

142271

Literature Review

**Victim-Witness Protection
LA-95-503-CRA-1758**

**This annotated review by
Marie Shadden
Community Research Associates
in performance of
Bureau of Justice Assistance
State and Local Assistance Division
Project # LA-95-503-CRA-1758
January 1996**

The following annotated review summarizes available references or viable programs adding to the current body of knowledge concerning witness protection. This review was performed by Community Research Associates in performing Project #LA-95-503-CRA-1758 for the State and Local Division of the Bureau of Justice Assistance. Distribution was made to the Bureau of Justice Assistance, the National Criminal Justice Reference Center and the U.S. Attorney's Office in the Eastern District of New Orleans.

Lentz, Jennifer, Witness Protection, Los Angeles County Hardcore Gang Division, 210 West Temple Street, Los Angeles, CA 90012. For information contact: Deputy District Attorney, J. Lentz at (213) 974 - 3833.

The California Penal Code clearly requires the prosecution to disclose information with certain limitations such as threats or possible danger to the safety of a victim or witness, loss or destruction of evidence or possible compromise of other investigations by law enforcement. This publication is a practical guide for a tactical approach to witness protection within a county environment and contains step by step instructions which might be modified for use in another venue.

Connick, Elizabeth and Robert Davis, "Examining the problem of witness intimidation", Judicature, 66, 439-447, 1983.

Silverman, Sandy, Criteria, Onandaga County District Attorney's Witness Support Project, unpublished report, County of Onandaga, Syracuse, NY 13202, September 1990, Contact: Sandy Silverman, Senior Investigator, (315) 685 - 6100 or District Attorney's victim-witness support office at: (315) 425 - 2470.

Contains an eight page description of the county witness support criteria including protection and relocation. Referrals are accepted from the broad spectrum of community contacts, ie. Law enforcement, shelter management, probation, hospital staff, social service workers, churches etc however, the program and relevant approvals reside with the Assistant District Attorneys and interventions are considered part of case management.

Hillenbrand, Susan, Coordinator, Reducing Victim/Witness Intimidation: A Package, American Bar Association, Criminal Justice Section, Washington, D.C., 1982. Contact: Ms. Susan Hillenbrand, ABA, (202) 662-1680.

Discusses the American Bar Association recommendations regarding victim services, the Federal Victim and Witness Act of 1982 and the Victims of Crime Act of 1984 (VOCA). Many states have mandated the provision of specific services to victims and provided for limited compensation for medical expenses and other damages resulting from crime. However, degrees of protection offered to victims and witnesses varies widely from state to state and among prosecutor offices within the same state. Describes types of victim and witness intimidation commonly practised and outlines traditional approaches to solving problems of victim and witness intimidation.

Gang Prosecution in the United States. Final Report, Institute for Law and Justice, Inc. Alexandria, VA 22314. U.S. Dept of Justice, National Institute of Justice. Obtain through NCJRS.

The most significant problems involved with prosecuting gangs include obtaining witness cooperation, overcoming witness intimidation, and dealing with a lack of early intervention programs for youth at risk. This report presents analysis of a national survey of prosecutors and a review of legislation specifically aimed at stopping criminal gang activity.

Wissner, Sheila, "With outside threats gone, worries turn inward", Nashville Tennessean, May 14, 1995.

Article examines the reasons for a surge in citizen evaluation of crime as nation's top problem for the first time in 60 years (1994). In 1993, the number rating crime as number one was 9%. In January 1994, 37% citizens rated crime as number one problem and by mid-August, 52%. Author suggests resolution of other long held concerns nudged this problem to the top. Also offered are: broadcaster obsession with violent crime, political rhetoric and changes in the nature of crime.

Genelin, M and Naiman, L, Prosecuting Gang Homicides, Los Angeles County Office of the District Attorney, 210 West Temple, Los Angeles, CA 90012. Available through NCJRS.

Monograph which treats many of the problems faced by prosecutors in seating and educating jurors concerning gang activity. Also discussed are bail, witness protection, court intimidation by gang members, dealing with recalcitrant witnesses, dealing with informants, proving the gang's guilt and closing arguments.

Williams, W. A., "Case for Proactive Prosecution," Criminal Justice Journal, V. 13, N.2, (Spring 1992), p. 389 - 397.

This is a model program description. The effort is part of the State's gang violence suppression program, which was established in 1981 by the California legislature. Caseloads for investigators and prosecutors assigned to gang-related cases must be significantly lower than the standard office caseload for felonies to allow for the necessary depth of investigation and witness protection services. The unit makes use of vertical prosecution and the assigned prosecutor accompanies police into the field. The advantages outweigh disadvantages however, there is an area now open to interpretation concerning civil liability for acts performed outside the courtroom.

Davis, R.C., Smith, B.E. and Henley, M., Victim/Witness Intimidation in the Bronx Courts: How Common Is It and What are Its Consequences?, Victim Services Agency, Bronx County Office of the District Attorney Major Offenses Bureau, Bronx, New York 10005, 1990. Available from NCJRS.

This is the report of a Daniel and Florence Guggenheim Foundation award project to assess the prevalence of victim and witness intimidation in the Bronx Criminal Court and to evaluate the impact of intimidation on victims and case outcomes. Over 70 percent of respondents said they would be afraid of defendants out on bail, including 57 percent of those victims who had not received explicit threats. Victims who were threatened were three times more likely to drop

charges than victims who were not threatened. Confirms previous research.

Safir, H., "United States' Witness Protection Program," Transitional Crime: Investigative Responses, p.17 - 23, 1989, Harold E. Smith editor. Available from NCJRS (#120383).

Paper presented at the 3rd annual symposium on International Criminal Justice Issues, University of Illinois, Chicago. It is considered a program evaluation. The Witness Protection Program was established in 1971 and has a network of 160 specially trained witness security inspectors stationed throughout the country whose sole responsibility is to protect and assist endangered witnesses to federal crimes. These inspectors are supported by 150 Deputy U.S. Marshalls. Has established training program which includes diverse courses from psychological testing and counseling to defensive driving and dignitary protection. The Witness Protection Program is considered highly successful and has resulted in convictions of approximately 89 percent of defendants against whom they have testified. Steps involved in protecting witnesses are detailed and may be adapted for local use.

Graham, M.H., Witness Intimidation – The Law's Response, Quorum Books, Division of Greenwood Press, Inc., P.O. Box 5007, 88 Post Road West, Westport, CT 06881, 330 p, 1985.

This book describes the nature and extent of witness intimidation and ways to deal with it. The author suggests specific ways to preserve trustworthy out-of-court statements and admit them as substantive evidence at trial if the witness' testimony is lost through intimidation. The author suggests the use of a 'preservation proceeding' that would permit the prosecutor to bring a witness before a judge, magistrate, or specially appointed attorney for preserving witness testimony. References.

Schleck, P and Wright, G.S., "Interference with the Judicial Process," American Criminal Law Review, V.30, N. 3, (Spring 1993), p.789 - 812.

Discusses the provisions of the Federal Victim and Witness Protection Act (VWPA) which specifically deal with obstruction of justice and witness tampering. In discussing provisions pertinent to the obstruction of justice, defenses are also outlined. The review of witness-tampering provisions discusses history, constitutionality, intended scope, venue for prosecution and elements of the offense. Referenced.

Healey, Kerry Murphy, "Victim and Witness Intimidation: New Developments and Emerging Responses," Research in Action, National Institute of Justice, October 1995.

Explores emerging strategies which emphasize prevention of intimidation, innovative interventions, emergency relocation and support for threatened witnesses. Process based on community policing techniques and networking among law enforcement, prosecutors and judicial staff. Specific references to citizen unwillingness to testify in court.

Taft, Philip B., Jr., Fighting Fear The Baltimore County C.O.P. E. Project, Police Executive Research Forum, Washington, D.C. 20037, February 1986.

C.O.P.E. officers recognize that every neighborhood has different problems that stem from different causes and tailor appropriate responses. COPE teams have substantially reduced fear of crime among residents of the communities they serve. Although state or federal funding often lasts only two years, innovations in policing often take longer to mature, thus, police managers have to be willing to take risks to gain improvements.

Walinsky, Adam, "The Crisis of Public Order", The Atlantic Monthly, July 1995.

People hire police officers because they are afraid—above all of violence. It will take some time before the corporate memory internalizes the actual reduction in the crime rate over the past several years. Grief, anguish and loss echo in the corporate memory for decades and constant exposure in the media insures collective participation in the grieving process. The nature of violent crime has changed over the years since 1965 and police procedures have not always recognized the changes in a timely fashion resulting in a diminished capacity to "clear" violent crimes such as homicide and bring about social closure. The author analyses available statistics and estimates the current potential to escape detection of violent crime at nearly 80 percent. Since 1980, the nation has turned its detection attention to drug-related crimes and the author contends that while individuals involved with drug-related crimes may also engage in violent crimes, the overwhelming number of arrests and sentences do not reflect commission of violent crimes. Author claims and cites statistics to prove that the increase in violent crime experienced since 1985 tracks exactly the convergences of two demographic curves: the coming of age (15) of juveniles abandoned by one or both parents and the emergence of crack as drug of choice among certain populations. Author states a case for increasing police forces and returning them to basic function of protecting the population by suppressing violence and criminal activity, protecting public spaces, guarding schools, neighborhoods and homes and protecting life.

Moore, Mark and Robert Trojanowicz, "Policing and the Fear of Crime", Perspectives on Policing, U.S. Dept of Justice, June 1988.

Fear becomes a contagious agent magnifying the injury of violent crime throughout society. As long as criminals are virtually in control of city streets, groups of people who consider themselves particularly vulnerable are unjustly imprisoned in their homes. A fundamental purpose of government is to establish order and protect citizens and the current level of fear seems to indicate a critical failure of government. Examines inverse relationship of fear to actual victimization and the five primary contributing causes: actual victimization, second-hand information, physical deterioration and social disorder, physical composition of the housing stock and group connect. Improvement in street lighting seems to produce significant results in reducing fear at rather minimal cost. Authors suggest reversing current strategies of controlling victimization to control fear, rather, we should manage and constructively channel fear to reduce victimization. Efforts should be concentrated on public rather than private security. Authors discuss economic trends in managing police forces and compares one of the primary motivations of crime itself, ie. follow the money. If the citizens were afraid of crime and the police were the

only solution offered, the police department would benefit in the fight for scarce municipal funds. Thus police executives and unions emphasized the risks of crime. Motorized patrols, rapid response and retrospective investigation are not designed to reduce fear. Offers suggestions based on research on fear.

Steeves, Nancy, Nebraska's Crime Victim Services Needs Assessment Instrument, Nebraska Crime Commission, Lincoln, Nebraska 68509. For information: (402) 471-3416

The Nebraska Crime Commission requested assistance from the Bureau of Justice Assistance after finding no instrument available to assess needs of victims in providing services. Laurie Moriarty and Dr. William Pelfrey from the Virginia Commonwealth University were commissioned to develop such an instrument and finalized the instrument in February 1995. Can be adapted for statewide, regional or local use. Now in the validation phase with cooperation of the Criminal Justice Department of the University of Nebraska at Omaha. Final report expected by the NCC in April 1996.

Gist, Nancy, "Business Alliance Program: Creating Business and Community Partnerships," Bureau of Justice Assistance Fact Sheet, U.S. Dept of Justice, for information call: 1-800-421-6770.

Details the benefits of business partnerships and highlights successful organizational plans. References a monograph: Business Alliance: Planning for Business and Community Partnerships (NCJ 148657) Suggests forming business alliances to focus on increasing business and job opportunities by expansion. Business alliances also capable of dealing with the problems of urban neighborhoods -- high crime, unemployment, drugs, declining business districts, physical deterioration and lack of organization to stimulate economic renewal.

TRIAD Publication: Law Enforcement and Seniors Working Together. For information call: Betsy Cantrell at (800) 424 - 7827 or AARP Criminal Justice Services at (202) 424 - 2222

Older Americans comprise the most rapidly growing segment of the population. A TRIAD consists of a three-way effort to serve this growing community by linking a sheriff, the police chief(s) in a county and AARP leadership in the area. Brief statements on history of the TRIAD movement and potential to serve the community. Outlines typical plan of action. Focus on self-defense as an attitude, crime prevention and victim assistance.

"Chapter VII," Victim Witness Assistance Program Standards and Procedures Manual, Pennsylvania Commission on Crime and Delinquency, call (800) 692 - 7292 or (717) 787 - 8559 for information.

Revision of program standards manual for program existing since 1984. Features minimums, models and procedures as guidance to victim service providers. Areas of interest include: victim witness intimidation, notifications, prosecutor's official responsibilities, informing of case status, witness management, separation of waiting areas, prior comment on pleas and charges, release notification, crisis intervention and community referrals.

"Section Five," The Crime Victim and Witness Assistance Training Program, Participant's Handbook, Federal Law Enforcement Training Center, U.S. Department of Treasury with support from the Office of Justice Programs and the Office for Victims of Crime, 1988.

Contains bibliographic reference section. Section Five contains information on specialized victim witness concerns including summary. Topics: Effective Communication with Victims and Witnesses, Interviewing Child Witnesses, Interviewing the Elderly, Concerns of the Physically or Developmentally Disabled Victim or Witness, Special Concerns of Witnesses to Crime and Witness Intimidation - Combating this Growing Problem. Training outlines on above topics.

Louisiana Programs and Projects for Violence Prevention and Victim Support: A Resource Directory, Louisiana Violence Prevention Task Force, New Orleans, LA 70112, Office of Public Health, 1440 Canal Street, Ste. 1600, New Orleans, LA 70112, 1994.

Resource guide listing and describing 54 Louisiana based programs dedicated to the primary, secondary or tertiary prevention of violence and the support of victims.

George, B J, Jr., "Victim and Witness Protection," Contemporary Federal Criminal Practice: Volume 2 of the Comprehensive Crime Control Act of 1984, p. 683 - 722. Prentice Hall Law and Business, 855 Valley Road, Clifton, NJ 07013 NCJ - 119253.

Details provisions of the act relating to victim and witness protection. Witness intimidation discussed in detail. Provisions of the Bail Act of 1984 relating to preventive detention, an indirect form of victim and witness protection, are enumerated. Policies and provisions of the federal witness protection program are discussed in detail.

Study of D.C. Police Response to Domestic Violence Shows Police Do Not Make Arrests, in Violation of Their Own Guidelines, D.C. Coalition Against Domestic Violence, Washington, D.C. 20036, 58p, 1989.

Research shows that no other police response deters battering better than arrest, and that the failure of the police to arrest allows the batterer to continue in his abusive behavior and assures him that his actions will not be taken seriously by the criminal justice system. Results of interviews with over 300 victims. With references.

Finn, P. and Colson, S. Civil Protection Orders: Legislation, Current Court Practices and Enforcement, Abt Associates, Inc. Cambridge, MA 02138, U.S. Department of Justice, National Institute of Justice, Washington D.C. 20531, 71 p, 1990. Contact NCJRS

Technical assistance report which analyses the nature, advantages, limitations, and use of civil protection orders to protect victims. Explains how county and municipal court judges can effectively use and enforce such orders. Protection orders can be issued immediately on a temporary ex parte basis. They can help provide a safe location for the victim by barring or

evicting offenders. Give victims an option other than filing a criminal complaint against a family member. Includes court policy guidelines, sample orders, tables, chapter notes and appended list of state laws.

Brandl, S.G. and Horvath, F., "Crime-Victim Evaluation of Police Investigative Performance," Journal of Criminal Justice, V 19, N 2, (1991), p 109 - 121

Research survey. Relates victim satisfaction to demographic characteristics of the victims and the nature of police investigative services. Victims who received faster than expected response were most satisfied. High degree of investigative effort was more likely to satisfy victims only when victims were aware of the degree of effort. Police professionalism had the greatest effect on victim satisfaction; a high degree of police professionalism was positively related with victim satisfaction for all crime types.

Hatfield, Jerry, Developing Performance Measures for Criminal Justice Programs, Assessment and Evaluation Handbook Series No. 2, Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice, Washington, D.C. 20032, February 1994.

Provides a relatively simple format for program design which will allow for program evaluation. Specific program design statements and descriptions. Explains preparation of clear statements of missions, purposes and goals.

Callahan, Madelyn R., "Training on a Shoestring," Training and Development Magazine, December 1995. 5 pgs, reprints \$10 from ASTD Customer Service. Contact (703) 683 - 8100.

Concise article features helpful suggestions for training employees particularly in HRD services such as victim assistance. Creative ways to cut training costs and insure quality on a very tight budget. Contains information for use of computer assisted training programs, use of local colleges, small group training projects, using needs assessments and experts wisely and Internet services.

Finn, Peter and Beverly Lee, "Establishing and expanding victim-witness assistance programs," National Institute of Justice Research in Action, James K. Stewart, Director, August 1988, NCJ110684.

This pamphlet is available from the National Criminal Justice Reference Center and outlines the evaluation of priorities when establishing a victim-witness assistance program. A planning guide which runs the broad spectrum of details useful in planning a local program from selecting staff to cost analysis per victim-witness served in a variety of programs.

Active Victim-Witness Protection Programs

The following departments, judicial districts or municipal governments have established a viable victim-witness protection program tailored to their specific needs and resources. This is research in progress, but where possible, descriptions of the program and contacts have been provided.

United States Attorney's Office, District of Columbia. Contact Ms. Kathryn Tumman: (202) 514 - 7364.

Although the U.S. Marshall manages the federal witness protection program and this usually serves the long-term needs of witnesses to federal drug crimes or organized crime prosecution efforts, a small project has been negotiated for short-term local protection. This is still managed by the U.S. Marshall but serves the needs to some extent of local witnesses to crime and victims as the U.S. Attorney's Office is tasked with prosecution of all crimes in the District of Columbia. Short-term relocation is considered. A formal proposal has been submitted for independent discretionary funds for the U.S. Attorney's Office to better serve the needs of local victims and witnesses who would benefit from assistance with short-term, mainly pre-trial relocations such as the victims of domestic violence or the practises of local gangs.

Boston, Massachusetts

Short-term relocation assistance provided by the Traveler's Aid Society.

District Attorney's Office, City of Los Angeles, California

Manages an independent, discretionary fund for short-term, responsive victim-witness protection. Assistant district attorneys and law enforcement officers may apply for crisis relief type assistance for victim-witnesses and approved funds are made available within 24 hours.

Manhattan District Attorney's Office, City of New York, NY. Contact: Mr. Tom Alessandro at

Manages victim-witness protection through contract hotels, transportation etc. Responds quickly to short-term victim-witness protection needs.

Richmond, Virginia Police Department Contact: Deputy Chief Fred Russell
Investigative Services
Richmond Police Department
501 North 9th Street
Richmond, VA 23219
Telephone: (804) 780 - 6707

Manages victim and witness protection. Direct services are provided to victims and witnesses of violent crime, ie. Homicide, rape, sexual assaults, robberies, domestic violence and aggravated assault. Witness relocation is a long, complicated procedure and is available both during and

after normal work hours. Victim Impact statement assistance is included in the resident victim witness service program. Families are contacted and information obtained for judicial review prior to pre-sentencing.

Cook County State Attorney's Witness Protection Program, Chicago, Illinois. Contact: Mr. Michael Considine, Victim-Witness at (312) 886 - 2538 or Patrolman Barry Jackson at (708) 210 - 4000.

Witness protection and relocation program for the largest county court system in the United States. Serves at least 100 witnesses annually. Covert placement of protected individuals with monitoring of pre and post trial activities. Maintains compilation of detailed records for individuals and related cases across time and insures continuation of privacy. A network of various city, county and state social services has been established including public housing, public aid, social security, section 8 etc. to procure necessary services for individuals to receive protection quickly. Expenses are co-managed.

INDEPENDENT PROGRAMS

Regional Seminar Series for States on Implementing Anti-Stalking Codes

Contact: Mr. Charles M. Hollis, Chief
Prosecution Branch
Discretionary Grant Programs Division
Bureau of Justice Assistance
633 Indiana Avenue, N.W.
Washington, D.C. 20531
Telephone: (202) 514 - 5947

The National Criminal Justice Association (NCJA) has completed work on a model anti-stalking code for the states. NCJA conducts regional seminars to acquaint public policymakers and criminal justice practitioners with the model code and assists with assessing the strengths and weaknesses of existing state laws and reviewing alternative approaches to achieving enforcement objectives.

The Indochinese Mutual Assistance Association of San Diego (IMAA)

Contact: Kry M. Trang, Ph.D. Executive Director
4102 El Cajon Blvd., 2nd Floor
San Diego, CA 92105
(619) 584 - 4018

Funded by the California Wellness Foundation Violence Prevention Initiative. Assists in creating

intermediate and long-term strategies for avoiding conflict. Consists of members from four major ethnic communities, their gatekeepers, and refugee youths, as well as representatives from local schools, churches and temples, police departments and social service agencies.

MAD DADS (Men Against Destruction – Defending Against Drugs and Social Disorder)

Contact: Eddie Staton
2221 North 24th St.
Omaha, NE 68110
Telephone: (402) 451 - 3500

Nationwide coalition of fathers participating in violence prevention through community service and role modeling. Uses community policing strategies, MAD DADS cooperates with law enforcement agencies by providing weekend street patrols within troubled areas; reporting crime, drug sales and other destructive activities to authorities; painting over gang graffiti; and physically challenging drug dealers and gang members to leave the area. Also chaperone community activities for youth and provide counseling services. In some programs, MAD DADS also makes quarterly visits to local jails and prisons to counsel and encourage youths and adults to join productive programs. In the founding chapter in Nebraska, MAD DADS has also forged a linkage with the business community including the University of Nebraska Medical Center and Pizza Hut Restaurants of Omaha. The chapter sponsors a reportedly successful gun buyback program with the police department and sponsors gun safety classes with local law enforcement officials.

Mount Pleasant, South Carolina Problem-Oriented Policing

Contact: Chief Thomas J. Sexton
Mt Pleasant Police Dept.
100 Ann Edwards Lane
Mt. Pleasant, SC 29464
Telephone: (803) 884 - 4176

Funded by general town funds and grants. This program has achieved considerable success in meeting planned objectives, reducing crime and eliciting favorable response and cooperation from citizens. Adopted in 1992 as a police department philosophy of service delivery. The original plan set more than 100 specific objectives to be met over a three year period. Community programs include: bicycle patrols, boat patrols, increased foot patrols in high traffic areas like shopping centers and schools, a civilianization program using paraprofessionals to handle some calls for service and resident officers in at-risk neighborhoods. Individual officers in the department are authorized to undertake problem-solving projects and have been credited with successes which has achieved results in reducing crime.

Community Crime Prevention Safety for Everyone (CCP/SAFE)

Contact: Carol Brusegar

**Associate Director for Community Programs
Neighborhood Policing Unit/Minnesota Police Department
217 South Third Street
Minneapolis, MN 55401-2139
Telephone: (612) 673 - 3015**

This is a coalition of Minneapolis police and citizens intended to reduce local crime. Teams made up of a sworn officer and a civilian crime prevention specialist deliver workshops designed to reduce crime in specific community trouble spots, enhance community bonding, improve cooperation between police and the citizens and reduce fears about crime in the local area. CCP/SAFE workshops include personal safety, home security, auto theft prevention and in-school juvenile violence prevention training. A McGruff safe house program in which trained community residents volunteer their homes to be safe havens to which children may flee when they feel endangered has enhanced efforts to reduce fear of reprisal. CCP/SAFE partnerships help organized Neighborhood Watch programs and provide funding for some of their projects.