless, tackling such fear would affect a significant number of cases, and needs to be pursued.

The second conclusion is that a reduction in the fear of reprisals - for instance, through being seen to deal effectively with intimidation where it does occur - is one way of increasing the public's willingness to report crime, offer their assistance to police investigations and give evidence in court. The research has been able to identify a number of amendments to police (and other agencies') procedures which, if adopted, will almost certainly lead to a reduction in the incidence of intimidation, although to what extent it is impossible to determine. Furthermore, it has been able to suggest ways in which the police service might respond to intimidation when it does occur or adopt policing strategies which would help to deal with the problem. The recommendations on how these might be achieved were contained in chapter 3, and are brought together and summarised in the discussion below.

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Procedures for improving the protection of victims' and witnesses' identities

So far as initial police response and investigative procedures are concerned, the research points to the advantage of the minimum information necessary being given to officers over police radios to allow them to respond to an incident, further details being given only over the telephone or, preferably, in writing at the police station. It is also worth considering not visiting non-victim witnesses - unless absolutely necessary for the pursuance of the investigation - on the day of the incident, and always giving them the option of visiting a police station in order to give a statement. It has to be acknowledged that the importance of their information for the immediate pursuance of the investigation is difficult to judge until they have been interviewed. More careful consideration than at present could be given to whether a street identification is conducted immediately following an incident. The use of screened facilities as a matter of course in identification parades in police stations is also worthy of further thought. The custody officer could liaise with the investigating officer so that a suspect is never released from custody at the time a victim or witness is in the vicinity of the police station, and is only released if the arresting officer feels that he will not immediately re-offend or attempt to intimidate the initial victim or any witnesses. Again, this is not easy to judge, and the suspect's right to bail must be adhered to.

Where private property is used for observation purposes, the current practice whereby identification of the property and its occupiers is avoided at all costs, even if this means discontinuing the case, should be adhered to.

Improved victim and witness support

Consideration should be given to the way in which victims and witnesses are warned of the possibilities of reprisals at the time of taking statements, so that this is not in such a way as to deter them from agreeing to give information or evidence. A contact other than the officer dealing with the case should be made available to all victims and witnesses, so that information about case progress can be ascertained at any time, and so that any intimidation can be reported immediately. Whether the contact is a police officer or a civilian, he or she should work normal office hours rather than as part of a shift system. Victim Support's services should be utilised as an early warning system so that potentially vulnerable witnesses can be identified by the police service.

Constraints on suspects' behaviour on remand

The prison service could consider placing restrictions on telephone calls made by prisoners on remand to prohibit them from contacting victims or witnesses even where they are close relatives. In general, the research found that there needs to be

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more effective liaison between the prison service and local police, so that the latter are made aware of the attitude of all prisoners on any type of release in order to identify potential reprisals or attempts to intimidate witnesses.

The separation of victims and witnesses from suspects in court

So far as problems in and around the court are concerned, the use of a live television link or screened facilities for witnesses giving evidence should be considered in a wider range of cases than at present. In any case, the witness box should not be sited opposite either the dock or the public gallery.

Whenever possible, separate entrances and waiting facilities should be provided for prosecution and defence witnesses in all court buildings, whether Magistrates' or Crown Courts. The use of pagers or similar devices should be experimented with where the physical separation of prosecution and defence witnesses is not practicable within the court buildings. Ways of facilitating a uniformed presence in all court buildings, whether Magistrates' or Crown Courts, should be considered. This is particularly important where separate entrances and waiting facilities are not available for prosecution and defence witnesses. One way of achieving this would be locating force or BCU Administration of Justice Units within court buildings. However, there are a number of difficulties with this: (i) if there is no room for separate waiting areas there is unlikely to be room for the AJU; and (ii) AJUs are increasingly being civilianised rather than remaining a core police function. An alternative is the deployment of private security personnel employed by the courts.

Proactive strategies on high crime housing estates

Knowledge about the likelihood of repeat victimisation should be used by the police in order to increase detection of subsequent crimes on the same victim. Strategies which could be employed in preventing repeat victimisation could also help to prevent witness intimidation; the common element is the identification and protection of vulnerable groups.

Other tactics, such as an increase in the use of informants, surveillance operations and so on, should reduce the necessity of gathering evidence from witnesses, although these will have resource implications.

The police should co-operate with requests from local authorities for logistic support in order to bring and enforce civil injunctions where this represents a viable alternative to investigating and pressing criminal charges.

Conclusion

It seems clear that witness intimidation is an area ripe for the implementation of a

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number of wide-ranging crime prevention strategies, some of which will only be achieved through a multi-agency approach. It is recommended that the police service and the other agencies involved consider the implementation of the suggestions contained in the discussion above in order to complement protection with prevention strategies that reduce the incidence of the initial problem.

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APPENDIX

Appendix

Table A1: Sex, age and marital status of respondents						
	Location					
	Total	Bristol	Coventry	Salford	Hartlepool	Middlesboro
Sample size	1077	256	183	188	215	235
Sex						
males	418 39%	72 33%	71 33%	96 45%	81 38%	97 45%
females	659 61%	143 67%	144 67%	119 55%	134 62%	118 55%
Marital status						
married/living as married	558 52%	131 61%	96 45%	104 48%	128 60%	99 46%
single	247 23%	35 16%	56 26%	62 29%	43 20%	50 23%
divorced/widowed/d/separated	213 20%	41 19%	49 23%	44 21%	33 15%	46 21%
Age						
under 16	50 5%	6 3%	14 2%	4 7%	6 3%	20 9%
16-34	388 36%	60 28%	100 47%	70 33%	82 38%	77 36%
35-64	425 39%	102 47%	70 32%	97 46%	80 36%	78 36%
65 and over	214 20%	48 22%	32 15%	45 21%	48 23%	41 19%
Base : total respondents at each location						

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