

Paper for Street Weapons Commission

Witness intimidation and witness protection

Nicholas Fyfe

**Professor of Human Geography, School of Social Sciences, and
Director, Scottish Institute for Policing Research.**

The nature of witness intimidation

Interviews with those working for a range of agencies connected with the criminal justice system (including the police, the courts, victim support and social services) have established that there are three broad types of witness intimidation.

- Perceived intimidation where members of the public are not prepared to come forward and give evidence because of a fear they will be labelled a 'grass'.
- Cases of victims and witnesses who are frightened to give evidence because of actual intimidation or harassment.
- Cases where there is a high risk of serious, even life-threatening intimidation.

Drawing on evidence from research conducted by the author in Strathclyde in the west of Scotland, it is possible to illustrate the nature of these different forms of intimidation. In terms of perceived intimidation, many of those working within the criminal justice in Strathclyde argued that in many of the large local authority housing schemes in and around Glasgow, there was general fear of intimidation and harassment which deters individuals from giving any form of assistance to the police. In many of these housing schemes it is often one family or a small group of families who are perceived by other residents as threatening. Moreover, the stigma of being labelled a 'grass' in these areas is often sufficiently strong to dissuade witnesses or victims from ever coming forward to assist the police with the investigation of crime

I think that it's an issue about culture and about the fact that there are cultural rules. ... For somebody living in a community, the culture is you don't grass because it isn't just the impact grassing has on you and your relationship with other people but also your family and friends. . I mean there is two parts: the cultural part and then there is the fear part. The cultural part is you don't grass. The fear part is if you do grass this is going to lead to implications for you which can be devastating and there is nothing that anyone can do. (Victim Support worker)

If you look at X where all your drug dealing goes on and where the shoplifters stay and everything like that, and, no, you don't grass because that's what you are seen as, a grass, and if you do then that's what's spray-painted all around your house and things like that. (Victim support worker)

In terms of actual intimidation rather than fear of reprisals, many of those interviewed could cite cases where victims and witnesses had given statements to the police but had then suffered various forms of intimidation:

The person gets a phone call at a relevant time and there would be no one at the other end or something might be said. Likewise spray painting on some one's door 'grass' or something like that. Now that might not be a great deal but it can be really frightening. (Police officer)

In one area a woman had seemingly been grassing young people up and she went to sleep one night and woke up in the morning and all her windows had been painted black during the night, every single window. The intimidation on that woman's life, and a young family she had as well, you are frightened to let the kids go to school, you're frightened to let them play in case anything happens. (Community safety worker)

This type of non-life threatening intimidation is important for at least three reasons. First, is the impact it has on individual witnesses. As a victim support worker explained:

Low level intimidation is still massively distressing and disrupting to the individual victim. I mean maybe it is not seen as a major crime but if you can't walk down to the shops or go down to the bus or come out of your home without being sworn at, stones thrown at you, and that is happening to you day in and day out, your life is not the way it was before. And it has a dramatic effect on people. They drink more, start taking medication, become depressed and become very vulnerable and suffer a lot even through low levels of intimidation. (Victim Support worker)

Secondly, this type of intimidation is not only about deterring particular victims or witnesses from giving evidence but also about reinforcing a sense among the wider community of the power and influence of the intimidators:

It's part of the cultural thing about reinforcing your control of the community. ... You have to demonstrate the violence in order to have people in fear of it and sometimes people don't give them any excuse. (Victim Support worker)

Thirdly, while some intimidation may begin as non-life threatening it may escalate into something much more serious involving threats to the lives of witnesses and members of their family. One example, discussed by a Victim Support worker, concerned the consequences for a family after the father reported a man who had sexually assaulted his daughter:

That was the beginning of the end for them. I mean, his two sons were beaten up, the daughter was attacked all the time, they couldn't go out and their house was set on fire. ... They got moved to another area of the city but three days after they moved in the house was petrol bombed. (Victim support worker)

These cases of life-threatening intimidation were perceived as very rare and were more typically associated with crimes like murder or attempted murder where it was felt that the accused and their associates were capable of posing a serious threat to the lives of key witnesses, as a police officer recalled in relation to one murder case:

It was alleged that the people had already committed a murder so it was felt that they would not stop there if they were to try to avoid prosecution. ... It was clear they had access to weapons and would use violence so there was no doubt [the witnesses] would be in severe danger. (Police officer)

Although these types of case were rare, many of those interviewed believed such cases of serious intimidation were increasing, fuelled by the involvement of drugs:

Particularly in big drug involvements, where there's a lot of money to be made... the repercussions are great because there is too much money at stake for these people now... they are making so much they are wanting to run their empires and they are not standing for anyone who is going to step out of line and maybe do them any harm. (Procurator fiscal)

If you are dealing with someone who is dealing in heroin, you are talking big money, big, big money, ... and when the prizes are so big there is too much to lose and a lot at stake. It means nothing to them to go out and give someone a mark across their face as punishment or to skelp his knees, or something worse. (Police officer)

These are views echoed by police officers in other large metropolitan areas. According to a senior detective in Manchester, for example:

You're seeing a totally different kind of villain these days who are used to employing gratuitous violence to get their way. The profits from drugs are so high, they feel they can ignore the law. If they get caught, they try to bully their way out.

Witness protection arrangements

To tackle cases where there is very serious witness intimidation, police forces in the UK and elsewhere have developed witness protection schemes. Such schemes have their origins in the US in the fight against organised crime. The world's first formal witness protection scheme, the US Federal Witness Security Program, provides the means by which witnesses, who are facing violence or the threat of violence because of giving evidence in cases involving organised crime, drug taking or other serious felonies, can be secretly relocated, given new identities, and assistance in relation to employment, health care and other aspects of their welfare.

This model of witness protection has diffused around the world, providing the basis for witness protection in the UK and elsewhere. In the UK witness protection arrangements were pioneered in the UK in the 1970s by the Metropolitan Police Service and the Royal Ulster Constabulary (since re-named the Police Service of Northern Ireland). Focusing mainly on cases involving organised crime and terrorist offences, the overwhelming majority of those relocated during the 1970s and 1980s were so-called 'supergrasses' but by the early 1990s nearly 50% were 'ordinary' witnesses threatened by attack. Other police forces, too, began to become increasingly concerned at a small but growing number of cases in which there had been the murder or attempted murder of witnesses. In 2005 the Serious Organised

Crime and Police Act (SOCPA) included a section on the 'protection of witnesses and other persons' which defined the eligibility criteria for protection, the powers of the police to make joint arrangements with other police forces for protecting a witness, and the duties of other agencies to assist the police in relocating witnesses. In terms of eligibility for protection, SOCPA defines eligibility in terms of 'Persons involved in criminal investigations or proceedings having regard for: (a) the nature and risk to the person's safety (b) the cost of the arrangements (c) the ability to adjust to a change of circumstances (d) the importance of the testimony'.

What are the impacts and implications of the witness protection arrangements established by many police forces for those cases where the lives of witnesses and their families may be at risk? For the police, a key benefit has been that responsibility for protecting witnesses is taken away from the limited resources of an investigating team. In the past, investigating officers have often found themselves (in the words of one officer) 'baby-sitting these people [witnesses and their families]'. The use of specialist witness protection officers has helped relieve this pressure on investigative resources and overcome two other difficulties. First, in cases where local detectives attempted witness relocation they often relied on ad hoc, informal arrangements with housing and other agencies which were often insecure. Second, where investigating officers looked after witnesses, they risked claims by the defence during the trial that they had coached a witness and assisted them to get good evidence. The use of a specialist witness protection programme has not only brought a professionalism to witness protection matters which has helped ensure a higher level of security for protected witnesses, but also, because witness protection officers have no connection with the cases witnesses are involved in, they are less likely to be accused of coaching them.

For the witnesses on protection schemes, their overall assessment of the assistance provided by the police is very positive. Research on the Strathclyde Police Witness Protection Programme revealed that many witnesses felt that they did not think that they would have given the evidence that they gave, or were prepared to give, if they had not had the support and assistance of the police. Indeed, in some of the most serious cases, the witnesses were convinced that were it not for the Protection Programme they would have been killed to prevent them giving evidence. As one witness observed:

I think we could have ended up dead. Someone would have ended up dead. [The police] helped us get there.. I don't think we would have got as far with the court case because someone would have killed someone; it was getting out of hand .

Nevertheless, relocated witnesses also face enormous challenges in relation to their sense of mental and social well-being. Many of those interviewed for the Strathclyde study were left with feelings of anxiety and anger about their experiences:

I am paranoid and anxious even now ... When I am not on anti-depressants, I become very paranoid. The paranoia is still there with me. There is always that fear they will find out where we are

I am still very angry. I have never been as angry as this in my life; I am still very, very angry. ... If I met them I think I would kill them, that is how angry I feel, It is the result of what they did to my daughter, having to leave my home that I have been in for nearly 27 years and having to leave the area and my sisters. I don't know if I am ever going to get over this anger.

