

**Jonathan Hadley**

**WITNESS INTIMIDATION AND  
PROTECTION PRACTICES:**

***A FRONT LINE VIEW FROM HELSINKI,  
CONSIDERATION OF FINNISH POLICE LAW,  
AND REVIEW OF RESEARCH IN THE UK***

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## Acknowledgements

This police research report on witness intimidation and protection practices in urban Helsinki is a product of a wider project on *Drugs Policing and Cultural Diversity*. The aim of that project, funded by the Ministry of Interior during 2004 and 2005 and conducted at PAKK, was to examine front-line police officer's experiences of working within the Finnish Police Drugs Strategy at various levels of organised crime, street patrol and community relations in the context of immigration and social change since the 1990s. Its intended outcome for 2006 is an independent assessment of related drugs policing issues to support the further development of the existing drugs policing strategy in 2007 and beyond.

To assist the National Bureau of Investigation with the development of a Witness Protection Programme under the Police Drugs Strategy, this particular piece of work on witness intimidation was originally researched during 2004 and submitted as an internal report in February 2005. I am grateful to the Police College of Finland's head of research, Risto Honkonen, for encouraging me to re-edit the original work and submit it for publication in the PAKK research series. I truly hope the material and discussions contained in it prove informative and thought provoking for the police audience it is has been revised for.

The drugs and diversity project is itself part of an interconnected drugs research programme co-ordinated by senior researcher Kati Rantala at PAKK, to whom I am also grateful to for her support in my work. This broader project is broadly concerned with issues for future drugs control presented by the complexities of drug crime and drug related crime in its increasingly international environment. To this end, both my *diversity* project and this particular report on witness intimidation and protection practices stemming from it draw on and engage with EU policy developments and the general UK experience.

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## 1. Introduction – The Problem of Intimidation

In a democracy, the problem of witness intimidation must be seen as more than just a practical obstacle to crime investigation and the prosecution of criminals. Where witness intimidation succeeds, it can rightly be seen as a failure of the police to *police*. For in so far as it matters to a democratic society, resignation to the encroachment of intimidation as a norm of everyday life signals a more profound failure of public faith in the rule of law. In this sense, *successful* cases of witness intimidation duly threaten the legitimacy of the state through the failure of its police to manifestly provide the necessary balance of security and liberty required in any contract of governance between state and citizen. Moreover, if taken as a sign of failing public confidence in state institutions, a normative state of witness intimidation may even herald a more profound rupture in a deeper process of social change and transition from one social order to another. Yet these questions exceed the boundaries of this research report on witness intimidation and protection practices in Finland. Nevertheless, they remain issues worth acknowledging in an introduction to the topic and its significance to a distinctly *public* organisation such as the police in our changing times.

As a modern institution, the historical emergence and political purpose of the modern police have been variously discussed and continue to be so. This is particularly evident in some of the classic and contemporary UK police studies literature since the 1960s (for example (Banton 1964; Cain 1973; Hobbs 1988; Mawby 1990; Reiner 1992; Emsley 1996a; Johnston 2000; Beattie 2001; Rawlings 2002; Jones 2003). In asking how to define the modern police, Maureen Cain (1979) notably argued it is best done pragmatically on the basis of their key practices *as given by those who sustain them*. In this vein, Trevor Jones (2003, p.603) has described the police as ‘the state’s specialist agency of law enforcement and peace-keeping’. Further to this, Rob Mawby has noted the origins of the word ‘police’ in the Greek word *politeia* and Latin *polita* to describe any state agency going by that name as ‘an instrument of democratic governance’ (Mawby 1990, p.2). If this framing of the *public* police is what it aspires to – and current thought among British Police leaders suggests this (Neyroud and Beckley 2001) – then where successful witness intimidation is the norm rather than exception, it indicates a failure of public confidence in the state’s ability, if not will, to actually protect them: hence a failure of the police to *police*.

There is a real risk of this. For in a neo-liberal age characterized by small government, minimal state intervention and reduced public services, the public might come to accept the social condition (unpleasant as it is) of general *insecurity* and its associated atmosphere of intimidation. Rather than look to the state, the individual and/or community might seek protection via acquiescence to, or simply silence upon, the undemocratic and violent regimes of criminality in its various guises – be it organised and serious or chaotic and ‘communal’. As such, the development of an appropriate response to intimidation in police working practices at all levels – be it mundane forms associated with community level volume crime, or that of serious and international organised crime – is thus a key task facing both everyday police officers and future police leaders as holders of what should be primarily regarded as a most importantly *public* office. If, in this light, we wish to see the modern institution of the police develop and distinguish itself as an active state protector of democratic rights and values, rather than as a simple competitor in a neo-liberal age of expanding private policing and security industry, then we need to be very clear on what the state funded police’s uniquely *public* role is and what distinguishes it as such. That is, the protection of citizens *as* citizens, not merely the detection of crime or enforcement of law – though these may serve that same democratic end.

This report on research into witness intimidation and protection practices in Finland has been written with the above in mind. It results from initial research enquiries with Finland's National Bureau of Investigation (NBI) in June 2004 as to the development of a witness protection programme within the 2003-2006 Police Drugs Strategy (SMPO 2002). Whilst the research maintained a background interest in the impact of cultural diversity on drugs policing issues in Finland – a recognition of much social change during the 1990s in terms of immigration, European integration, neo-liberalism and social exclusion – it became apparent that some more general research on the police experience of witness intimidation and current protection practices being used by officers in the field, as well as a review of policy developments in the UK and elsewhere in this area, would be of more practical use in the developmental stages of their witness protection programme.

As such, this research compliments a broader national survey of officers carried out by the Police College of Finland's Research Unit (Korander and Mäkipää 2005)<sup>1</sup> on behalf of the NBI and analysis of police reports and potential legal measures carried out by a command course student from the Helsinki Police Homicide Department (Jansson 2005). For my part, as a qualitative researcher with a UK police background, depth interviews with front line officers in the Helsinki Region were carried out in July 2004, along with a review of the basic UK experience and limitations of existing Finnish legislation. The findings, replicated here, were first reported internally to the NBI in February 2005. As a developmental part of the research, it was followed up by a successful field visit in April that year to a fully operational covert 'Witness Protection Unit' in the UK by two officers with direct field responsibility for the progress of a witness support and protection programme in Finland.

The report's research findings are revised and re-published here for the benefit and interest of future police officers and anyone concerned to see the successful development of witness protection and support in Finland. The report, though, is not a 'how to do it' manual. While it contains some consolidation of good practices advocated in the UK and elsewhere, along with those advocated by some Finnish officers, what it offers is an informative review of related research and policy development with which to understand the nature and extent of witness intimidation as an emerging problem for the police in recent years. It is through this review that the analysis of the empirical findings in Helsinki is developed to argue that intimidation is as much a *community level* policing issue as that of the organised crime it is normatively attributed to. To this end, the intended reader might remain mindful of those deeper questions as to the meaning of its apparent pervasiveness at these levels in terms of marking a failure of the police to *police* in these contemporary times of social change.

Indeed, recognition that we live in such times of social change informs the overall vision and strategy for the Finnish Police. Revised in autumn 2004, the vision for 2014 is one of Finland as 'the safest country in Europe' (SMPO 2004). Increasing social exclusion, the growing impact of hard crime led from abroad, and reductions in an everyday sense of security, form three of the recognised challenges that face the police in achieving this admirable state of affairs. The problem of witness intimidation and the development of protection practices in response to it can easily be read in this fundamental policy context.

The remainder of this introduction will sketch the basic areas of explicit policy support for the development of witness protection in Finland before outlining the rest of the report.

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<sup>1</sup> Internal NBI document, not for general publication.

### ***1.1 Policy background – An EU perspective***

In aspiring to create ‘an area of freedom, security, and justice’, there is strong EU support for all Member States to develop an appropriate witness protection capacity<sup>2</sup>. On the security agenda alone, this is intended to stimulate public co-operation in combating international organised crime. In wider terms of freedom, security and justice, though, the main purpose of police co-operation with judicial authorities is seen as guaranteeing European citizens a high level of protection, not only from the effects of organised crime but also from any discrimination in the enjoyment of their fundamental rights – the right to life being the most pertinent in extreme protection cases.

Thus, any domestic development of witness protection sits within an EU policy frame. It is one that sees the global phenomena of international crime (in particular both drugs and human trafficking) as encouraging Member States to seek common solutions in the reinforcement of national action. Following this, Finland’s desire to develop witness protection in response to international crime also compliments a Nordic level desire for a joint witness protection programme in the European region (Norden 2003). A strong ‘human rights’ perspective, though, broadens the scope of witness protection beyond the immediate interests of criminal justice and organised drugs crime alone. This should be born in mind when thinking about the police capacity to protect witnesses from intimidation at all levels. That is, from the extremes of organised crime to the routines of volume crime in the local community, violence against minority groups, as well as violence in the home.

### ***1.2 Domestic policy – Drugs policing***

Besides a basic police officer demand for better practices and awareness of procedures revealed in both the fieldwork of this local research and that of the wider national survey (Korander and Mäkipää 2005), there is clearly a strong domestic policy support for the development of witness protection in Finland. Recognising the internal influence of international organised crime, Finland’s *Police Drug Strategy* for 2003-2006 includes among its strategic objectives, ‘the need for legislative reform to increase the protection of witnesses and other concerned parties in the criminal investigative process’ (SMPO 2002). While I am not qualified to make authoritative observations on Finnish criminal and police law, chapter four of this report considers such law in the general context of European Human Rights case law and does so on the basis of a professionally qualified understanding and comparison with that of UK criminal law and police powers in similar areas.

Yet, with the above legal caveat in mind, it can be reiterated that in its general recommendations for preventing crime, the Ministry of Interior’s *Final Report on the Internal Security Programme* published in April 2004, also recommended that witness protection be intensified. This was considered especially important in ‘securing the preconditions necessary to prevent serious crime’ (SM 2004). This reflected its earlier reference in Finland’s *National Drugs Programme* for 2004-2007 published in February 2002. The 2004 *Internal Security Programme* report also recognised the importance of ensuring training and the flow of information to relevant authorities as well as keeping witnesses themselves informed of the progress and development of the cases they are involved in. Along with the mentioned legislative reforms, Ministries of the Interior, Justice and Finance are identified in these reports as being the bodies responsible for the development of witness protection in this respect.

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<sup>2</sup> Initiated by Council Resolutions 23/11/1995 and 20/12/1996 and now being drafted as a proposed legal EU instrument regarding protection for cooperating witnesses for 2007. This policy area is driven by the EU Justice & Home Affairs regarding the question of judicial co-operation in criminal matters. ([www.europa.eu](http://www.europa.eu))



Of central importance in the 2004 report is the founding of a 'National Support Centre' consisting of different authorities to increase witness protection. The stated intention is for it to offer expertise and the necessary technical equipment for the use of other authorities. It would have a research and development responsibility in relation to best practices for witness protection, so that it may face future challenges presented by a changing operational police environment. The legislative possibility of 'anonymous witnessing' is one area being considered as a counter measure and other measures are to be proposed in due course. As one of my own project's visiting officers to the UK, Detective Chief Inspector Tomi Jansson has studied the potential for anonymous witnessing and identity reassignment as witness protection possibilities for Finland (Jansson 2005).

As with Jansson's work, the findings discussed in this research report, hope to have contributed to the strategic agenda on the development of a witness protection capacity and the furthering of a 'National Support Centre'. Yet regardless of that agenda's grounding in domestic policy areas of drugs policing and organised crime, this report maintains a European police development perspective based on an ethical commitment to policing as the democratic protection of human rights. It is in this context that it places the need for the police to provide a witness protection capacity in varying degrees and varying forms, at varying levels – most arguably at the level of the community as much as the level of organised crime. For it is at the level of community police relations that police legitimacy is continually made and remade. It is based upon the public's everyday experience and perception of what the police can *actually do* for them when it comes to crime and any resulting intimidation because of their involvement in its investigation and prosecution.

What needs to be achieved, therefore, is an increased awareness of witness intimidation and continual consideration of available support and protection practices in the everyday working consciousness of front line police officers as a valued and essential area of their basic work. While training and front line supervision is key to this, the research reported on here and analysis of its empirical findings hope to go some way in achieving such increases in levels of officer awareness and police progress.

### ***1.3 Research report outline***

To this end, after outlining the basic research design and methodology in chapter two, the third chapter will present an analysis of the nature of witness intimidation and protective practices in and around Helsinki as experienced and expressed by front line officers. Chapter four will then consider Finnish police law in a human rights context to emphasise a witness rather than offender focus and do so by contrast with relevant UK legislation in the area of witness intimidation and protection.

Looking outside Finland in a bid to further progress an understanding of the basic nature and extent of the problem, chapter five will then review some of the early research during the 1990s and subsequent policy development in the UK. This will be followed by chapter six's examination of how high level witness protection programmes emerged in the UK and shifts in the focus of their present day application. Some basic lessons that might be learnt from mistakes made in the UK and other countries will also be considered here.

Reflecting the theme of cultural diversity, chapter seven will then move the research to the international context of human trafficking and questions of immigration policy and human rights for witness protection. The concluding chapter eight will consolidate good practices, highlighting the interaction of community policing, court support and formal protection.

## 2. Research Design and Methodology

This chapter deals with the basic research design and methodology for the field data. While the overall report is not confined to the analysis of its field interviews with officers, the methodology in relation to the gathering of that material will form the main part of this short chapter. However, the basic empirical findings from the fieldwork are to be developed by secondary material collected and reviewed within the overall design of the research. This should be commented upon first.

### ***2.1 The law and general research on witness intimidation***

Because of the importance of the legal context in which all democratic police activity must necessarily take place, a review of Finnish criminal and police law was made. The purpose of this was to critically reflect upon existing legal measures (and obligations) theoretically available to officers in tackling witness intimidation and offering some level of protection within the scope of the research. The three key pieces of legislation reviewed were:

- 1) Offences within the *1889 Penal Code* (amended 650/2003),
- 2) Provisions within the *Police Act 1995* (amended 31/1/2001),
- 3) Provisions within the *Coercive Measures Act 1987* (amended 693/1997).

Though not exhaustive in terms of available legal tools, these are the main governing pieces of police legislation in which one would expect to find such measures as far as preventative and investigative police activity is concerned. However, Detective Chief Inspector Jansson's study (Jansson 2005) also highlights further legal provision in relation to the ability of potentially intimidated witnesses to give evidence in court with some degree of protection. These are contained in the following two acts:

- 1) The *1734 Code of Judicial Procedure Act* (as amended up to 259/2002)
- 2) The *1999 Decree on the Openness of Government Activities* (amended 380/2002).

These had relevance to the research subject and related directly to key areas of policy development mentioned in the previous chapter. As such, Jansson's observations on the further provisions of these two acts have been incorporated to further the law review section of this report. So, too, has his reference to the possible use of 'restraining orders', an issue that also emerged during the field interviews.

The review of these provisions, as far as the updates of English text translations permit, discusses their possible limitations. This is not so much to offer a detailed legal analysis (though police students may find the summaries and references useful) but to place such measures within the ethical context of a duty of care. As a comparative element, a contrasting review of some existing UK legislation in the same area is incorporated, along with relevant reference to Human Rights case law available at the time of the research.

To help frame a basic understanding as to the general nature and extent of witness intimidation in the UK and elsewhere, a review of some basic research in this area was also made. This is complemented by the incorporation of Jansson's statistical analysis as to how the general nature and extent of witness intimidation seems to reveal itself in Finland based on cases reported to the police. These reviews are intended to help further consider the empirical analysis of the in-depth field interviews. They inform wider discussion as to hidden forms of intimidation and development of dedicated witness protection schemes.

## **2.2 Research definitions – ‘Intimidation’ and ‘protection’**

Outside of any technical legal differences in terms, for the purpose of this research and its field interviews concepts of ‘witness intimidation’ and ‘witness protection’ were used in their loosest senses. This supported the exploratory nature of the research and allowed for findings to be discussed in their widest context later on.

### *Witness Intimidation:*

‘Witness’ was taken to include ‘victim’ by virtue of definition, as well as police officers, court officials and other persons key to the police investigation and/or successful prosecution of any case. This was regardless of the nature or seriousness of the case itself or even, for that matter, if there was a particular case to be investigated beyond routine police intelligence gathering. Thus ‘police informants’ who traditionally give actionable *intelligence* but not *evidence* in court, fall within the wider notion of ‘witness’. In other words, informants are simply regarded as ‘witnesses of another sort’ (Bean 2001, p.153).

‘Intimidation’ referred to anything that leads to a witness’s reluctance to co-operate with a police investigation or subsequent court process – particularly for fear of reprisal either before, during or after the court hearing, regardless as to whether or not such fears were grounded in any reality. As will be discussed later, a mediated atmosphere of fear was found to be an increasingly problematic reality in its local effect for policing, far more than could be credited to any actual plausible threats.

It can be noted that within the general literature on the subject, ‘intimidation’ is recognised as taking a variety of different forms that range from the obvious of direct intimidation by one individual upon another, to the more subtler creation of a community wide atmosphere of fear and non co-operation with the police through the behaviour of gangs or even a more general perception of likely violence and intimidation (Bean 2001, p.53). Accordingly, this exploratory research maintains the widest sense of intimidation as something capable of operating at both a social as well as individual level.

### *Witness Protection:*

Applied to the same broad definition of witness above, ‘protection’ also fell within a more generalised form of witness support and case management to allay a wider range of fears, as well as provide physical protection in extreme cases. In terms of police practices, ‘protection’ also encompassed the use of existing police and court powers to contain and control the potential and/or actual influence of the offender where possible. The purpose of the law review within the research design was to accommodate the development of new practices within it but not confine ideas for future law reform to its basic terms of reference. Likewise, the purpose of the review of existing research was to help further develop conceptual models with which to progress protection practices as well as frame the subsequent analysis of interviews with front line officers.

## **2.3 Limitations of available crime and prosecution statistics**

As a methodological point, the practical limitations of official police, crime and prosecution statistics should be considered when it comes to researching the nature and extent of witness intimidation. The first, and what should be the most obvious point, is that by definition no case of successful intimidation would ever come to light as a formal report. Therefore whatever may appear as an official police report or statistic based upon it, can only represent a certain form of (unsuccessful) intimidation with very little way of knowing if it represents the whole or a selective part of it, nor what proportion of that reality it represents.

Secondly, in relation to official crime figures, key indicator offences are not readily distinguishable from others that they are grouped with. The National Library of Statistics holds figures on criminality in Finland, which are viewable numerically by municipality for each of the years 1980 to 2002. These figures are provided by the police based on crimes reported to them and are grouped according to a standard crime nomenclature coding. The specific crime of 'threatening a (witness)' (penal code 15:9) that might reflect the concept of 'witness intimidation' is located within the statistical grouping D (crimes against public authority and public peace). However, it falls under a miscellaneous sub-heading of crime nomenclature code 321 (other crimes against administration of justice, public authorities and public order) and is just one of twenty specific offences against the penal code (15:5-11, 16:4, 6-17) grouped as that one statistical figure. It cannot therefore be readily distinguished from those other offences.

Other offences within the penal code that may help give some provisional indication as to the extent of witness intimidation are 'attempted incitement to a false statement' (penal code 15:5) and, possibly, 'failure to report a serious offence' (penal code 15:10). These also appear in the above statistical sub-group. However, the vast majority of the remaining offences making up that sub-group vary too wildly from the concept of witness intimidation to render it meaningful for the purpose of this research. Such offences, for example, range from giving false evidence for malicious purposes (penal code 15:6-8); harbouring an offender (penal code 15:11); failure to comply with a police officer's request (penal code 16:4) and providing false details to police and authorities in relation to fines and various documents (penal code 16:6-17). Without being able to reduce the basic figure to its component offences, it is not possible to statistically discern any levels of 'intimidation' related offences from this official crime statistic. When looking at variations in the figures, one would not be able to tell if one was looking at increased cases of witness intimidation or increased cases of drivers failing to pull over.

Thirdly, by appearing as raw numbers, these figures only represent the *incidence* of a crime, not the *rate* of that crime as a percentage of the municipality population it relates to. For the purpose of any comparison across municipalities to identify geographic locations characterised by unusually high rates of witness intimidation or significant areas of increase over time, these readily available crime statistics continue to be of limited, if any, use. Any statistical research would have to be more offence specific than the standard crime nomenclature would allow. Internal police and/or prosecutor databases may be able to facilitate this better and it may be the task of separate research to establish the specific number of reported and recorded cases of 'threatening a witness' (penal code 15:9) and 'attempted incitement' (penal code 15:5) as a crude indicator of extent<sup>3</sup>. Indeed, recently published police research in this new area (Jansson 2005) has drawn on such police reports.

All that can be said from the National Library of Statistics figure is that as 1.2% of all reported crime for the year 2002, its general profile throughout Finland is low. A sudden rise in 1999 from a rough average of 1,000 a year between 1980 and 1998, to about 6,000 per year from 1999 to 2002, merely reflects the addition of new offences to the sub-group, not a rise in the type of crimes referred to. In any case, these crime figures might be saying more about car driver attitudes and false documentation than witness intimidation. Overall, then, very little weight can be attached to the value of these figures, which in all probability hide the reality of any witness intimidation problem both quantitatively and qualitatively.

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<sup>3</sup> See section 6.5 of Chapter six for Detective Chief Inspector Jansson's statistical profile of witness intimidation in Finland based on 100 reported cases of 'threatening a (witness)' offences from 2001 to 2003.

Fourthly, there are practical (but not insurmountable) limitations to Prosecutor's figures. In an attempt to gauge the possible extent to which intimidation might successfully have resulted in false or withdrawn evidence (as opposed to being reported to the authorities), tentative enquiries were made with the Helsinki Prosecutor's office and Magistrates court for any relevant recent figures they might have. Based on some of the early UK research designs in this area (see chapter six, section 6.3), the Prosecutor's office was asked for the number of 'discontinued' cases as a possible indicator of successful intimidation. However, they were unable to provide any as the term 'discontinued' was technically too complex to interrogate their data bases with and they did not collect data by crime type (such as 'threatening a witness'). For the reference of any future research, intimidation might be better indicated in Prosecutor's figures under cases 'postponed' rather than 'discontinued'.

Finally, available figures from Helsinki Magistrate's court were found to be limited to those collected from 2000 onwards. Available figures for 2003 and 2004 were obtained for the purpose of this research in respect of the following indicator penal code offences:

Helsinki Magistrate's Court – Indicator Offences 2003 & 2004

<b>Penal Code Offence</b>	<b>2003</b>	<b>2004</b>
Threatening a person to be heard in the administration of justice.	3	2
Attempted incitement to a false statement	-	-
Making a false statement before a court of law	7	2
Making a false statement in official proceedings	16	15

*(Table 1: Indicator Offences obtained from Helsinki Magistrates Court)*

Clearly, actual cases of reported threats that make it to court are very low. Yet this may hide many cases of intimidation that have either been successful and thus remain unreported and undetected as first mentioned or have been reported but unsuccessfully investigated by the police or 'postponed/discontinued' by the Prosecutor's Office for whatever reason.

Likewise, the more prevalent offence of making a false statement may also hide cases of intimidation that lie behind them. Although too small in number to draw much statistical significance from, it seems apparent that cases of making false statements are detected more readily during official proceedings than when made before a court of law. Again though, very little can be read into these figures alone without further research as to the nature and motive for making the false statements they relate to.

To gain insight into the nature and extent of witness intimidation and protection practices in Finland than the limits of official figures and reports might allow, qualitative methods of field interviews with experienced front-line police officers were therefore adopted.

***2.4 The interview sample – Selection & profile***

Fourteen depth interviews were conducted with front-line investigating officers. They were probed as to their experiences of witness intimidation, current protection practices and views as to the nature and extent of the problem for the future. Between them they represented Police Districts of Vantaa, Espoo and Helsinki (via Malmi, Pasila, Central and Itäkeskus precincts) and collectively drew on the experience of Drugs Squads, Homicide/Violent Crime Units and local investigation of everyday Volume Crime in and around Helsinki (see interviewee profile box below, *Table 2*).

### Interviewee Sample Profile – Helsinki 2004

	<b>Rank</b>	<b>Service</b>	<b>Area</b>	<b>Unit</b>	<b>Interview</b>
A	Chief Inspector	20 years	Vantaa	Drugs Squad	March/April
B	Det. Sergeant	14 years	Vantaa	Drugs Squad	May 13 <sup>th</sup>
C	Det. Sergeant	9 years	Espoo	Organised/Drugs Crime	May 24 <sup>th</sup>
D	Det. Sergeant	15 years	Vantaa	Intelligence	June 1 <sup>st</sup>
E	Det. Sergeant	15 years	Central	Volume Crime	July 6 <sup>th</sup>
F	Constable	4 years	Central	Volume Crime	July 6 <sup>th</sup>
G	Constable	5 years	Central	Unsolved Crime	July 6 <sup>th</sup>
H	Chief Inspector	12 years	Central	Volume Crime	July 6 <sup>th</sup>
I	Det. Sergeant	18 years	Helsinki	Homicide	July 7 <sup>th</sup>
J	Chief Inspector	20 years	Pasila	Command Team	July 7 <sup>th</sup>
K	Det. Sergeant	20 years	Malmi	Volume Crime	July 8 <sup>th</sup>
L	Chief Inspector	15 years	Itäkeskus	Volume Crime	July 8 <sup>th</sup>
M	Sergeant	15 years	Central	Street Patrol	July 9 <sup>th</sup>
N	Det. Sergeant	20 years	Vantaa	Violent Crime	July 14 <sup>th</sup>

*(Table 2: Profile of Interview Sample – As ethical practice all interviewees are anonymous)*

Ranking from Constable to Chief Inspector, they ranged in service from four to twenty years, though most (eight) were Sergeants with direct responsibilities for crime investigation and over ten years of service. This rank, service length and area of responsibility was actively sought while arranging access, as they were considered to be sources of reliable information based on direct experience of their own work loads, that of their peers and officers they supervised. The interviewees in Vantaa and Espoo police districts were arranged via existing contacts at the Police College. Those in Helsinki were arranged through the Helsinki Police Department's Strategic Unit (Ch Insp. M.Pasanen, Insp. J.Pawli) on the authority of Helsinki's then Police Chief, Tapio Huttonen.

#### **2.5 The interview data – Validity and reliability**

The validity and reliability of the data generated is based on professional experiences and practices of the interviewees as qualified by the above sample profile and selection criteria.

Interviews were exploratory and semi-structured. This allowed for key issues to be probed more deeply as they emerged. It also allowed for small case studies to be identified, expanded on and explored more thoroughly. Ideas and views could also be elicited and developed during interview – thoughts and observations that might otherwise have remained obscured. Indeed, it was found (as is often the case with in depth/ethnographic interviews) that where an officer may have initially felt there was not much to say on the interview topic, much useful material was uncovered as the interview progressed.

Similar to ethnographic methodologies characteristic of Geertz's famous 'thick description' (Geertz 1993) and those of 'grounded theory' advanced by Glaser and Strauss, a point of 'saturation' was reached when later interviews ceased to add anything new to the overall picture being presented by previous interviews (Seale 1999, p.93). This is not to say that one can generalise beyond the Helsinki region to the police experience across the whole of Finland, particularly in more rural settings. It is, however, reasonable criteria by which to determine that enough valid data had been gathered from which to draw some reliable conclusions and progress discussion.

Due to my Finnish language limitations, interviews were arranged with officers with good English speaking skills where possible (our research assistant interpreting on one occasion). Conducted in the officer's own work place, interviews lasted between one and two hours and written notes were made for future reference during analysis. Interviews were not taped, as is more appropriately the methodological practice with which to pursue discourse analysis, content analysis or conversation analysis. For the purpose of the interviews was not to generate text for deeper critical or cultural analysis within the theoretical frameworks that these other methodologies provide for. They were simply a basic ethnographic means by which to obtain a collective view on the research topic – a simple grounded theory approach with which to gather police practices that some early police ethnographers such as Maureen Cain (1973) might recognise. As such, hand written summary notes made at the time or immediately after were enough to access and examine the research topic of witness intimidation and protection practices for my purposes. They are simply reported on at 'face value' rather than being rendered subject to deeper sociological analysis as 'texts' in their own right within discourse theory, for example, or other theoretical framework.

Each interviewee was co-operative and willing to give their valuable time and discuss their experiences of witness intimidation and views on protection practices. Indeed, contrary to an initial view that intimidation was not a problem, interviews revealed that at various levels and in various ways, it was, in fact, something they recognised as relevant and important to them in their everyday police work – particularly in cases of volume and violent crime. As a point of research validation, this qualitative finding (that witness intimidation exists as a significant problem for police investigations) was one supported by PAKK's more quantitative national survey for the NBI (Korander and Mäkipää 2005).

An important part of the research design was not to confine interpretation of the empirical findings simply to a descriptive examination of intimidation cases and the practicalities of protection in Finland. It was considered important to allow the research to engage wider considerations in relation to cultural diversity and social change as relevant to contemporary police development. To this end, the empirical analysis feeds into the international context of witness protection in relation to immigration, human trafficking and questions of Human Rights as an ethical framework for democratic policing practices and policies.

It should also be remembered that one of the original NBI interests in the research was to help identify any potential areas of good practice from either the field interviews or general research from the UK. It is with this in mind that the following chapters have been written and salient points for consideration in respect of possible law reforms and good practices have been highlighted where appropriate in relevant sections.

### 3. Analysis of Helsinki Field Interviews

From the field, actual reports of witness intimidation were said to be very rare. Witness intimidation and reluctance to give evidence were not felt – or so it seemed – to be a wide problem in respect of volume crime investigation. Indeed, the repeated view was that “*due to high levels of public trust and respect for the police and authority, people were generally willing to co-operate with police investigations without question or concern*”. Accordingly, there was felt to be little evidence of any emergent ‘sub-culture’ of non co-operation in poorer areas or among ethnic minority and immigrant communities of Helsinki. Yet as the interviews probed further, a deeper set of issues was revealed.

The key issue was that in the absence of a perceived problem, there was subsequently little built-in police capacity, or routinely practiced procedures in place to actually *prevent* an offender from intimidating witnesses should likelihood of it arise. This was particularly so in instances of more violent and gang related crimes. Current practices aimed at the protection of witnesses and victims were found to be limited and *ad hoc*. They were based more on the enterprise of individual officers than formal procedures or a trained response. Moreover, what practices *did* exist were mostly aimed at giving verbal support and reassurance over what amounted to media based fears of intimidation. They were rarely about physical protection of the witness or the legal restraint of the offender.

Indeed, when faced with the hypothetical case of a suspect indicating intent to interfere with key witnesses after charge, officers felt there was little they could do in practice or in law to stop it<sup>4</sup>. That is not to say appropriate legal tools do not exist (see chapters four and five for a critical review of available measures), but that they were not *routinely considered* as witness protection practices in the field.

In analysis, though, while the *extent* of intimidation was thought not to be so great as to be a problem in terms of numbers nationally, the actual *nature* of it was discernable as taking three basic forms. Each of which presented their own set of emerging problems for policing in the contemporary urban environment:

1. Firstly, *unrealistic* fears reducing a general public willingness to co-operate in the investigation of volume crime, due largely to media myths and populist reputations of both foreigners and criminality (explored in case study 1 below).
2. Secondly, very *realistic* fears that seriously limit the ability to effectively investigate gang related violence (starkly illustrated by a murder in case study 2).
3. Sitting at the crossroads of these two is the third area – that of a subtler community level sub-culture of intimidation. Here, petty and otherwise unconnected offenders exploit the violent reputation normally ascribed to genuine motorcycle gangs, with a view to building up their own local ‘reputation’ of someone to be feared.

This chapter works through each of these three areas in turn and comments upon existing protection practices in relation to them. The subsequent law review builds on this analysis and leads to a contrasting review of relevant research and policy development in the UK.

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<sup>4</sup> A separate nationwide police survey (Korander and Mäkipää 2005) similarly found that officers felt they had very few legal measures with which to hold or restrict a suspect if they felt intimidation was likely.



### ***3.1 Volume crime and mediated fears of reprisal***

The media is real in its effect, regardless of the reality it reports on. For those experienced in investigating volume crime at an everyday street level, it was often the media rather than any first hand experience, that they found to be the main source of fear and reluctance for witnesses to get involved in police investigations. For them, this was largely due to reputations of violence among particularly *foreign* criminals, especially Russian and Estonian reported on in the media. A detective sergeant offered a recent assault during 2004 May Day celebrations to illustrate a typical encounter for the local police:

#### Case study 1: The real effect of mediated fear

A group of three Finnish men and two women in their mid 20s to 30s had walked into a group of four 16 years olds – three of Russian background and one American. One of the Finnish men had accidentally bumped the shoulder of one of the Russians while walking past. This started an argument leading to a simple fistfight between the two. Another of the Finnish group came to the assistance of the first, resulting in a broken nose for one of the Finnish men. Both groups had been drinking but none had any previous convictions or any criminal records. This was a routine case of a drunken assault between two otherwise unknown parties. There was no organised or drugs crime connection to it at all. One of the girls called the police, at which point the Russian group ran away. They were caught by police patrols within half an hour and held in cells overnight for police interviews the next morning as a matter of routine.

When interviewing the victim and his friends in the group as witnesses, most gave statements happily and without question. One, however, cautiously asked the officer if the defendant would be given his name and details as a result of giving a formal police statement. The officer properly explained that in the normal course of submitting the case papers to the prosecutor's office, the rules of disclosure to the defence meant that a copy of his statement, along with the others, *would* be made available to the Russian assailant, as is his right. This fact worried the witness, who feared he might then suffer reprisals at the hands of the Russian and his friends. Yet this was not a claim based on anything actually said or suggested by the Russian group. It was simply a fear based on a stereotypical association between Russians and organised crime he read about in the media. For him, mediated myths of foreign (particularly Russian) criminality were real in their *effect* in that they made him reluctant to give a routine statement over a relatively minor criminal matter.

Although stereotypical, mediated fear of reprisal is clearly real in its effect and has to be overcome by police patrols and investigators of volume crime in their everyday practices. In this officer's case, where he finds witnesses are in anyway worried about the consequences of their details being disclosed to the defendant, he keeps all personal details (with the exception of the witness's actual name on the statement), such as address, date of birth, contact numbers and personal identity numbers, separate from the case papers in a brown envelope. The case papers and the envelope are sent to the prosecutor together but it is only the case papers themselves that are then disclosed to the defence. The envelope and its contents remain confidential to the police and prosecutor. This working practice is not written in actual policy for investigators but has developed as a reasonable and uncontested common procedure in such cases. It is something he encourages his officers to do if their witness shows concern or they themselves think it best, based on their judgement or knowledge of the defendant or nature of the case itself.

*Good practice point: Withholding witness details and its standardisation.*

As can be seen, a local ‘good practice’ for witness protection is the simple withholding of personal *contact* details (but not name, since this is required by law) from case papers. It is a practice worth developing and disseminating among local officers more widely. For even if it only alleviates unfounded concern it helps overcome mediated myths of reprisals as a very *real* source of witness intimidation. More to the point, it helps counter an initial reluctance to become formally involved in police investigations and court proceedings. In the interest of continued public confidence as to the safe consequences of ‘getting involved’ with a police investigation, one would not want this trend of mediated fears to grow. As such, the practice has its longer-term merits.

However, the practice also has its shortcomings, as observed by others. Common current practice would be to withhold personal contact details *only if* specifically requested by the witness or otherwise felt appropriate by the investigating officer. In other words, the burden is actually on the witness to *ask* for their contact details to be withheld. Yet there would appear to be no reason why this could not be made standard procedure in *all* cases for civilian witnesses, regardless of any threat assessment or general fears. According to those interviewed it would not be a procedural or legal problem and it is in any case already standard practice to remove personal details of all *police officer* witnesses from case papers in this way<sup>5</sup>. It should only be a small step, then, to routinely apply this principle to *all* witnesses in *all* cases, universally as a matter of standard procedure.

In fact, to *not* apply this principle as standard can actually result in accidental disclosure even after an officer has initially promised a witness to withhold his details. As the Itäkeskus chief inspector pointed out, simply the fact that an investigation can routinely pass through many officers’ hands prior to case paper submission, means that any initial promise of withholding details made by the patrol officer at the scene or investigating officer taking the statement, can be forgotten or overlooked by the time that or another officer comes to put the papers together. Furthermore, witness details appear on so many separate papers required for disclosure to the defence that a mistake is in fact bound to be made.

However, it was felt that the current ‘brown envelope’ practice of withholding civilian witness details could easily be incorporated in a more full proof way. The chief inspector saw no problem in making some programming adjustments to the existing electronic file preparation system so as to ensure the full separation of all witness details in all cases from all papers. Full details could then appear on a single ‘witness details’ form, submitted with the case papers in the electronic equivalent of the ‘brown envelope’. He would welcome a standard system like that, as it would help reassure many victims and witnesses in cases where they were otherwise unknown to the offender. Moreover, it would prevent public confidence in the police’s ability to withhold witness details from the defence from being undermined. In short, the message was to **make the withholding of witness contact details standard practice and, if possible, an automated part of the file preparation system.**

*Good practice point: Initial witness management and threat assessment*

In some cases the very nature and content of a witness’s evidence can betray their identity, even if otherwise unknown to the defendant and withheld. Something witnessed in the street from a bedroom window, for example, could easily render the address of the witness traceable for someone so minded. It might be difficult to overcome this but in either case,

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<sup>5</sup> The threat to police officers was perceived as a bigger problem than that to witnesses, but itself not a serious problem in terms of *extent*. This observation was also made by Korander and Mäkipää (2005).

much can depend on the *management* of a witness's initial concerns by the patrol officers who attend crime scenes and make first contact with witnesses.

A common view in both Vantaa and Helsinki was that about half of all domestic violence cases and fights between known parties were later retracted due to reconciliation rather than intimidation. Yet in cases between parties otherwise unknown to each other, one central Helsinki constable reported that about 20% (two out of his average ten witnesses a week) would ask him if there was any risk involved in giving evidence. Similarly, in Itäkeskus it was felt that about 10% of such witnesses feared reprisals of sorts. This is evidence that intimidation, for whatever reason, is a wider problem at the local policing level than would be suggested by police reports, official crime figures, or conventionally thought.

In response, suggestions for good practice in the initial management of witness reluctance to make a formal statement fell into three basic procedural tactics:

1. *Reassurance*: A patrol officer's interpersonal skills in calming and reassuring witnesses over various concerns, was becoming increasingly more important in everyday police work. However, there were some potential shortcomings to this. While it could be suggested, for example, that idle threats were rarely followed up or that mediated fears were largely unfounded, these were rarely claims made on the basis of an actual threat assessment carried out against what is known about the offender and the facts of the case (see point 3 below).
2. *Secure Details*: Where reassurance fails to overcome initial reluctance and witness statements cannot be obtained, at least secure contact details at the scene and make a record as to what the witness may be able to say. The investigator or supervising officer can then decide on the weight of their potential evidence and pursue them later if need be. However, this risks becoming *bad* practice if 'reluctance' was used as an excuse *not* to take the statement. Furthermore, delay in securing eyewitness testimony may also be detrimental to its later value in court and should not occur without good (and perhaps documented) reason.
3. *Threat Assessment*: A good practice that can be applied at both the above points of contact is a simple threat assessment to evaluate the *actual risk* of a witness's fears being realised. One Helsinki central sergeant (T. Karpela) had developed and been using such a threat assessment model over the past eight years for this very purpose. Its regular application ranges from routine domestic violence cases to criminal threats against restaurant owners. Teaching it, he encourages his own officers to use it and feels it to be a valuable but under used tactic that could and should be used more widely to greater effect.

Coupled to the withholding of witness details from case papers, **these basic initial tactics can help overcome a tangible emerging trait of witness reluctance due to fear of reprisal**. While such reluctance is unfounded fear based on media representations of criminality, it seems to affect an under acknowledged 10% to 20% of potential witnesses to low-level volume crime.

The interviews, however, also revealed other subtle reasons besides mediated fears, for witness reluctance being experienced. These research findings should also be commented upon for consideration.

### **3.2 Other reasons for reluctance**

Reasons for reluctance to get involved in police investigations were found not to be limited solely to fears of reprisal, be they realistic probabilities, mediated fears or otherwise. The evidence from Malmi was that an increasing reluctance to give statements to the police (notable over the last 20 years) was more due to the procedural *inconvenience* attached to having to go to court than any fear of intimidation by an offender.

The burden of the court process was said to be too time consuming. For example, there were said to be too many adjournments due to the failure of a witness to attend. Furthermore, the apparent legal requirement to hear all evidence orally, even if uncontested by the defence, added to the inconvenience. Moreover, there was too little compensation for the disruption this all caused to the witness's private and working life.

Perhaps coupled to both these feelings of inconvenience and mediated fears of intimidation, is the view of the Pasila chief inspector as to a general decline in a sense of 'public duty' and neighbourly concern amid a general atmosphere of fear and suspicion felt more globally over the last 20 years. In a neo-liberal age that emphasises the self-interest of the individual and reduction of state intervention over them, the erosion of a sense of public duty in respect of unnecessarily bureaucratic and inconvenient court appearances is a laudable police observation to consider. Indeed, it makes some sense when applied to some of the anecdotal evidence discussed here.

In the experience of one constable, for example, it was among the 'poor areas' of the socially housed, low paid and unemployed that he found higher levels of trust and a ready willingness to call the police and co-operate with investigations. This was in contrast to those residing in the 'better areas'. It was they, he felt, who were more likely to show signs of reluctance for fear that police involvement may 'lower the tone' of the area. In the urban police experience of 'the reluctant witness', it seems that modern social divides can reveal themselves through neo-liberal lines of self-interest. The traditions of unquestioned trust and confidence enjoyed by the police – that high level of public respect often referred to – may simply be the diminishing remains of a lamented past found more readily among the welfare and state dependent people housed in the poorer urban areas.

Yet still, social stigma over involvement with local police matters is by no means the preserve or defining character of a new middle class. Crossing this social divide in respect of domestic violence, the detective sergeant from Vantaa pointed to victim's worries about subsequent action by social services over child protection as well as embarrassment with neighbours. Such was the variance in reasons for a reluctance to co-operate with police investigations. Another, was concern over publicity such involvement may attract, either due to the nature of the case or the celebrity of the witness involved.

For example, one officer was presented with the following problem: His key witness had home-videoed two burglars breaking into a jewellery shop from his balcony. He was also a celebrity and refused to get involved simply for fear of the media attention he felt he would attract. Fortunately his partner was also present and, though not witnessing the crime herself, made a statement to produce the video tape and its content as evidence (as one would a CCTV tape). But what if there had been no home video? Besides the inconvenience of court appearances, then, the glare of the media itself can be intimidating and a problem for securing co-operation. For these various subtle reasons, a decline in willingness to come forward can be discerned from the front line views of experienced police officers.

*Good practice point: Appeal to a witness's sense of public duty*

Thus, a final point for initial witness management at the scene was that of having to appeal to a witness's sense of public duty. It was suggested that where simple reassurance, the securing of details and threat assessment were ineffective or inappropriate, officers could remind witnesses that it was actually their *legal duty* to co-operate with police investigations and give evidence in court. However, while a witness may be legally compellable, it was said to be very rare to actually do so or enforce the law with regard to failure to co-operate. Besides, the threat of legal action is a very confrontational stance to take toward those from whom one would be seeking genuine co-operation on a voluntary basis. Indeed, it was considered an absolutely futile approach in respect of more serious cases of life-threatening intimidation as discussed in later in sections (3.4 and 3.5).

Rather than legal duty, a more practical and realistic stance at this local level of mediated but unrealistic fears of intimidation and reluctance would be to appeal to a witness's *general sense of public duty*. Like the reassurance practices, this too is reliant on the interpersonal and persuasive skills of the officer concerned and is ultimately limited to the decision of the individual based on them. However, what an officer may be up against, as discussed above, are the deeper and global influences of the changing times in which we live.

For within the changing police environment of urban Helsinki, the experience is that private interests are being put more readily before traditional notions of public duty previously relied on. It is doubtful that this is unique to Finland. To regain that ground, the public police of any EU member state may have an interest in redefining itself within an inclusive vision of democratic citizenship premised on the protection of European human rights rather than criminal justice interests alone. This may not only prove a better position, in practice, from which to appeal to a reluctant witness's sense of public duty. It may also help forge a wider sense of citizenship for a society that is manifestly more diverse in its social and cultural values than it previously was. In contrast to the changing attitudes of the middle class majority, this brings the research to its analysis of what officers could say about co-operation from immigrant communities and internal ethnic minorities.

### ***3.3 Cultural diversity as a reluctant witness issue***

As a source of witness reluctance and issue for the development of witness protection, some officers commented upon the distrust of authority and cultural insularity experienced among some ethnic minorities and immigrant communities. One must be careful not to generalise here and remember that the data used in this report is limited to just a few police anecdotes. Yet while integration is of overriding importance as a matter of both domestic Finnish policy and a European wide vision of human rights based citizenship, the data nonetheless provides a glimpse into some areas for consideration in terms of police witness protection practices and programme of development. This is in keeping with the PAKK project on drugs policing and cultural diversity from which this particular research emerged.

When asked to identify other types of reluctant witnesses, one central Helsinki officer suggested besides those with a criminal record, those with a foreign background. His example was of Somali immigrants who may suspect the police of racism and therefore distrust them. Other officers on the same precinct pointed to the curious dynamics of some Somali attitudes to the police: an apparent lack of respect due to underlying suspicions of police racism on the one hand, poised with a similar lack of respect due to a perception of police leniency compared to the harsher policing regimes of previous countries on the other (the later also being said for Russian, Estonian and other immigrant communities).

The observation itself in respect of Somalis (also noted among Itäkeskus patrol officers) is beyond the scope of this specific research but detailed in an article by Helsinki chief inspector Petri Juvonen (2003) pointed to during the interviews. Again, the cultural contrast was made to the high levels of trust and respect based on a reputation of fair treatment that otherwise allows for much co-operation from traditional Finnish populations. Yet, as revealed above, there is also evidence of a creeping reluctance within this hitherto relied upon co-operation of Finnish nationals as well as that from those of foreign origin: **thus all the more reason to be proactive in making and maintaining community level police relations – particularly among less integrated immigrant communities.**

Cultural insularity was another issue pointed to during the research as a potential source of witness reluctance to co-operate with an investigation. A longer tradition of conflict with the Roma community is perhaps well documented and already familiar to Finnish police authorities. Yet co-operation clearly exists when the community wants it. The example given was of a shooting by a Roma youth of his mother in law. In this case it was said that the Roma witnesses willingly gave evidence since the youth was already a problem to them and it was seen as a means to expel him. In contrast to this, another reported case involving the Roma serves to remind that a community can just as equally close ranks on victims and witnesses to criminal acts within its own internal affairs.

In this case, a Finnish woman had married into a Roma family. After falling victim to domestic violence at the hands of the Roma husband, she wanted to leave the marriage and the Roma community but was prevented from doing so by him. When he became at risk of prosecution after she had reported the assaults to the police, she found herself subject to further threats and intimidation organised by one of the older Roma women. This is one of the rare occasions that the specific offence of *threatening a witness* (penal code 15:9) was reported and successfully used to support and protect a victim. As a further point of good practice then, the simple enforcement of existing witness intimidation laws at this level can work as a useful protection tool once a police investigation has commenced.

Such intimidation is by no means unique to the Roma or any other ethnic minority community. The same undoubtedly goes on in respect of domestic violence and neighbour disputes among mainstream Finnish communities. Local level police enforcement of witness intimidation offences can serve to support and protect witnesses in many of these cases. All that is being pointed too is that cultural insularity is an *additional* dynamic to be aware of that can both hide and/or present internal matters of police interest. In respect of the Somali community, for example, it was further observed by one officer that he has never been able to have any direct dealings with Somali *women*. In his experience, it is only the *men* he finds he has to deal with (though generally co-operative). His point of observation was that, for various reasons, Somali *women* can often remain a hidden and hard to reach group for the police to engage with, let alone protect as victims and witnesses.

Anecdotal experiences of policing among the Vietnamese community serve as another source of consideration in the development of witness protection. It was reported from the police patrol experience that although relatively closed and insular, Helsinki's Vietnamese appear well adapted to Finnish society in general. However, the meeting with 'a wall of silence' after one Vietnamese was stabbed by another, further indicated a tendency for insular communities to be unwilling to involve police with their own internal disputes. Despite the eventual prosecution and conviction in this case, there is evidence that much criminality can be going on beyond the reach or even basic knowledge of the police.

Processes by which any ethnic/social group can be said to become ‘culturally insular’ are complex and not necessarily that of the community’s own doing. Sociological explanations of such processes are also beyond the scope of this report. The simple point to be made is that a closed community is also a difficult one to infiltrate. This is a problem readily recognised by the Drug Squad officers in relation to cases of Heroin/Subutex dealing they sometimes find among second-generation Vietnamese immigrants, for example. This, as a more acute issue of witness protection in the context of drugs gangs, violent crime and very *realistic* fears, will be discussed in the following section. For now it is enough to say that for complex and delicate reasons, **co-operation as witnesses among some immigrant and minority communities may not be as easy to rely on without continued police commitment to community integration in everyday policing practices and encounters.**

### ***3.4 Violent crime and realistic fears for life***

During the research period, a motorcycle gang member was shot dead in cold blood in front of two key witnesses in Vantaa. The detective sergeant investigating the murder was interviewed a week into the investigation and seriously doubted the witnesses would testify. In the absence of any forensic evidence or admission he felt it most probable that their prime suspect would walk free. The actual result of this case is not known, nor is it important. *What is important is the reality of the officer’s feeling of impotence in such cases.* The case details are outlined here to help illustrate the nature of intimidation and shortcomings of the current police protection capacity based on discussion with this experienced officer and others primarily involved in homicide and violent crime investigations around the Helsinki region.

#### *Case study 2: Motorcycle gang murder – summer 2004*

On a Saturday evening, in front of bar staff and customers, an argument took place between the victim and his killer in a local restaurant. Also present was a mutual male friend and the killer’s wife. The men were members of one of Finland’s largest motorcycle gangs, involved in drugs and prostitution. The evening passed without further incident and in the early morning all four drove to the killer’s nearby home. The killer went into the house with his wife and shortly after came out alone with a gun. In front of the friend (only witness) he then shot dead the victim sitting in the car. Police were called and the suspect arrested.

In terms of witness evidence, there were immediate problems for the police investigation. The wife could not be compelled to give evidence, refused to make a statement and in any case, had not witnessed the actual murder itself. The bar staff and any traceable witnesses from the restaurant all knew of the motorcycle gang’s reputation and, fearing reprisals, all claimed not to have seen or heard anything of relevance to the case. The killer himself would not make any admissions or otherwise incriminate himself. There were no other witnesses to the shooting, and in the absence of any forensic evidence, all hope rested with the friend as the only compellable key witness.

The key witness, however, despite being compellable, was reluctant to even talk to the police, let alone make a statement, or give evidence. This was not because he wanted to protect the killer or be obstructive to the police investigation. He simply felt he could not do anything because if he talked he would most certainly get killed himself. This is a far worse prospect than being prosecuted for failing to make a statement. Nor is this an exaggerated or unrealistic fear, for such witnesses in such circumstances can and do get murdered in Finland. Either that or suffer severe punishment beatings, as both the Vantaa officer and other investigating officers interviewed could readily testify to.

The officer was asked what possible protection measures the police could offer the witness in cases like these. He explained that, realistically, there were none he could think of. Conventional methods of anonymity were pointless since the witness was already known. Non-disclosure of identity, use of screens in court or allowing the police to give the witness's written evidence on their behalf would all result in the same problem of the witness being killed or severely punished. Nor could the officer make any promises concerning the holding of the suspect in custody until the trial or restricting their movements by way of any conditional bail – either of which would be just as futile since retribution may as easily come from other gang members on the killer's behalf.

The only realistic option was for the witness to change his name and/or go into hiding by staying with friends or family. However, there were no recognised procedures, facilities or resources *he was aware of* to help him help such an important witness to do this. In the absence of any formal police protection scheme, such witnesses would not take the risk of trying to hide on their own since they do not have the resources to remain hidden or beyond reach. Thus front line officers need to be equipped with knowledge of such resources

At best, then, this case suggests the need for better training and awareness of available witness protection provisions among frontline investigation officers. At worst, it suggests that without a formal witness protection capacity, cold-blooded gang murder can be committed at relatively little risk of successful prosecution where the only evidence is the testimony of a gang member as a first hand witness. It is understood that in the case in question the defendant was actually convicted but it is not known on what evidence. However, this is no reason to dismiss the points of observation raised.

### ***3.5 The need and demand for formal witness protection.***

At the initial research meeting in June 2004, the basic view from the NBI was that, despite the influence of organised crime from Russia and other international sources, Finland was not experiencing or expecting the kind of 'Mafia style' intimidation and corruption of Police, Judges and other court officials being felt in ex-soviet states. That is, the kind of situation that might necessitate the physical police protection of officials and their families, secret home re-location and identity re-assignment, did not exist in Finland. To a large extent, the findings from the police interviews in the field would tend to concur with this view. That is, that the integrity of the Finnish police organisation or court systems is not at risk of being compromised by the corrupting influences organised crime at home or abroad.

However, the interviews revealed that the absence of such conditions in respect of police and court officials would not negate the need to develop such a witness protection capacity in response to more mundane and immediate needs. The common view was that it would be far better to have a witness protection capacity already developed and in place *before* the occasion for its need arose. At present, the answer to the question of being able to protect a witness's life if one had to, would appear to be 'no'. That is to say, according to those interviewed, there are no current practices or policies in place to ensure the full protection of any type of witness from life threatening intimidation or reprisal. The Vantaa murder case illustrates this. So in this sense, the police investigation and any would-be court process *is* compromised in its ability to deliver justice, precisely by the key witness's fear for his life and lack of police capacity to protect it to secure his evidence and ensure his continued welfare after the case.



The Vantaa murder was by no means an isolated case. In Pori, a few years ago, police had a man involved with a drugs gang. This gang had motorcycle gang connections. After a few weeks, he gave full evidence against the others but on leaving the police station said to the officers that his co-operation would cost him his life. The officers dismissed his fears, saying there would be no problem and that he had nothing to fear. Shortly after the case was heard he was found dead. Under European case law<sup>6</sup> a police force cannot easily disregard its positive obligation to do what it reasonably could to avoid such a clearly known risk. The officer interviewed felt that for the want of a formal witness protection scheme in Finland, that co-operating witness's life could probably have been saved.

And what of potential demand for such protection? It is difficult to estimate, but the officer giving the Pori example suggested about five such murders a year in the Helsinki region alone<sup>7</sup>. In terms of witness reluctance due to very real fears of life-threatening reprisals, the Vantaa officer estimated there might be between five and ten cases a year for his District. Additionally, he felt about 70% to 80% of witnesses otherwise involved in gang related crime *would* come forward if they knew the police *could* adequately protect them.

There was evidence too that some motorcycle gang members *do* want to leave their gangs but simply cannot for this also has murderous consequences. For example, a drugs intelligence officer referred to a case not so long ago when a member of a notorious debt collecting gang told the leader he wanted to quit and get married. The leader took him into the forest and shot him dead. A formal police protection capacity would both offer such gang members a way out *and* enable the police to convict. It seems to be stating the obvious but the simple reality being faced is that no such formal capacity seems to exist that would concretely help overcome such witness reluctance. So the case for it has to be continually made and remade until it *becomes* both a reality and a readily available police resource.

Officers were also able to talk of the non-cooperation they experience from witnesses in relation to serious motorcycle gang-related punishment beatings. The Helsinki homicide sergeant spoke of kneecapping (being shot through the knee) as a favoured method of gangs to punish someone. He gave a recent example of a man who had been left in a car with his knee shot out in a revenge attack. The man would not reveal to the police who it was and, as there were no witnesses, there was no prosecution – it being futile to try using the law to force his testimony. The officer estimated that his office faced about ten of these types of case a year but thought there were much more in terms of lower levels of injury. He gave the reason for non-cooperation with the police as due to the fact that such intimidated witnesses know the police *cannot* protect them after court. Eventually they would be found and the belief among such witnesses is that the police cannot offer full protection. The officer himself doubted anyone could be fully hidden in practice. This was a common view.

*Good practice point: Create a formal witness protection capacity*

If a formal police protection service *were* available for witnesses involved in or on the edges of organised crime gangs, the view of investigating officers is that it would not only allow for the successful investigation and prosecution of existing cases, but would also *attract* the reporting of more cases than are already. The estimated numbers of witnesses involved here are small (perhaps 20 a year) but the crimes they concern – murder, drugs,

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<sup>6</sup> See chapter four, section 4.1 for more detailed discussion.

<sup>7</sup> Offences Against Life 2002: 131 Nationally, 12 Helsinki, 9 Vantaa and 2 Espoo. (National Statistics). Note it is possible that some murders may appear as accidental/other deaths and not appear in crime figures.

economic – are of the most serious and important. Moreover, an increasingly positive police duty to be able to protect a basic *right to life* can be complied with and actively pursued.

### **3.6 The spread of ‘pseudo-gangs’ and atmosphere of intimidation**

The analysis of the field interviews has so far explored the first two basic research findings as to the nature of witness intimidation from an investigator’s view in and around Helsinki. It has covered the nature of *unrealistic fears* among the general public due to mediated myths of criminality (section 3.1) as well as the nature of very *realistic fears* of those in close proximity to organised crime gangs (section 3.4). As a development of the first area, the analysis has also considered other reasons for witness reluctance being experienced (section 3.2) along with issues concerning cultural diversity (section 3.3). As the final section of this chapter, the analysis now examines the third area of intimidation that is evidently being experienced – that of ‘pseudo-gang’ violence at the community level.

The story of motorcycle gangs in Finland is probably well known within police circles. It may even have become the defining narrative within which much high-level police activity and focus in relation to organised crime continues to take place. However, what long serving field officers were also pointing out was the spread of what can be described as a ‘pseudo-gang’ culture and general atmosphere of intimidation in the local community. This was said to be particularly so in the case of the average restaurant fight that resulted in serious injury but with witnesses too frightened to give evidence.

According to a detective sergeant with over 20 years relevant field service, the problem of motorcycle gangs emerged in Finland during the early 1990s. This amounted to a violent rivalry between existing Finnish motorcycle gangs aiming for the formal Hell’s Angel status of ‘Full Colours’ in Finland. The need to demonstrate supremacy over other rival gangs concerning drugs and money lending, etc, led to what was known as ‘the great Scandinavian biker war’ in 1995. This saw much gang violence and people being reluctant to testify or say anything against them due to their fearful reputation (partly helped along by media coverage of the violence). Things calmed down in 1996 when one gang was awarded ‘Full Colours’, although there are now said to be two or three ‘Full Colour’ motorcycle gangs.

Over the last five years, many more gangs were said to be forming. It looks good for a criminal’s image to belong to a gang. These are often formed in prisons and while many gangs do not survive outside of the prison, some do and can become quite fearful, dealing in drugs or debt collecting, for example. The officer’s general opinion was that around Finland there are more assaults taking place that do not get reported or investigated now than there used to be. He put this escalation of violence and non-cooperation largely down to criminal debt collecting by these gangs and their codes of honour about not talking to the police. Within this sub-culture, the need to prove one’s self as being ‘hard’ and asserting the gang’s reputation is important. This is often done through fights in local bars and restaurants. The victims of these fights could be anyone, not just gang members and, in his experience of investigating violent crime, nobody will testify against them. He, too, felt media coverage helps build and maintain these fearful reputations that such local gang members draw on.

Similarly, the Vantaa officer also recognised this rise in ‘pseudo-gang violence’. He regularly experienced at least one a week throughout the year (an estimated 50 to 60). Witnesses are often frightened and need a lot of reassurance by officers to convince them to make statements. Again, media coverage plays its part in sustaining this fear, but the local atmosphere of intimidation is also fuelled by the *fact* of pseudo-gang violence, as well as

the fear of it. At a community level, this is where unrealistic fears of violence meet the very real ones more often confined to those inside the world of organised crime. It is where petty and otherwise unconnected offenders exploit the violent reputations normally ascribed to genuine motorcycle gangs with a view to building up their own local ‘reputations’<sup>8</sup>.

### ***3.7 Conclusion – Room for training and development***

In sum, contrary to any surface opinion, there is in fact credible evidence of a significant amount of witness intimidation going on in the Helsinki area, if not elsewhere in Finland. As will be seen in chapter six’s development review of research in some other countries, the basic forms of such intimidation here are equally recognised in the UK and US. This is not only in terms of serious assaults and murders that get reported but also much that goes on under the surface but does not get reported precisely due to fear of violent reprisal.

It is hazardous to give any estimate as to the numbers on the basis of these interviews alone. They have, however, in documenting this otherwise tacit police knowledge, given some insight to the reader as to the current nature of intimidation being faced. The most important observations being the apparent shortcomings of the police ability to physically protect against realistic threats to life at the top end of the scale, the wider spread of intimidation in the community than that which would ordinarily be acknowledged at the lower end of the scale and the negative media influence on witnesses willingness to co-operate with police in the middle. **These are all significant areas for any development programme to address.**

Discernable from the interviews there remain, however, some recognisable areas of good practices known to, if not used by, local officers. They can be listed here for reference.

#### *Good practice point: Active police responses to assessed risks.*

With regard to assessed risks of lower-level forms of intimidation, particularly in connection with volume crime, the following responsive practices were identified:

*Panic Alarms* – Panic alarms, though not often used, could be installed in the homes of victims or witnesses. One of the reasons that they were not used as often as they might be was that they were not readily available in local police stations. For the Helsinki District they were all held at Pasila. Consideration could be given to increasing officer awareness of their existence and making them more accessible.

*Flagged Addresses* – The facility exists to ‘flag’ an address on the police computer system. This ensures an immediate emergency police response to the address should it make a call for assistance. The addresses of vulnerable victims and witnesses could be so flagged offering peace of mind, if not added protection, to the occupant.

*Restraining Orders* – Though intended for aggressive parties in domestic violence, consideration could be given to using a court restraining order to prevent suspects from contacting witnesses and victims already known to them. A major difficulty here, though, is that besides being a possible misuse of this legal measure, they also require proof of previous activity. If anticipating the need to apply for a restraining order, it would be good practice to advise the victim/witness to keep a written log of incidents from the outset (this and other legal tools will be further reviewed in chapter four).

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<sup>8</sup> In the UK research discussed in Chapter 5, this is a recognised problem referred to as ‘implicit intimidation’, or ‘outer ring intimidation’ (see section 5.1).

*Witness Instruction* – Simple instruction can be given by the police not to answer the door to the suspect or other unknown callers. As will be discussed later in chapter five, the UK research strongly indicates that much community level intimidation is limited to the resources of the individual suspect. These are usually limited to just the suspect themselves or their immediate family. The police advice not to answer the door is coupled to that of calling the police if need be. The situation can then be reassessed and consideration be given to flagging the address, installing panic alarms and/or applying for a restraining order.

*Good practice point: Witness support and honesty about court appearance*

Some officers also mentioned the importance of being honest about the likelihood of court appearances and that the witness may have to face the suspect. It would be counter-productive to tell a witness that they would not have to face the suspect in court, only for the witness to later find they had to by law. This honesty should go hand in hand with any risk assessment and the legal possibility of using screens if their safety is at risk (see chapter four, section 4.2, for some discussion on screens and available court support measures).

According to security staff at the Pasila court, screens are in fact available for witnesses in some courts and arrangements for separate Prosecution/Defence witness entrances and waiting rooms can be made by court security staff if need be. However, security arrangements for higher risk suspects (and presumably witnesses) are left to the police.

It is understandable (but regrettable) that officers investigating volume crime are too busy (due to case load) to offer much support to the witness or victim after they have processed the case. Officers did, however, point to their possible referral to Victim Support Services (*Rikosuhri Paivystys*) in appropriate cases. Consideration could be given to ensuring more widespread awareness of this organisation and its use as a witness support resource.

In addition to victim support, officers also mentioned that each police precinct in the Helsinki police district has an on site social worker. While each social worker has their own speciality, consideration could also be given to their more integrated use in making any local witness support/protection arrangements where possible. This suggestion was not explored in any further detail within the confines of this provisional field research into witness intimidation and protection practices among front line Helsinki police officers.

This exhausts the analysis of the field interviews. The chapter has provided an exploratory description of the variable range and nature of witness intimidation and responses to it at the local level of street policing. The evidence challenges superficial views of the problem as limited and confined to the realm of serious and organised crime. It reveals a more mundane but increasingly prevalent presence in the everyday realms of volume crime. **Intimidation is thus as much a low level community-policing problem as it is a high level one in the fight against ruthless gangs involved in organised crime, drug related or otherwise.**

Having documented some local police knowledge concerning the contemporary condition of the problem and state of current police practices to tackle it, the next chapter will consider the basic legal context in which witness protection practices can take place and the European Convention on Human Rights case law that supports it. This will be followed by a review of the research and policy development that has taken place in the UK and elsewhere on the subject of witness intimidation and protection practices. This is with a view to providing further insight into the nature of the problem and a consolidation existing knowledge and ideas for reference and potential development in Finland.

#### 4. Finnish Police Law and a Duty of Care.

For any democratic society it is a matter of the highest principle that its police, as a public body and the State's legitimate instrument of force upon the citizen, only seek to enforce the law *within* the law. That is to say, no civil police activity can ethically take place except in accordance with the law. Even then, such activity (in EU countries, at least) is further governed by democratic principles of *proportionality*, *necessity*, *accountability* and the pursuit of *legitimate aims* as prescribed in the European Convention on Human Rights (Crawshaw, Devlin et al. 1998; Neyroud and Beckley 2001; Neyroud 2003; Wadham and Modi 2004). It is not the task of this report to discuss these basic principles in detail – that belongs to separate work. It is merely pertinent to the research topic to reiterate them.

Nor is it the task of this report to offer the kind of detailed legal research and analysis of Finnish criminal and police law that might better inform front line investigators in this respect. That is a matter for Finnish Police Officers themselves. It is enough to say that evident in the field interviews with investigating officers in Helsinki was a feeling that they had *very few* legal measures or powers available to them to hold a suspect in custody or restrict their movements if they thought they were likely to interfere with witnesses. This was a finding also born out by the wider national survey of field officers who felt unsure as to what they could actually *do* about witness intimidation (Korander and Mäkipää 2005). The research thus points to better training, if not law reform, to address this observation.

What is of significance to this social study is the placement of witness intimidation in the context of European Convention Human Rights case law. For this extends the rationale and scope of witness protection beyond the interests of criminal justice alone to an ethical police duty of care for the citizen and their rights. It thereby engages ideas about the role of the public police in a democratic society that lead from an offender focus on law enforcement alone to a witness focus centred on protective and preventive policing. Drawing on developments in areas of UK police law and Human Rights implications, this chapter examines that extension and comparative legal tools that may assist in witness protection.

##### **4.1 Police duties – The basic case for protection**

Chapter 1, section 1 (*police duties*) of the *Police Act 1995* provides a general duty for the Finnish Police to, among other things, 'secure judicial order' as well as 'prevent and investigate crimes'. This conceivably places on them a duty to try to prevent, and where they occur investigate, not only regular offences against property and the person, such as thefts and assaults, but also offences under the Finnish penal code that specifically relate to acts of, or the consequences of, witness intimidation.

The protection of such witnesses before, during *and after* the making of their statements and the protection of the integrity of their statements, is of course conducive to the general police duty to 'secure judicial order'. Provided, that is, the 'securing of judicial order' is taken to mean the maintenance of the public's trust and confidence in the police's capacity and ability to deliver the results of their investigative services into the criminal justice system through democratically accountable processes of police inquiry.

Section 3 (*performance of duties*) further provides that (while acting with all due efficiency and expediency) the police shall place their duties in order of *importance* if circumstances so require. In relation to the duty to protect witnesses and the integrity of their statements as a means to securing judicial order, then, importance ought be attached to the extent to which

damage to the public's faith in the police and the courts to protect them may lead to a decline in law and order more generally. For without witnesses, justice becomes virtually impossible to deliver. And without justice, judicial order cannot be said to be 'secure'.

To help secure justice, chapter 2 of the *Police Act 1995* provides certain police powers. Section 10 (*establishing identity*) provides police officers with the right to obtain from anyone information as to their identity when carrying out an individual duty. This is an *enforceable* right, by apprehension for up to 24 hours. As such, in the case of the police duty to investigate crimes, members of the public (as potential witnesses) can be thus *made* to disclose their identity when spoken to at the scene of a suspected crime, reported incident, or during subsequent investigations. The enforceable nature of this public duty to act as a witness, in either a police or pre-trial investigation is further supported by section 39 (*duty to appear, and securing an investigation*). These compliment those provisions under sections 17 to 21, 27 and 28 of the *Criminal Investigations Act 1987* (amended up to 692/1997) governing the duty of a witness to co-operate in police investigations.

Yet whilst such provision may be necessary to secure justice, in some cases it can render a member of the public vulnerable to intimidation and reprisal as a witness. It could be said, therefore, that the police (acting on behalf of the criminal justice system) have a basic duty to protect witnesses from such risks, since it is the police who are responsible for bringing them forward *as* a witness. In other words, the obligation on the part of the public to be a witness can be balanced by an equal duty on the part of the police to protect them from harm in their capacity as a witness. This is not withstanding any basic duty of the police, on behalf of the state (or any member of the EU as a condition of EU membership) to protect the fundamental rights of the citizen (regardless of nationality, either inside or outside of the EU) as laid out in the European Convention on Human Rights – namely the right to life.

As mentioned in the introductory chapter, a strong Human Rights perspective permeates EU policy. For the police of any EU member state, this effectively broadens the scope of witness protection beyond the immediate interests of criminal justice and, for that matter, the tackling of organised drugs crime. With regard to suspects, basic rights to *liberty, fair trial* and *privacy* will shape many of the practices and measures used in any police investigation concerning them. For victims and witnesses, though, it is the basic right to *life* that impacts both on the police duty to investigate crime efficiently as well as protect individuals at risk because of their involvement with the police as a witness (of any sort).

In the UK, the European Convention on Human Rights was formally incorporated into domestic law in October 2000 under the *Human Rights Act 1998*. The view of the UK (Villiers and Palmer 2000) is that it is not simply enough for the police to be *compliant* with Convention Rights (i.e. refrain from breaching them in policy and practice) but that, in some circumstances, the Convention actually imposes a positive duty on the police to act protectively in relation to them. Some senior officers in the UK would in fact argue that in this regard the (public) police must, in fact, move on from regarding themselves primarily as 'crime fighters' or even 'law enforcers' in any traditional sense, and start to define themselves as 'rights protectors' (Neyroud and Beckley 2001). That is to say, within a paradigm of democratic police reform, the public police – as the unique personification of the state in direct contact with the citizen – must strive become the very *embodiment* of Human Rights (and the democratic values that they represent) through their everyday practices, rather than regard them as an obstacle to their preferred policing tactics or something to simply be 'compliant' with in order to claim legal legitimacy of action.

Nonetheless, in 1999, the positive obligation for the police to protect the right to life was examined in the European Court of Human Rights in the case of *Osman v UK*<sup>9</sup>. The details of the case are not so important. What is of importance to the development of this study and its research topic is that while the UK was not found in breach, the European Court at Strasbourg adopted some basic principles in its deliberation. These principles, which also impact on other EU contracting parties, such as Finland, can be summarised as follows (with my added emphasis):

- That in certain situations, the police have a positive obligation to **take preventative operational measures to protect an individual whose life is at risk from the criminal acts of another individual.**
- That while such an obligation should not impose an impossible or disproportionate burden on the authorities, what must be shown is that **the police did all that could reasonably be expected of them to avoid a real and immediate risk to life which they knew about or ought to have known about.**

Within the limits of policing resources and priorities, the application of these principles extends not only to the efficient police investigation of suspicious deaths but also crimes involving threats to kill, life threatening acts of violence and other crimes that put life at risk in one way or another. This is by no-means confined to singular acts of violence committed in the name of organised crime (such as gang related murders). It also covers serial crimes by loners (such as rape) and, as is more common and more likely for the police to know about in advance, repeated forms of local violence (particularly domestic or racial violence).

Within this, along with an interpretation of relevant sections of the *1995 Police Act*, the protection of informants as well as witnesses and victims becomes a clear police duty in Finland. Furthermore, this fundamental responsibility does not end at the securing of their evidence in a prosecution: **it encompasses the protection of their right to life beyond, and possibly even regardless of, a prosecution.** In rare cases, it can mean lifetime protection, formally provided by the Police and expensively funded from the State budget.

#### ***4.2 Court support – Human rights and the case for anonymity***

There may be ongoing debate as to whether a witness can, within Finnish law, enjoy full anonymity in court – a key sticking point seems to be the basic principle that a witness's name must be made known to the defendant (see Jansson 2005 for discussion). However, the basic case for a vulnerable witness being able to give their evidence with *full* anonymity (i.e. from behind a screen with name and all identifying features withheld from the accused) is supported by European Human Rights case law. When deliberating tensions between the rights of the suspect and the rights of the witness, such case law can provide for other contracting parties to the EU, not just the member state originally affected. In this sense, when considering the use of screens and allowing witnesses to give evidence anonymously by other means, such case law is potentially a most useful point of reference for the Police and Prosecutor's Office to draw on. The basic position can be summed up as a deliberation between the right to life versus the right to a fair trial.

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<sup>9</sup> [1999] ECHRLR 228

In the case of *X v UK*<sup>10</sup> the use of screens in court to shield witnesses from the defendant, public and press was approved. Following this, from the 1996 case of *Doorson v Netherlands*<sup>11</sup>, the Convention allows for witnesses to remain anonymous provided there are counterbalancing procedures that allow the reliability of the evidence to be challenged. Examples of these are given as:

- Having the accused and/or their lawyer present when the witness was questioned.
- Having mechanisms for putting defence questions to the witness when in court.
- Considering whether the trial judge could be made aware of the witness's identity.

In this case, the Court accepted that in limited circumstances the rights of the accused to challenge some of the witnesses against him/her must give way to the rights of witnesses to be free from reprisals. The test in *Doorson v Netherlands* can be quoted here for reference:

*“(The right to fair trial) does not explicitly require the interests of witnesses in general, and those of victims called upon to testify in particular to be taken into consideration. However, their life, liberty or security of person may be at stake, as may interests coming generally within the ambit of (right to privacy). Such interests of the witnesses and victims are in principle protected by other substantive provisions of the Convention, which may imply that Contracting States should organise their criminal proceedings in such a way that those interests are not unjustifiably imperilled. Against this background, principles of fair trial also require that in appropriate cases the interests of the defence are balanced against those of the witness or victims called upon to testify.”*

For police officers to give evidence anonymously, however, mere presumptions about the risks of reprisals are not sufficient. The case of *Mechelen and Others v Netherlands*<sup>12</sup> made it clear that the use of police officers as anonymous witnesses can only be justified in exceptional circumstances where every effort has been made to assess whether there was an *actual* threat to the officers and their families. This added dynamic may hold some significant resonance with the (unpublished) national research into witness intimidation carried by PAKK that found evidence that a significant proportion (about 16%) of police officers had, themselves, suffered serious intimidation (Korander and Mäkipää 2005).

#### **4.3 Pre-trial prevention – UK Police bail conditions for suspects**

It can be a long time before trial. So what legal measures exist to offer the witness some level of protection from intimidation by the suspect *prior* to actual appearance in court? Within Finnish Police law it might be tempting to try making use of *Travel Bans* and/or *Confinement Orders (Prevention of Departure)* under the *1987 Coercive Measures Act* to restrict the movements of a suspect with a view to protecting a witness from them. However, this is may be considered legally inappropriate, since that was not their intended application. Similarly, one might reach for a court restraining order to restrict contact (as suggested in Jansson's 2005 study). Yet these might also be of limited use in as much as they require, according to officers interviewed, evidence of prior activity and so could not be made use of in cases with no prior history. Their scope beyond repeat domestic violence, important as that is, is therefore severely limited.

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<sup>10</sup> [1993] 15 EHRR CD113

<sup>11</sup> [1996] 22 EHRR

<sup>12</sup> [1998] 25 EHRR 647



With regard to the pre-trial and initial police investigation period, the capacity to arrest and detain pending charge in order to prevent witness intimidation under chapter 1, section 3 of the *Coercive Measures Act 1987* would be the main area of consideration. This is not only in respect of serious or organised crime but also minor offences where intimidation may be of a more local and seemingly petty nature, for such forms of intimidation can have an equally corrosive effect on a community's confidence in the police and judiciary to protect them from habitual and unruly offenders amongst them.

However, to protect a vulnerable witness in this way, the practical use of arrest and detain provisions seem best suited to the early period of an investigation where the witness's evidence is being initially secured. For it is questionable as to whether the prerequisites for detention could continue once the witness's evidence has been secured by way of police interview or the making of a statement in the proceedings. Furthermore, there is no guarantee that the court in any subsequent application would grant detention when requested by the police.

As an alternative, law reformers in this area may consider making provisions that allow the police to directly impose what are known in the UK as 'police bail conditions'. In Britain, the *Police and Criminal Evidence Act 1984* provides for the legal frame within which the police can arrest and detain a suspect in custody for the investigation of an offence. There is a strict limit to the time anyone can be kept in police custody (usually 24 hours), after which they must be released, either with or without being charged with an offence.

If charged, the police can then refuse to release the suspect but only for certain reasons. These reasons basically relate to securing attendance at court and/or the prevention of further offences being committed and/or for their own protection or to prevent the person from causing injury to persons or loss or damage to property. Yet they can also relate to preventing any interference with the administration of justice or investigation of offences. This can be used in cases where there are objective grounds for believing that witness intimidation may take place at the hands of the suspect.

However, where the police authorise such continued detention after charge, the suspect must then immediately be presented to the local court. The court then decides whether or not it is *necessary* to keep the suspect remanded in custody (i.e. at the local prison) pending trial due to the reasons given by the police. As with some provisions of Finland's *Coercive Measures Act*, there is no guarantee that the court *will* decide to keep the suspect in custody, simply on the request of the police, and the police must make an objective case not only that they believe the suspect *will* interfere with witnesses, but that it is *necessary* to keep him/her in custody in order to prevent him/her from doing so.

Where the remand application fails, the courts can release the suspect 'on bail' to appear before the appropriate court at a future date. This *court* bail can be either 'conditional' or 'unconditional' in that it might contain certain restrictions to the suspect's liberty. These days, however, instead of refusing release after charge, amendments under the *Criminal Justice and Public Order Act 1994* allow for a *conditional* release on *police* bail.

Previously, the police only had the option of *unconditional* release on bail or refuse release entirely, as mentioned. In practice, it was felt that the police were refusing release not because it was actually *necessary* to detain a suspect, but because that was the only practical

means by which they could secure the types of conditions while on bail that they desired but only the courts could set.

The amendment gave the police power to impose police bail conditions on charged suspects where it appeared to be necessary to prevent the person from ‘failing to surrender to custody’, ‘committing an offence while on bail’ or, specifically, ‘*interfering with witnesses or otherwise obstructing the course of justice, whether in relation to himself/herself or any other person*’ (Hutton and Johnston 1999).

The police are then empowered to impose one or more of a set range of ‘bail conditions’. These conditions reflect those developed over the years as good practice for the courts in seeking alternative restrictions to that of a remand in custody. The available bail conditions for a suspect can be listed as follows:

- 1) That they live and sleep at a specified address
- 2) That they notify any change of address
- 3) That they report periodically (daily, weekly, etc) to their local police station
- 4) That they be restricted from entering a certain area or building or from going within a specified distance of a specified address
- 5) That they are not to contact (directly or indirectly) the victim of the alleged offence and/or any other probable prosecution witness
- 6) That they surrender his/her passport
- 7) That they have their movements restricted by an imposed curfew between set times (i.e. when they might commit offences or come into contact with witnesses)
- 8) That they are required to provide a surety or security, forfeitable if they abscond.

While conditions 4, 5 and 7 are clearly designed to protect witnesses from intimidation, 1, 2 and 3 can also help closely monitor a suspect and reduce the risk of intimidation (conditions 6 and 8 being purely aimed at ensuring attendance in court). Any breaking of these bail conditions would render the defendant vulnerable to police arrest and remand in custody. Good practices in this respect may include the *active* police monitoring of a suspect’s adherence to their bail conditions, by home visits during hours of curfew for example, or arranged enquiries with vulnerable witnesses to check there has been no contact.

Comparatively speaking, though, ‘*arrest and detain*’ provisions in Finland seem narrower in scope than the UK provisions for imposing bail conditions outlined here. Where Finnish measures refer to the interference with witnesses, they appear confined to the first few days of an investigation, beyond which there seems little protection by anything comparable to ‘police bail conditions’ in the UK once released. As such they seem to fall short of affording specific protection for witnesses from intimidation in between release and trial.

In the interest of developing a witness protection programme as part of Finland’s police drugs strategy, future policy makers may want to consider developing similar police law reforms in relation to the granting of bail conditions aimed at the reasonable restriction of a suspect’s liberty both during and after the investigation stage, up to and including the trial.

#### ***4.4 Law enforcement – Offences under the Finnish penal code***

Besides substantive crimes such as assaults, damage, etc, there are currently four offences within the Finnish Penal Code that relate to witness intimidation. They fall under chapter 15 as *offences against the administration of justice*. Technically, they apply in respect of

statements made by a person either ‘as a witness, expert witness, or other person to be heard (in judicial proceedings), or as a party in a trial, criminal investigation, police inquiry or other comparable proceedings’. The legal elements of these offences are as follows:

Section 1 and 2 (False statements/Concealing pertinent facts)

To make a false statement, or conceal pertinent circumstances without lawful cause, either before a court of law (three years maximum sentence), or in official proceedings, a criminal investigation, or police inquiry (two years maximum sentence).

Section 9 (Threatening a person to be heard in the administration of justice)

To unlawfully, by violence or threats, prevent (or attempt to prevent) another person from *making* a statement, or influence (or attempt to influence) the *content* of a statement, or employ violence or threat of violence against another person because of a statement *made* by them (three years maximum).

Section 5 (Attempted incitement to a false statement)

To attempt to incite another person to commit a section 1 or 2 offence (one year maximum).

Sections 1 and 2 relate to offences that can result from the intimidation of such a witness by an individual. Sections 5 and 9 relate to that individual’s actual acts of intimidation. The substantive form of ‘attempted incitement’ is covered by the offence of ‘instigation’ under chapter 5, section 5 of the penal code.

The two offences of threatening a witness and incitement focus on the intimidator’s desire to either prevent the statement being made in the first place, or if it is going to be made, to hold influence over its content as either false in itself or the concealment of some pertinent fact, or if it has been made contrary to the intimidator’s desire, to ensure some form of retribution for so making it.

In terms of serious or organised crime (particularly drugs), though, there seem two main limitations with all these offences: one, the lightness of maximum sentence and its imbalance between an intimidated witness and the intimidator; two, their lack of reach in cases of incitement or intimidation not based on threats of violence but substantial offers of money by organised criminals (i.e. bribes).

Firstly, if gauged by maximum sentence, the offences committed by the intimidated witness are considered *more* serious than those committed by those inciting that offence. This seems unbalanced. For trying to incite a witness to make a false statement becomes a relatively low risk activity for those involved in more serious or organised crimes and thereby facing sentence of more than one year if convicted for them. Rationally calculated, there would appear nothing to lose and everything to gain by asking a key witness to remain silent in ways that fall short of making an actual threat of violence – the offer of money, or some other favour, for example.

On the second point, an incitement or offer of money from someone with a significant criminal reputation comes with an unspoken threat if it were to be declined. Yet the hidden nature of such a threat may be difficult to prove for the more serious offence of threatening a witness. Furthermore, the offence of actually threatening a witness only carries three years itself, compared to the likelihood of similar or greater sentences for the serious or organised crimes in question. Again, the odds seem to favour the criminal when risking intimidation.

The existing offences in the penal code relating to witness intimidation thus seem inadequate in terms of providing witness protection through law enforcement alone. Oddly, in terms of likelihood of conviction and sentence, **the risk to the witness far outweighs the risk to the criminal**. Importantly, they do not seem to readily cover cases where a witness's silence or false testimony is 'bought' through bribery, for example.

Thus, in terms of law reform, a substantial increase in the maximum sentence available for section 5 and section 9 offences beyond that of three years, may be required to reflect the seriousness of witness intimidation and limit its potential to damage the security of judicial order. If given a maximum of at least four years sentence, this would also allow the special investigative legal provisions the police have to covertly gather information and evidence concerning these offences and allow them to be used to greater practical effect. It would also bring them into the gambit of *organised crime participation* as a recognisable activity under 17:1a of the penal code.

Alternatively, consideration may be given to a new offence of 'witness intimidation'. This could be specifically calculated to cover all forms of interference with potential witnesses at all levels of police/court proceedings. It could also carry a maximum sentence that reflects the seriousness with which the state intends to protect the integrity of its judicial system when faced with the resources of organised criminals, via the protection of its witnesses. In other words, it puts the focus on the criminal's engagement in intimidation rather than the witness's resulting complicity in making false statements. For a comparative point of reference, the legal provisions relating to the development of witness intimidation as a specific criminal offence under UK law can be covered in the next section.

#### ***4.5 The UK – Witness intimidation as a specific offence***

At common law (rather than statutory law), there is a long recognised criminal offence in the UK of perverting the course of justice. This is arrestable and triable on indictment only (i.e. in the higher court), for which conviction can mean up to life imprisonment and/or a fine. It is defined as '*any act tending and intended to pervert the course of public justice*' and as such can cover a very wide range of circumstances (Sampson 1999).

While the commission of the offence requires positive *actions* by the defendant, the crucial element to be proved is their actual *intention* to pervert justice. Making a false statement in order to either let a guilty person avoid prosecution or innocent person suffer prosecution, would amount to an offence. So, too, would giving false details of one's self in order to avoid prosecution or destroying, concealing or falsifying evidence of a crime. The intimidation of witnesses and jurors is also a recognisable form of committing this offence (Sampson 1999). However, it is limited to the course of justice itself and its scope does not extend to acts of retribution *after the case*. The 'punishing' of a witness *after trial* for giving evidence would, therefore, not be covered by this offence.

Matters relating to knowingly making false statements without any specific intent to pervert the course of justice, eventually found statutory recognition as perjury through the *Perjury Act 1911*. This related to false statements made under oath and carries a maximum seven years sentence, as does any incitement to it. They were gradually extended to other forms of false testimony through the *Children and Young Persons Act 1933*, the *Criminal Justice Act 1967* and the *Magistrate's Court Act 1980*, though attracting a lesser maximum sentence of two years imprisonment. In essence, these offences equal the 'making a false statement' elements of offences under the Finnish Penal Code previously discussed.

The intimidation of witnesses and jurors reached statutory recognition in 1994 under section 51 of the *Criminal Justice and Public Order Act*. In comparison to common law, it is notable that this offence, while remaining arrestable by virtue of its five years maximum imprisonment if tried at the higher court (i.e. central Crown Court), is also triable in the lower courts (i.e. local Magistrate's Court). As with the 'false statement' offences, this may reflect not only concern over a perceived prevalence of this type of offence but also the increasingly local, and sometimes pettier, nature of its commission. Crucially, though, it is of wider scope than its common law counterpart in that it deals with *retributive* action against a witness *after* the case, not just the initial securing of justice alone. In other words, it puts witness interests *first*.

Compared to the Finnish equivalent of *threatening a person to be heard* (i.e. a witness)<sup>13</sup> under penal code, the precise wording of the UK's 'witness intimidation' offence is, perhaps, unduly complex (see annex A). In essence, though, both cover the same range of circumstances. In particular, the UK offence is explicit in covering indirect intimidation via *third persons*, or retributive harm towards third persons and is not confined just to acts against the witness directly. Like the Finnish offence, it therefore covers 'punishment' of a witness for their testimony via anyone related to them (but in the broadest sense).

However, despite its increased range of practical application to acts *after* the case as well as before or during it, the focus on 'intimidation' and 'harm' rather than 'interference' appears to omit, as does its Finnish equivalent, acts of bribery from its reach. This, however, could still be dealt with either under common law as 'perverting the course of justice' or (in the case of police, court or public officials only) the relevant legislation concerning corruption in office. The point, though, is for the wording of any specific criminal offence concerning witness intimidation to adequately capture the nature and scope of the problem it seeks to address and for its seriousness to be reflected in the maximum sentencing it can attract.

To this end, the intention behind the intimidation element of the offence is not confined to the *perversion* of the course of justice. It can also be to the *obstruction* or *interference* with the course of justice. Moreover, the perversion, obstruction or interference with the course of justice, does not need to be the primary or sole purpose of the intimidation. Given the knowledge that acts of intimidation are not necessarily aimed at preventing someone from giving evidence (i.e. it could be more about maintaining control or 'respect'), such legal clauses may help close any technical escape routes for a future defence to exploit.

#### ***4.6 Investigative prevention – some limitations***

An active vigilance for any form of witness intimidation and a positive police response to any suspicions or reports of it via the rigorous enforcement of laws against it, are key components to any witness protection programme. So too is the use of preventative measures during the investigation and pre-trial stages of any criminal proceedings. However, unless the sentences for witness intimidation offences are raised accordingly, the use of some key investigative measures as preventive tools become limited.

It is clear that in the absence of first hand evidence of (probably already intimidated) witnesses against such offenders, or the offender's (unlikely) own admission to the police in relation to it, or some independent forensic evidence to support the police's own suspicions,

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<sup>13</sup> Various referred to throughout this report as *threatening a witness*

one is left with covert surveillance evidence. The potential of such provisions within the *1995 Police Act* will be examined here and their possible limitations noted.

#### *Telecommunications Monitoring*

Chapter 3 (*Provisions on gathering information*) of the *Police Act 1995* governs criminal intelligence gathering methods. This is the only provision that specifically mentions witness intimidation by reference to the offence of ‘threatening a witness’ under 15:9 of the penal code. Within the Act’s range of information gathering provisions and accompanying preconditions for their lawful use, it would appear that it is only that of *telecommunications monitoring* (i.e. obtaining transmitted/received identification data via telecommunications networks) that can be used under section 31c (*Preconditions for telecommunications monitoring*) in relation to the specific offence of ‘threatening a witness’. For it states that this provision can be used if the suspect’s statements, threats or behaviour or other circumstances give justifiable cause to suspect that the person would commit an offence (among others) of ‘threatening a person who is to be heard in judicial proceedings’.

In order to prevent or detect an offence, section 31c gives police officers the right to subject a subscription or terminal in a person’s possession (or assumed to be in use by them), to telecommunications monitoring or to temporarily disconnect it. Yet unlike the use of the more penetrating *technical surveillance* under section 31 and *undercover activity* under section 31a provisions, which would yield information as to what is actually being *said* by a suspect, the *telecommunications monitoring* provision is limited to the gathering of information as to the identity of persons a suspect is contacting or being contacted by. Whilst disconnection could significantly limit contact of a witness or third party intimidator, monitoring would seem to have limited use in proving the threatening *content* of any such contact. It would, however, corroborate the fact that contact was *made* and so support any evidence from a recipient as to content in relation to the offence.

#### *Technical Surveillance*

With regard to the provision for *technical surveillance* under section 31, its use in connection with the offence of ‘threatening a witness’ seems very limited. The provision allows for technical surveillance of a person serving a sentence in prison or confined in an institution for preventive detention, or in pre-trial detention. This includes their cell and other premises used by the inmates. This would appear useful in respect of preventing those awaiting trial from organising intimidation or retribution while serving sentence and can also be used in public places other than a dwelling if the suspect is at liberty.

However, with regard to *interception* (i.e. the use of technical devices to listen to and record voices) it can only be applied in respect of offences the suspect could commit for which the maximum penalty is at least four years imprisonment. In my opinion, this could therefore not be used in respect of threatening a witness or incitement to make a false statement, since the maximum sentences are only three years and one year respectively. It seems it *could* be used, however, if the form of violence or threat of violence used to intimidate or form of retribution constituted a qualifying offence – such as aggravated forms of assault, damage or theft and, of course, homicide. But what if it were more subtle and careful than that?

In contrast to *interception*, technical *observation* of a suspect and technical *tracking* of a suspect’s vehicle under section 31 can be applied in respect of offences where the maximum punishment is over six months’ imprisonment. These provisions, along with those of section 30 (*surveillance*) in respect of the suspect’s activities in places other than a dwelling, can

therefore be used to prevent or discontinue offences of threatening a witness or incitement to make a false statement (sections 32 and 33 cover the processes of authorisation, monitoring and accountability of these provisions).

The *1995 Police Act's* 'information gathering' provisions are cross referenced to 'investigating offences' provisions of the *Coercive Measures Act 1987* (Chapter 5a). With the exception of specific reference to the offence of 'threatening a witness', the above section 31c of the *Police Act* appears to duplicate section 3 (*telecommunications monitoring*) of the *Coercive Measures Act*. Likewise, section 31 above appears to duplicate section 4 (*technical surveillance*). The only additional provision of the *Coercive Measures Act* appears in section 2 (*telecommunications interception*), which allows for the undisclosed listening to or recording of telecommunications messages in order to discover its contents. The preconditions for its use, though, cover a range of specific criminal offences that largely concern national security, organised crime activity and homicide but not the specific offences of witness intimidation discussed above. Presumably, then, this provision does not fall within the general definition of 'technical surveillance' afforded by section 31 of the *Police Act*, since it is given separate reference as a separate provision in both Acts. For reference, table 3 summarises these investigative prevention provisions.

#### Summary of Provisions for Investigative Prevention

<b>Act &amp; Section</b>	<b>Name of Provision</b>	<b>Practical Application</b>	<b>Relevant Precondition</b>	<b>Preventive Use</b>
Police Act 95 Ch 3 Sec 31c	Tele-communications Monitoring	Disconnection/ Monitoring (but only for <u>contact</u> data).	<u>Explicitly</u> covers suspicion that the person would commit a <u>15:9</u> offence of threats to a witness.	Disconnection limits (but does not <u>stop</u> ) ability to contact witness or third party intimidator.
CMA 87 Ch 5a Sec 2	Tele-communications Interception	Listen/record to discover <u>content</u>	Listed offences re national security, organised crime and homicide.	Informs risk assessment of preventive witness protection provision.
Police Act 95 Ch 3 Sec 31a	Undercover Activity	Infiltration to gather intelligence	So does <u>not</u> cover 15:9/5 offences.	
Police Act 95 Ch 3 Sec 31/ (& CMA S4)	Technical Surveillance In form of:	Information as to <u>content</u> of communication	If suspected they might commit offences with max penalty of 4yrs minimum.	Informs risk assessment of preventive witness protection provision.
For use in public, private (including a prison cell) but not a dwelling	- Interception	To listen to & record voices	So does <u>not</u> cover 15:9/5 offences	
	- Observation	To view, video or photo susp'.	If offences with maximum penalty of over 6 months.	Can inform preventive witness protection interventions re 15:9/5 offences.
	- Tracking	Movements of vehicles/goods	So does <u>cover</u> 15:9/5 offences	
	- Surveillance	Of suspect's activity	Any offence they might commit	
Sec 30				

(Table 3: Limits of Preventive Investigative Provisions)

#### ***4.7 Immediate protection – provisions for the ‘discovered’ witness?***

As discussed above, in its framing of certain offences against the administration of justice, the penal code acknowledges the criminal activity of witness intimidation in its own right (section 5 ‘incitement’ & section 9 ‘threats’ as an aggravated form). It also recognises two key offences that may be committed if such intimidation has been successful and a witness coerced into falsifying or concealing statements (sections 1 & 2).

Even in this regard, the existing statutory powers of the police to effectively protect witnesses from exposure to criminal intimidation and investigate it appear highly limited within the provisions of the *Police Act 1995*. This is despite general provisions that would put a desirable duty on the police to protect witnesses, as well as a reasonable duty on the public to co-operate when so requested.

What, though, of cases where there has, as yet, been no report to the police of serious criminal activity due to the successful intimidation of its victims and witnesses by virtue of their close proximity to it? That is, cases where nobody is, as yet, ‘a person waiting to be heard’ in an existing investigation because the original crime is yet to be discovered? One might think here of coerced drugs couriers or victims of human trafficking. Such persons could legitimately be regarded as witnesses to organised criminals simply waiting to be found in the field by the police and offered some level of immediate protection in order to secure their cooperation and evidence against their handlers and controllers.

Yet, with a minor exception, the remaining provisions referred to in the *Police Act 1995* are not explicitly designed to protect such witnesses from reprisal or forms of intimidation recognised in the penal code. They are provisions largely aimed at the apprehension of persons (Chapter 2), the gathering of information on them (Chapter 3) and the investigation of crimes (Chapter 4). In some *limited* circumstances, the further provisions of Chapter 2 *could* be considered but, again, they do not appear to have been specifically designed with witness protection in mind. In any case, their scope falls far short of being adequate for the basic purpose of protection against intimidation by the determined criminal or third party. This final section will briefly examine these provisions for the ‘discovered’ witness.

#### ***Apprehension to protect a person (section 11)***

Under section 11, this provides that police officers have the right to apprehend a person to protect them from an *immediate* serious danger to life, bodily integrity, security or health. But this is only if they are *unable* to take care of themselves *and* the danger cannot be otherwise eliminated or the person otherwise looked after. It could be used in conjunction with section 16 (*preventing a dangerous act or event*), which provides a police right to enter premises to prevent a dangerous act/event that might cause a serious threat to life, liberty or health, or damage to property, etc. However, a lot would depend on both the circumstances in question and also seeing its application beyond perhaps its more routine police use.

One theoretical application, in this sense, could be to rescue those trapped in abusive, exploitative or otherwise dangerous relationships. Conceivably a witness or potential witness/victim in some cases of domestic violence as a family member could be rescued under this provision upon their discovery by the police. Similarly, in terms of organised crime, a ‘worker’ operating under duress or coercion in the sex, drugs or other criminal business or even a gang member wanting to ‘defect’ could be likewise rescued and then encouraged to become a witness against the criminality of those holding power over them. One could include cases of human and drugs trafficking in this.



However, in terms of protection as a witness, the provision seems *very* limited in practice. It relates to saving someone from *immediate* harm and does not appear designed to allow the police to encourage a reluctant person to *become* a witness – for an apprehended person *must be released* as soon as the immediate danger has passed and in any case within 24hrs (separate provisions applying for intoxicated or mentally ill persons). Furthermore, in the case of a person under 18 years, they must be taken *immediately* to their legal guardian, or child welfare authority if that is not possible. Whilst the opportunity (or ethical duty, even) to use section 11 may present itself during a surveillance operation or from actionable public information, there seems very little scope for its use as a witness protection measure beyond an initial police intervention to rescue an unwilling or otherwise unable party.

#### *Protecting domestic and public premises (section 14)*

There seems marginally more protective scope within the provisions of section 14. This gives police officers the right, upon the request of the occupant of domestic or public premises, to remove anyone without the occupant's permission to be there. Officers may also remove anyone *with* permission to be in or around the premises if they are causing a disturbance of any kind and they reasonably suspect it is likely to recur. The provision seems to have been made with routine domestic or neighbourly disturbances in mind, probably (but not necessarily) involving some degree of intoxication.

In theory, consideration could be given to its use in cases where an offender, or person on their behalf, approaches a witness/victim at their home or elsewhere and engages or gets into an argument with them in ways that fall short of complete offences of 'attempted incitement' or 'threats to a witness'. As such it might offer some short-term protection against low-level cases of intimidation. In more extreme circumstances, beyond removal from the immediate vicinity of the area, the provision also allows the police to apprehend the person and keep them in custody for up to 12 hours until the likelihood of the disturbance recurring has passed. Again, though, this is only a short-term police response to deal with the immediacy of a situation that may, or may not, get progressively worse.

#### *Preventing an offence or disturbance (section 20)*

Similarly, police officers have the general right to remove a person from an area if, on the basis of their threats or general behaviour, they conclude they are likely to commit an offence against life, health, liberty, domestic premises or property. Where simple removal is inadequate, the person may be apprehended and kept in police custody for up to 24 hours.

However, this provision does not seem to extend to offences against the administration of justice (i.e. witness intimidation offences). It seems more confined to cases where threats of violence are intended to be committed *there and then* rather than at some possible future date dependent upon a witness's future testimony. Furthermore, the provisions of both section 14 and 20 are contingent upon the offending person actually being *present* and causing some form of disturbance. Accordingly, they are not measures to protect witnesses from the numerous other forms of intimidation that may take place by phone, post or otherwise and in much subtler and maybe less aggressive ways.

Protective practices may therefore need to extend beyond immediate police responses to incidents involving witnesses. They may need to also cover the monitoring and surveillance of the offender or third party acting as the intimidator on their behalf. The provisions in this respect under Chapter 3 of the *Police Act* are limited, as have already been discussed. The protective potential of these more immediate provisions (summarised in table 4 below) for

those victims and witnesses who lay undiscovered in the field, would appear to be similarly limited.

Summary of Provisions for Immediate Protection

<b>Police Act 95 Provision</b>	<b>Conditions of Use</b>	<b>Witness Protection Limits</b>
Ch 2 Sec 11: Apprehension to Protect a Person	If immediate serious danger to life, bodily integrity, security or health and unable to take care of themselves and danger cannot otherwise be eliminated.	Could possibly be applied on discovery of a coerced 'worker' as a potential but reluctant witness. Very limited use, less if under 18.
Ch 2 Sec 14: Protecting Domestic And Public Premises	Removal of person from premises either on request of occupant or if likely to repeat a disturbance they are causing.	Could offer some short-term protection for low-level intimidation. Can hold for up to 12 hrs until threat is over.
Ch 2 Sec 20: Preventing an Offence or Disturbance	Remove and detain for 24 hrs a person likely to commit offences against life, health, liberty, property, premises.	Limited to 'here and there'. Doesn't apply to offences such as 15:9/5 or offences made by phone, etc.

*(Table 4 Limits of Immediate Protection Provisions)*

**4.8 Conclusion – A witness rather than offender focus**

This chapter has reviewed the potential opportunities and apparent limits of existing Finnish law (as of early 2005) in offering protection to witnesses from intimidation by offenders. What has been revealed is that while the police have both a legal and ethical duty to protect witnesses from intimidation, the legal tools available to them can sometimes fall short of that required when focussed on preventing an offender from interfering with a witness. And where law reforms may have superseded the publication of this research, there remains the practical observation that officers were unsure what legal tools were available to them.

An alternative approach is to focus on the witness rather than offender. The work of the next chapter, drawing largely on the UK experience, is to examine the existing research in this area and that of the nature and extent of intimidation in general. The general findings can also be considered against the scope and limits of the existing legislation reviewed above. The subsequent chapter will then examine the development of formal witness protection practices and schemes in the UK and some emerging learning points that can be discerned from a brief study of other schemes internationally.

Consideration of the international context of witness protection in relation to organised crime and a return to a human rights perspective and its implications for the development of programmes in Finland will then bring us to the concluding chapter of this research report.

## 5. Basic Research Elsewhere and UK Policy Development.

During the 1990s, witness intimidation and protection practices appear to have been variously researched on behalf of the police and criminal justice systems in a number of western countries. Some useful work in the UK, as well as the US, can be drawn upon in this review. Of course, it cannot be assumed that the findings in one country necessarily apply to another. Then again, in a world that is increasingly 'global' in terms of cross cultural and political influences affecting crime and policing, such findings may form a useful frame of reference within which to place similar research in Finland. Based on the research elsewhere, then, some of the early knowledge concerning the nature and extent of witness intimidation and responses to it in the UK can be outlined here along with Detective Chief Inspector Jansson's (2005) findings as to basic forms of intimidation in Finland.

### *5.1 Intimidation is mostly a community level problem*

Generally speaking, intimidation is mostly a community level problem. In 1996, an independent report (Finn and Healey 1996), on 'preventing gang-related and drug-related witness intimidation' was prepared for the US Department of Justice. It was based upon the experience and practices of law enforcement agencies and prosecutors' offices that had developed from their standard victim assistance programmes. As a nationwide problem hampering the crime investigation and prosecution process, it understood witness intimidation in two basic forms:

- 1) *Overt intimidation* – when someone does something explicitly to intimidate a witness. This mostly occurs when there is a previous connection between victim and defendant and when they live relatively close to each other.
- 2) *Implicit intimidation* – when there is a real but unexpressed threat of harm. This can occur when gang violence creates a community-wide atmosphere of fear. Even if no explicit threat against a particular person, this atmosphere can make witnesses reluctant to testify.

Similarly, the UK's first major report on witness intimidation (Maynard 1994) was produced for the Home Office in 1994. It was commissioned due to significant concern that *police public relations* were being hampered by witness intimidation. The purpose of the report was to estimate the extent of such intimidation and advise on how it might be reduced. On the basis of a large-scale public survey and in-depth discussions with nine of the UK's major police forces, it found that witness intimidation was being encountered at three different but related levels:

- 1) *An inner core* – a small number of individuals who need the highest forms of police protection (e.g. home relocation/identity reassignment) due to *life threatening* intimidation. (The human rights implications for the police are most acute here).
- 2) *A middle ring* – crime victims and witnesses and others helping the police in various ways (e.g. informants) who *actually suffer* non-life threatening intimidation because of it. (The damage this does to public co-operation is of significant concern).
- 3) *An outer ring* – a general public whose perception of the possibility of intimidation *actually prevented* them from coming forward as victims or witnesses in the first place. (The corrosive effect of this on law and order should not be underestimated).

The identification of witness intimidation as existing mostly at a *community* level – either actively between known parties living in the same area or emanating from a general community-wide atmosphere of *fear* for various reasons – is also recognised in other UK research. However, it is also recognised in the UK that **the reason for a witness's reluctance to testify is not necessarily fear of intimidation. Nor is the reason for intimidation necessarily aimed at preventing someone from giving evidence** (Tarling, Dowds *et al.* 2000; Furniss, Edwards *et al.* 2003). Witness intimidation and reluctance thus seem indicative of a wider set of social problems than those confined to the interests of criminal justice alone. As such, a comprehensive witness protection programme may necessarily find itself engaged with a broader welfare response for some localities, in co-operation with other public, private and/or voluntary sector agencies.

### ***5.2 Protection falls within a broader programme of support.***

Witness reluctance to come forward is itself of such concern to the UK that from 2003 a nationwide strategy, '*No Witness – No Justice*', has been progressed to put victims and witnesses at the heart of the Criminal Justice System. Within this, the problem of intimidation is just one area of response for a wider programme of better witness support in general. The police led development of witness protection schemes for the 'inner-core' at risk of life-threatening intimidation compliments this strategy and is due for legal status in the UK's *Serious Organised Crime and Police Act* (discussed later). Nevertheless, 'outer ring' forms of witness intimidation *in the community* are regarded as a serious problem in the UK, as is 'middle ring' intimidation *in court* and any that might follow *after* it.

Likewise, while understanding *witness relocation* as the core service for any protection programme to provide, the US clearly sees communities and the courts/prisons as key sites of intimidation that such programmes must also cater for with other components. Indeed, the rigorous use of traditional protection approaches focussed on restricting the offender and/or supporting the victim/witness, while insufficient on their own to prevent actual harm or motivate co-operation, makes an important *symbolic* gesture that the authorities themselves take witness intimidation seriously. **This is an invaluable signal of support for those feeling any sense of abandonment by or disillusionment with the state and its institutions, such as the police, in the face of fears over rising crime.** For such communities may otherwise find themselves susceptible to vigilante practices and/or extremist politics.

The basic research and policy development work elsewhere thus points to the building of a comprehensive witness protection programme in these three areas:

- 1) The community: before or during the police investigation stage via police activity
- 2) The court/prisons: before or during the trial stage once charged via court support
- 3) The individual: after the trial or at any stage before/during it via witness relocation.

Though not an exhaustive list, some recommended good practices aimed at tackling the problem of intimidation in these areas can be distilled from the US and UK research and are reproduced in the concluding chapter nine. Some recommendations concerning court support reflect measures already recognised in the Finnish Police Drugs Strategy. Similarly, those concerning police activity more directly may already be being practiced in the field. Nevertheless, they help identify ideas for consideration and development while bearing in mind the very localised and often hidden nature of intimidation in general that the UK research seems to point to – particularly in high crime areas/neighbourhoods.

### ***5.3 Some key findings about intimidation in the UK.***

The UK research suggests that while life threatening intimidation associated with organised crime requiring intensive police protection is comparatively rare, the more common problem of *community* level intimidation is not randomly and evenly spread across society but more prevalent on high crime housing estates (Maynard 1994). Indeed, much criminological research would support the view that such community level witness intimidation is more characteristic of life in socially deprived neighbourhoods suffering from compound socio-economic problems such as long-term unemployment, social exclusion, drugs and high crime rates (Walklate 1996; Bright 1997).

In this sense, the significance of taking low-level forms of witness intimidation in the community seriously and dealing with it effectively is seemingly tied to preventing the social dangers of public disaffection rather than simply serving the interests of the criminal justice system. Here, the subtle distinction between the UK's concern that intimidation hampers *public relations* for the police, rather than the US's concern that it hampers the *investigation/prosecution process*, becomes a little more apparent. Nevertheless, some basic statistical findings as to the nature and extent of witness intimidation in the UK can be listed below.

- For unreported crime on high crime housing estates in 1993, 22% of witnesses (and 6% of victims) who fail to report it, failed for *fear* of intimidation (Maynard 1994).
- For reported crime on these estates, 13% of victims (and 9% of witnesses) who report the crime subsequently *suffered* intimidation (Maynard 1994).
- And for all reported crime in 1998, 8% led to victim intimidation, rising to 15% where there was potential for intimidation, such as victim being known to the offender (Tarling *et al* 2000).

Generally speaking, then, it would seem from these figures that **low-level intimidation can serve to prevent witnesses from reporting a crime in the first place, but switches its focus to the victim once the crime is reported.** On the *nature* of intimidation, though, some basic findings from the 1998 British Crime Survey (Tarling *et al* 2000) show that:

- For victims, intimidation is more likely to follow offences of violence and vandalism (particularly for women in cases of domestic violence).
- In most cases (85% victims, 75% witnesses) the intimidator is likely to be the original offender. In most other cases (20% witnesses), it is the offender's family or friends.
- Most cases of intimidation (75% victims, 69% witnesses) involved verbal abuse. Only a few (16%) were physical assaults and even less (9% & 13%) involved damage to property.
- Yet in only a minority of cases (8%) did victims say that intimidation was to deter them from giving evidence to the police or in court.

From this, it would appear that **most intimidation is limited by the resolve and resources of the original offender and often amounts only to verbal abuse, which is not necessarily intended to deter them from giving evidence.** Nevertheless, while not in the rare but highly dangerous realms of organised crime, if left unchecked by the authorities, such low level intimidation can have a corrosive effect on community well-being and the public's general faith in the system to protect them. This may leave a community vulnerable to further criminality, which in turn can serve to ripen the market for some forms of organised crime, particularly for local drug dealing and abuse.

In terms of witness reluctance (that may be due to intimidation/fears of it or some other reasons), further findings show that:

- Of all cases submitted in 1993 (1.5Million), 1% was discontinued due to witness reluctance. Or, of all such cases discontinued, 13% were due to the reluctance of key witnesses (Maynard 1994).
- Of ineffective criminal trials in 2002, 22%-32% were due to witness non-attendance. And of lay witnesses who testified, 40% would never want to give evidence again (Furniss et al 2003).
- And for volume crime (i.e. assaults, thefts, vandalism) in 1998, 68% of witnesses failed to call the police in the first place (Furniss *et al* 2003).

So, in broad terms, **a significant number of potential witnesses seem reluctant to get involved in reporting crime matters to the police.** The reasons for this (identified in '*No Witness – No Justice*') are varied and are not confined to fears of intimidation. They range from bystander apathy and/or personal inconvenience to practical difficulties in making the report, as well as their faith in the criminal justice system and general level of engagement with society and the authorities.

What seems to be important for the development of a witness protection programme, then, is the placing of the victim and witness at the centre of a criminal justice system and its police investigation process. Putting victims and witnesses *first* in this way, also fits a broader community policing style and ethical commitment to the active protection of the citizen and their human rights as defining features of a modern police organisation. In this sense, it is worth being mindful of the fact that this development may represent a wider strategic shift in perspective for the UK police as a body whose primary concern becomes that of maintaining public trust and confidence, rather than just law enforcement in itself.

#### ***5.4 UK policy development on tackling witness intimidation***

Based on recognition of witness intimidation as a serious problem, the UK has taken various steps to tackle it in recent years. Compared to the above estimation of 15,000 cases abandoned in 1993 due to witness *reluctance* (Maynard 1994) (which may include *intimidation*), it is now reported that over 30,000 cases were abandoned in 2001 due to the same reluctance of witnesses to give evidence in court (Furniss, Edwards *et al.* 2003). This indicates that the problem has doubled (in number), despite the making of 'witness intimidation' a specific criminal offence in 1994 (carrying a five year sentence and power of arrest, also extended to civil proceedings in 2001).

The need is therefore for the police and other authorities to be *pro-active*, rather than merely *reactive*, in tackling the problem of intimidation *preventatively*. Risk assessments are now carried out by the police, who are best placed to judge the degree of risk and undertake appropriate protection measures. The development of this during the 1990s into formal witness protection schemes is discussed in chapter seven. The basic course of action since 1997, however, can be listed below from the 2003 policy report '*No Witness – No Justice*'.

- The police, Crown Prosecution Service (prosecutors' office) and judiciary all received specialised awareness training in order to help them recognise and be more responsive to the needs of intimidated witnesses.
- All police forces have been issued with a training video and guidelines, which enable them to identify vulnerable/intimidated witnesses and respond to reports of crime without putting such witnesses at risk.
- Best practice guidelines have been issued for use by local authorities (municipalities) when commissioning professional witnesses (to lessen the use of 'ordinary' witnesses and thereby the scope of intimidation) in civil cases aimed at tackling anti-social behaviour and enforcing housing evictions, etc. against problem residents.
- Under the 1998 Crime and Disorder Act (which places a legal duty on police and local authorities to work co-operatively in identifying and reducing local crime and disorder problems), police chief officers and local authority chief executives have been encouraged to use the crime auditing process to identify local areas and neighbourhoods where intimidation is common and include measures to remedy it in their joint crime reduction strategies.
- The police have been encouraged to make greater use of community based witness support schemes, many of which have existed for some years as a product of local initiatives and multi-agency working.
- The phased implementation of special measures to help vulnerable or intimidated witnesses give best evidence started in 2002.
- Progress has been made in providing separate waiting areas and other facilities for prosecution witnesses at existing courts and is designed into new court buildings.
- Since 2003, ACPO (Association of Chief Police Officers) have been surveying police forces for examples of good practice in dealing with intimidated witnesses.

For Finland, the founding of a National Support Centre to increase the protection of witnesses from intimidation is considered of central importance to the prevention of serious crime (*Programme of Internal Security, Final Report 2004: 6.2.5*). This is in conjunction with the need to prepare legislative reforms with regard to intensifying the police capacity to protect witnesses as part of Finland's *Police Drugs Strategy 2003/06*. The message that seems to emerge from the UK experience and research in this area, though, is that a real need to address serious crime should not, in itself, over shadow or detract from the more widespread and corrosive location of the problem in terms of local and low level crime. For it is at the community level that intimidation is most prevalent and damaging long term.

By the UK's own admission, there is, at present, little information available as to how *effective* any of the above measures and policy developments have actually been in terms of changing the way intimidated witnesses are dealt with or have been encouraged to report crimes and give evidence (Furniss, Edwards *et al.* 2003). However, those engaged in developing a comprehensive witness protection programme in Finland (or elsewhere) may consider it useful to further enquire as to how some of the actions listed above have progressed and examine them more closely. Regardless of the lack of evaluation, though, the emphasis of the *No Witness – No Justice* report, now being implemented nationally, was always that particular attention should be paid to:

1. Intimidation in the community,
2. The identification of intimidated witnesses,
3. Improving the court environment for witnesses, and
4. Responding to intimidation after the case is over.

These echo the three basic areas of witness protection within a wider programme of support alluded to by the research and referred to in section 6.2 above. As mentioned, an outline of some good practices in these areas appears in the concluding chapter nine.

The key point from this brief overview of UK policy development is that the need to provide full police protection from life-threatening intimidation goes hand in hand with the need for local practices that act against the spread of more mundane forms of intimidation at the community level. This includes rigorous law enforcement against witness intimidation offences, no matter how petty or mundane they may appear in nature, as well as visible and active support for victims and witness when in court, whether vulnerable or not.

The development of formal witness protection programmes in the UK will be the subject of the next chapter. To complement the above research findings on witness intimidation in Britain, the final section this current chapter will outline what can be said about the basic forms of witness intimidation in Finland as revealed by Jansson's 2005 analysis of reported cases concerning the 15:9 penal code offence of *threatening a witness*.

### ***5.5 Offences of 'Threatening a Witness' in Finland***

Bearing in mind the limitations as to what officially reported cases concerning witness intimidation might and might not actually represent (see Chapter 2, section 2.3), the findings of Jansson's (2005) analysis for Finland are similar to those for the UK in as much as they mostly describe a community level problem whereby the offender and witness keep 'running into each other' in the area they reside<sup>14</sup>.

Of a sample of 100 reported cases of *threatening a witness* during 2001 and 2003, what Jansson found surprising was that most of the witnesses reporting intimidation were simply third parties who happened to have witnessed the original crime without any previous connection to the offender and now found themselves being threatened by them in various ways. To use the UK research analysis, these cases largely fell into the 'middle ring' of intimidated witness in as much as they were suffering actual intimidation (albeit not actually life threatening in reality).

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<sup>14</sup> I am grateful to our research assistant, Tanja Noponen, for the translated summary of Jansson's 2005 report findings from which the above points are made.



Jansson was able to break his sample down into three basic types of intimidation:

- 1) **Non-Present (21% of cases).** Threats made at a distance either by phone or similar means not involving actual face-to-face contact.
- 2) **Threats in Person (50% of cases).** Most commonly, explicit forms of face-to-face intimidation made either verbally or through gestures.
- 3) **Use of Violence (29% of cases).** Less common, the actual use of physical violence.

Jansson also analysed the type of original crimes from which these reported cases stemmed:

- 1) **Violent Crimes (48% of cases).** Nearly half the cases were in furtherance of original crimes of violence and themselves used either violence (in 30% of these cases) or verbal threats in person as the main form of intimidation.
- 2) **Property Crimes and Drink Driving Offences (24% of cases).** In contrast to violent crimes, actual violence was used more often in relation to property crimes than verbal threats as a means of intimidation.
- 3) **Civil Law Cases (8% of cases).** Local in nature, these were mostly restraining orders or custodial disputes that had descended into threats and further violence.
- 4) **Economic and Drug Crime (7% of cases).** Less discernable as local in nature, these were notable in as much as no actual violence had been used in any of the few cases relating to this type of crime (Such small numbers and milder forms of intimidation may, however, detract from more extremely violent and effective forms of intimidation that, by virtue of their success, go unreported).
- 5) **Alcohol and Other Offences (6%).** These all related to the illegal trading of alcohol and violence was used to intimidation in three out of the six cases.

What can be noted in all these cases is that similar to the UK findings, such forms and levels of intimidation are limited to the resolve, resource and opportunities of the original offender to make or carry out any threat. Also, though not directly discernable from the categorisation of the original offences themselves, that they are largely a community level police problem, as with the UK research findings. What they do not (or cannot) show – by virtue of being *reported* cases – is the extent to which witness intimidation is in anyway successful in one of its main (but not sole) aims of making a witness withdraw or falsify their evidence. Jansson acknowledges this, noting that in relation to the economic and drug crime cases studied, the witnesses (or informants) were usually part of the organised crime gang being testified against. Thus one would expect reported cases of this nature to be few. Moreover Jansson strongly suspects that, from his own professional opinion as a detective, there was much unreported intimidation of the co-accused in the world of drug crime.

To return to this chapter's point of observation though: A review of the UK's policy position suggests that rigorous law enforcement and restrictions of a suspect's movement as regularly used local level police tools against community level witness intimidation could go a long way to redress the practical crime investigation problem as well as, and perhaps more importantly, maintain public confidence in the police's ability to police.

The next chapter will complete the review of UK research and policy development on witness intimidation by examining the emergence and practices of formal witness protection programmes aimed at securing the evidence of key witnesses whose lives are *genuinely at risk* by virtue of being a witness against dangerous and determined criminals.

This is not to underplay the importance of tackling community level ‘middle and outer ring’ intimidation. On the contrary, it recognises the interconnectedness of these high level ‘inner core cases’ with community level crime and criminality.

## 6. High Level Witness Protection Programmes in the UK.

Rigorous law enforcement against witness intimidation and restricting the movements of the suspect may not always be enough. Ultimately, where life is at risk, there is the need to offer formal police protection, giving a witness the status of ‘protected person’. Since the year 2000, the United Nations International Drugs Programme (UNDCP) has made available a ‘Model Witness Protection Bill’ for those states wishing to adopt it<sup>15</sup>.

The UNDCP model’s stated memorandum of object and reasons is “*to ensure that the due administration of justice in criminal and related proceedings is not prejudiced by witnesses not being prepared to give evidence without protection from violent or other criminal recrimination*”. As the ‘Witness Protection Act’ it would describe itself as “*an Act to provide for the safety and well-being of witnesses in criminal proceedings who, unless protected, may not give evidence for fear of death, violence or serious injury by criminal interests likely to be affected by the proceedings, and for related purposes*”. It would apply to any witness, their relative, associate or other any person in respect of any offence for which the maximum penalty is death or deprivation of liberty for at least 12 months.

Outlined in this chapter, though, is the development of formal police witness protection schemes in the UK and their placement on a statutory footing under the UK’s *Serious Organised Crime and Police Act 2005*. In contrast to the UNDCP model, it is my opinion that while the UK legislation covers much of the same ground, the UNDCP model would appear to be the more comprehensive and more clearly termed framework. It also seems to contain more safeguards against future complications that might arise from witness protection schemes in terms of relocation and the more problematic issue of identity reassignment. However, as an object of study, this chapter will confine itself to the practical development of formal witness protection programmes in the UK.

### **6.1 Witness protection – A formal police provision**

“*Witness scheme to trap gangsters*” These headlines (Morris 2005) heralded the success of the West Midlands Police & Crown Prosecution Services’ protection programme in 2005.

Despite the fearful reluctance of 75 identified local witnesses to come forward, it was a scheme that allowed the evidence of one key witness to convict a gang of four ruthless young men for the murders of four innocent young women. In a hail of almost 40 bullets, the innocent teenagers were caught up in a drug gang related drive-by shooting outside a Birmingham nightclub in the early hours of New Year’s Day 2003. Sadly, neither such street level drug gang violence nor community level reluctance to come forward is unusual in the urban (and suburban) localities of Britain or many other contemporary cities.

What was unusual was the unprecedented level of formal protection given to the key witness that ensured the convictions. It was regarded as having set a benchmark for future trials involving drug gang activity as well as terrorism and organised crime. Under a pseudonym, the key witness – a convicted criminal accused of belonging to the rival drug gang – gave evidence from behind a screen with his identity kept secret from the defendants and their barristers. His voice was electronically distorted and a 15 second time delay set up so that he could be stopped if he accidentally said anything to give his identity away. These were just some of the practical measures used to protect him in court.

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<sup>15</sup> Full text viewable at [www.unodc.org/pdf/lap\\_witness-protection\\_2000.pdf](http://www.unodc.org/pdf/lap_witness-protection_2000.pdf)

Against the backdrop of inner-city drug gang violence and a local community level atmosphere of endemic intimidation, the scheme worked to show that the Police and Prosecution *did* have the capacity to protect key witnesses and put so-called ‘untouchables’ in prison. A point of observation is that this high profile case of formal witness protection applies to crimes that while the most serious and gang related, take place at an open and local community level. This is in contrast to the apparent origins and development of witness protection schemes and practices in response to supposedly high level organised crime cases that otherwise remain underground and distant from local street policing.

In the UK, witness protection was initially designed to protect ‘super grasses’ turning on their underworld associates (similar to the Nordic Council’s call for ‘a good witness protection programme’ to help protect police informants defecting from international crime organisations). These were key individuals who could provide essential evidence in relation to the most serious of offences against the most serious of criminals. The traditional proviso was always that they faced a substantial threat to their safety in doing so.

These schemes were pioneered by the (then) Royal Ulster Constabulary, Metropolitan Police and Greater Manchester Police during the early 1990’s with other large forces following – usually but not exclusively – in response to widespread problems of organised drug crime of varying degrees. For reference, ex-Detective Chief Superintendent David Bright’s book, *Catching Monsters* (Bright 2003, p.131-168) uniquely details some of the practical problems faced and overcome in protecting very difficult witnesses against a small but seriously dangerous drugs gang in south Essex when no formal witness protection scheme was available in 1993. Not only this, his account of what was code named ‘Operation Max’ also reiterates how, through drugs (ecstasy in this case), both local crime and organised crime merge to present a serious policing problem of widespread fear, violence and crime at a community level if left unchecked early on. The parallels with the 2003 Birmingham shootings mentioned above should not be overlooked in this respect.

However, other, higher profile, cases can be cited in charting the development of formal witness protection schemes. The murder of Alan Decabral in 2000 after testifying against killer gangster Kenneth Noye reflects their application at the organised crime level. Decabral had been subject to threats prior to giving evidence of witnessing Noye stab Stephen Cameron in 1998. The stress broke up his marriage and he became terrified after three bullets were pushed through his letterbox. Immediately after Noye was sentenced to life, Decabral went into hiding but was traced and shot dead in a car park in Kent. The murder raised questions about the safety of otherwise unconnected witnesses in major criminal trials (BBC 2000a; BBC 2000b).

The case of Noye’s victim’s girlfriend (Danielle Cable) being placed on the scheme, exemplifies an expansion of the scheme’s scope to witnesses not otherwise involved in crime but facing similar risks by giving evidence. Only some forces in the UK presently run dedicated Witness Protection Units (though this is expanding). Other forces hitherto relied on informal arrangements by trained detectives since they did not have the same level of activity to warrant such units (BBC 2000b). Yet while witness protection programmes are currently police run in the UK, within the 2005 *Serious Organised Crime and Police Act* they were brought under a national structure with regional inter-agency arrangements during 2006. The Association of Chief Police Officers (ACPO) developed ‘best practices’ guidelines (restricted document) as the basis of this and the accompanying legislation.

The more localised application in the case of Jamie Robe marks a further expansion of witness protection use from organised crime to community level crime on local housing estates. In this case, about 20 people had to be relocated by the Metropolitan Police's Witness Protection Unit in order to testify against a local gang of thugs responsible for beating to death the 17 years old Jamie Robe on an estate in South London. The murder took place in August 1997 but it required the persuasion of the local Member of Parliament (MP) to encourage witnesses to come forward. A contract was also taken out on the MP's life in October 1999 after the witnesses eventually gave evidence (BBC 2000b; BBC 2003).

The use of witness protection in the case of Maxine Carr marks a further development still. She had to be formally protected as a figure of public hate by association with her boyfriend's murder of two young girls (Taylor and Dodd 2004). Having served sentence for a separate offence in the matter but also testified against her co-accused for the murders, it marks a point where witness protection and prison rehabilitation meet in terms of providing new identity and relocation for people whose lives become at risk for one reason or another. For in this case it was not the accused presenting a threat to her life, but the public at large. Wider human rights perspectives, rather than criminal justice perspectives alone, can be seen here as beginning to prevail and shape contemporary issues of protection in the UK.

However, protection is not without problems for the protected. Poor police management and broken police promises can actually put the witness at greater risk. The non-arrival of a new identity and passport from the RUC for a police informant may exemplify both such failures (BBC 2000b). There are also other welfare issues that seem to emerge for those who have been on high-level protection programmes: Severed communication with past friends and limited family contact causes further stress while living in constant fear of contract killing (e.g. Danielle Cable re Noye). Furthermore, there is always a danger of a new identity being accidentally disclosed by officials handling your case (as reported in the case of Maxine Carr prior to release from prison). Living as part of a new and 'secretive community' with your 'own' police handlers can also create further identity problems, restrictions on freedom, inability to form new long term relationships and long term state welfare obligations, not to mention administrative difficulties in retrieving past life documents/certificates in a new name (Unknown 2004).

A final point to note, then, through these few on-line media reported cases in the UK is how witness protection has evolved from being a tool for use in the investigation of organised crime to a response in *community level* policing based on a *duty to protect life*. With this in mind, the basic legal framework for its statutory recognition can be outlined here.

## **6.2 Statutory framework for witness protection arrangements**

The UK's *Serious Organised Crime and Police Act 2005* formally recognises the chief officer of each police force (as well as heads of the new Serious Organised Crime Agency, Inland Revenue and Customs, the Scottish Drugs Enforcement Agency) and any person designated by them for the purpose, as 'protection providers'. This allows the police (and other enforcement agencies) to set up dedicated protection units.

As 'protection providers', these units may legally make any such arrangements they consider appropriate for the purpose of protecting certain types of person (defined by the legislation) and ordinarily resident in the UK *if* they consider the person's safety is at risk by virtue of being such a type of person.

The type of person that can be afforded protection falls into four basic categories, along with anyone associated (i.e. family or household members) with them:

- 1) Witnesses in legal proceedings
- 2) Informants (as governed by law)
- 3) Court officials/jurors
- 4) Police/investigators/prosecutors

In all cases, such persons are covered by virtue of either *being* or *having been* within any of the defined categories. In the case of witnesses, this is also extended to someone who *might be* such a person. Furthermore, while protection is restricted to persons ordinarily resident in the UK, the legal proceedings, judicial office or prosecutions it can cover extend to those held in the UK or elsewhere. It can also be noted that the category of witness in legal proceedings is not intended to include an accused person in those proceedings unless the accused has become a witness for the prosecution (as in the case of Maxine Carr).

As a matter of accountability, the protection provider must record any of the arrangements made for the purpose of such protection and is allowed to vary or cancel any of them at a later stage if need be. These changes must also be recorded.

The legislation also specifies that, in determining whether to make such arrangements or to vary/cancel them, the protection provider *must*, in particular, have regard to:

- 1) The nature and extent of the risk to the person's safety
- 2) The cost of the arrangements
- 3) The person/associate's ability to adjust to the arrangements/changes
- 4) In the case of a witness, the nature of the proceedings and their importance to them.

Having provided a basic framework for the provision of protection by state authorities on behalf of witnesses, officials and professionals in criminal matters, the legislation makes it clear that it does not affect the power of any person outside of its application to make arrangements for the protection of another person.

The proposed legislation also allows for joint arrangements to be made by protection providers acting together and for the transference of responsibility for arrangements from one to another. It also provides powers for protection providers to request or obtain assistance from each other, as well as a duty for public authorities to assist, when requested, in connection with the making of any protection arrangements (e.g. housing, identity).

Importantly, in order to help preserve the integrity and security of any protection arrangements, the legislation creates specific criminal offences concerning the disclosure of information relating to the making/changing of any such arrangements. It also includes the disclosure of information compromising an assumed new identity arranged by the provider (an assumed identity being defined as either when a person 'becomes known by a different name' and/or 'makes representations about his personal history or circumstances which are false or misleading').

These offences (carrying two years maximum sentence) can be committed by anyone, including the protected person themselves, their associates, or the protection provider. Exemptions include reasons of national security, the prevention, detection, and investigation

of crime, the purposes of making new arrangements as well as any future circumstances prescribed by the State. As mentioned, cases of accidental disclosure by police are not unknown and under this legislation may now be criminally prosecutable (Dyer 2004).

Further safeguards and conditions can be found in the UNDCP's 'Model Witness Protection Bill, 2000' as mentioned. There are also learning points from cases in other countries.

### ***6.3 Some lessons from mistakes elsewhere***

Some lessons can be learnt from reported cases in other countries that illustrate potential shortcomings of a badly managed or poorly implemented witness protection programme.

The Romanian case of a 16 year-old girl escaping forced prostitution shows how Witness Protection Laws (issued in December 2002) can fail a victim if not properly funded or communicated to the local police for use in practice. Under the supervision of the Ministry of Internal Affairs, Romania's new 'National Office for Witness Protection' can offer confidentiality of statement and identity; home protection; a new address, identity or look; professional re-qualification; relocation to a new job or limited income until placed. Such protection can be provided if the witness's testimony is crucial to the criminal case and there is reason to believe the witness is in danger by testifying. In the girl's case, as a willing and crucial witness against her Macedonian pimps, the Romanian police failed to tell her about the witness protection programme and she fell back into the control of her traffickers (Ilie 2004). **So it is important for a police organisation to ensure its front line officers are aware of what is available in terms of any witness protection programme.**

A more disturbing case is in Melbourne, Australia. 57 year-old Terrance Hodson, a career criminal, had agreed to co-operate in a police anti-corruption investigation as one of the state's most significant informers but had refused police protection. He was due to give evidence against two former detectives charged with attempting to steal over a million dollars worth of drugs (Hogan and Andrea 2004). In May 2004 he and his wife were murdered in their home 'execution style' by gunshot to the back of the head while on their knees. State level safeguards intended to protect their identities came into question after an unauthorised detective was able to leave a message on their answer phone. Due to lack of faith in the local state system compared to the resources of a national witness protection system, some solicitors are now reluctant to advise clients to accept police offers to become informants. They warn them that the police are unlikely to honour their assurances and that they would be putting themselves massively at risk. **Thus, a programme that becomes unreliable in the public eye can actually result in a reduction of co-operation from informants in respect of serious and organised crime.**

However, reluctance to testify is not confined to those involved in organised crime: it can grip a whole community and require a witness protection focus and capacity *at that level*. In February 2002, both parents and the five school aged children of the Dawson family were killed in their home after being firebombed in retaliation to standing up against drug dealers in East Baltimore, US. Prior to the arson attack, they were hostage to repeated harassment and attacks from local drug dealers. In Baltimore, 90% of the prosecutors' witnesses are either afraid to testify or lie in court because witnesses like the Dawsons are forced to suffer psychological, financial and physical hardship as a result of the crimes they experience or witness and the inadequacy of a justice system to protect them. Witnesses are a critical resource in prosecuting the worst criminals. Yet too often they are seen simply as tools rather than human beings. Of note is that the new Baltimore City Witness Security

Programme comes from a humanist perspective by putting their safety and well being first. This aims to see more witnesses coming forward, more crimes solved and, more symbolically, allow citizens to feel safer knowing that the system is equipped to protect *them* as witnesses (Madden 2004).

The key lessons from the above cases and review of the UK development would be that while it is important to recognise the community level application of any witness protection programme, as well as understand its development from a human rights perspective, it is important not to over-promise on what it can actually deliver. The public reputation and functional reliability of any programme is perhaps of the utmost importance.

For Finland, from the evidence of field officers and the international experience, awareness training as to the nature of witness intimidation, recognition of its manifestation as a community level policing problem as well as an organised crime investigation problem and accurate knowledge as to the availability and limits of protective legislation, resources and practices at both these levels, is an important area of continued development.

The final chapter will now build on some of the observations made in this chapter to examine some wider issues in the development of a comprehensive witness protection programme in Finland. These issues come not only from an international and human rights perspective they also come from recognition of the migratory nature of contemporary society and the cultural diversity it affords modern cities, such as Helsinki.



## 7. The International Context & Human Rights Perspectives

From the previous chapters' reviews of law, policy and practices in the UK and elsewhere, it would seem that the development of a witness protection programme turns from a purely criminal justice interest to a broader perspective on human rights protection. Looking to the international context both of crime and policing, this chapter documents some of the ways in which the need to develop witness protection in Finland is being variously couched in those same terms.

At the Nordic Council of Ministers Conference in 2002, Finnish MP Ranta-Muotio (Centre Party) described Finland as having become a 'staging post' for international crime *en route* to the rest of the Nordic Region (Norden 2003). Viewing the trend toward more effective organised crime than presently experienced, the need to develop a good witness protection programme was primarily aimed at 'those defecting from such international criminal organisations'. In other words, to help police informants turn witness and testify in the criminal justice process. This fits the criminal justice perspective.

For the Nordic Council, EU enlargement to the East and the Russian Mafia's ability to move West since the fall of the Iron Curtain, explains the rapid spread of international crime. Consequently, much of the crime in the Nordic region was thought committed by people who have recently settled in those countries. For Finland, both drugs and economic crime were considered to have gained footholds with much of the international crime being imported from Russia. In this respect about sixty groups were being monitored by the police in 2002, though for 2003 the figure was officially reported as eighty two – twenty seven of which met the EU definition of organised crime (SM 2003). Such groups were said to be predominantly interested in drug smuggling. Yet economic crime, alcohol and cigarette smuggling, pirate copying, human trafficking and prostitution were also seen as significant.

The lack of political commitment to properly face international crime was seen as a combination of both lack of awareness of the new nature of the threat since the fall of the Soviet Union and a political silence over international crime for fear of upsetting immigrant community relations. The 2002 Nordic conference concluded that funding policies and proper police resources should be based on a fuller and more open appreciation of the new threats posed by international crime in terms of trafficking, money laundering and corruption. Thus, the development of a joint Nordic Witness Protection Programme would seem to obtain its political support in the face of *international crime* apportioned to *migratory change* within respective countries. Here, some wider issues can be examined from this international context of organised crime and a human rights perspective.

### **7.1 Enforced prostitution and human trafficking in Finland.**

While the threat of drugs is often the prevailing rationale for development, the problem is clearly not confined to that of organised drugs crime alone. A particular global issue is enforced prostitution and associated human trafficking. It is here that debate on witness protection seems to most readily turn from a purely criminal justice police matter to that of a wider human rights issue.

An independent human rights monitoring body drew on US Department of State official figures for Finland to report that there have been 22 prosecutions for human trafficking offences during 2002 (PolitInfo 2003). Mostly this was said to have involved women and girls being trafficked to and through Finland from Russia and Estonia, with a few from

Belarus and Ukraine. While the women believed they were to be employed in normal jobs as dancers, waitresses and home assistants (having been recruited by organised crime groups), upon arrival they would find themselves being directed to work places arranged by intermediaries in their countries of origin.

From Finnish media reports in 2004, there would appear a general recognition of this practice by both the Helsinki Police Violent Crimes Unit and the NBI's Control Unit for illegal foreign labour (HS 2004a). In response to a case of three Estonian women first recruited as painters then required to work as prostitutes on a Finnish building site, for example, police sources confirmed rumours of similar practices in relation to other work (berry picking) and that organised crime was behind much of the fraudulent work of unlicensed employment operators. According to the NBI, there are more tip-offs than there are resources to investigate these matters, which essentially amount to crimes of human trafficking and the enforced prostitution reported on above.

The same independent human rights monitoring report also recognised that the Finnish law included some (unspecified) provision for witness protection. Legal counselling, as well as medical care and psychological counselling, was also said to be provided for victims: in particular, municipally run shelters for victims of violence were also part funded by the Government in this respect. With regard to the 23 municipal shelters being run in 2002, the victims of violence using them were mainly found to be victims of domestic violence. The point to note here, is that in the same way human trafficking widens the scope of witness protection horizontally at the level of international crime from drugs to prostitution, a human rights perspective deepens the scope of witness protection from 'high policing' to encompass the 'low policing' response to community level crime.

As the discussions in earlier sections of this report indicate, community level crime can be domestic or racist violence, for example, or simply a general feeling of intimidation in high crime neighbourhoods that discourage the residents' co-operation with the police. However, the law itself can also discourage victim and witness co-operation when the interests of criminal justice system do not stretch to their longer-term welfare interests and human rights in the name of witness protection. A brief study of legal advice given to migrant prostitutes in Finland helps illustrate this important point.

#### Case study 3: Legal advice given to migrant prostitutes and trafficked women

The independent web-site [www.femmigration.net](http://www.femmigration.net) advises on the implications for migrant prostitutes in reporting themselves as victims of violence or human trafficking. They are reminded that the police will be *primarily* interested in the information she can give them *as a witness*. This may not be confined to the violence she is reporting, but also details of those involved in the organisation of her trafficking and prostitution. Clearly this cautionary advice points to the perceived (if not real) treachery of any witness protection programme confined to the limitations of a criminal justice perspective.

They are reminded that under Finnish law a witness has no right to remain silent over what they know of another's criminality (referring to penal code 15:1,2,10), though they may withhold information that would incriminate themselves (i.e. provisions of 15:13). The criminal justice system thus seemingly forces anyone witnessing or being a victim to a crime to report it, co-operate with the police investigation and give evidence, even if it is against their own will for fear of deadly retribution on the part of the offender. Without an appropriate level of active protection from the state, they are reliant upon enforcement of

the ‘threatening a witness’ offence (i.e. 15:9 and its practical limitations discussed in previous chapters) as their primary means of protection. In cases of being a witness against those involved in any form of organised crime, the system therefore either encourages victims *not* to report organised crime at all, or puts their lives at risk by forcing them to be a witness without proportional levels of realistic protection.

As discussed earlier, from a human rights perspective the state has a primary duty to protect human life. If its laws force a person to put their life and well being at risk by being a witness, then there is a strong argument to say that it is equally obliged to provide such adequate protection that *actively* counters that risk. Where international organised crime gangs are known to be evermore ruthless in the forms of their witness intimidation to the point of murder, then the state – if it is serious about tackling the broader threat of organised crime – must offer a witness protection programme with capacity to counter such levels of intimidation. In rare and extreme cases, this may require the provision of a new identity and secret relocation of a witness. Yet as the review of the UK development suggested, while such extreme measures have their origins in the protection of informants co-operating in the high level policing of organised drugs crime, its usage has now spread to the protection of otherwise unconnected witnesses against the low policing of *local* gangs of thugs.

At the time of the research, it appears that the level of standard protection available in Finland, as detailed in the *femmigration* web page in respect of migrant prostitutes, did not match the level of intimidation available to the organised criminal. So while a lawyer may insist on the victim’s rights to protection, there would seem to be neither legal entitlement to it nor practical police capacity to provide it. Moreover, the website advice to lawyers notes that the Finnish police will determine what levels of endangerment exist and, further to the point of discussion, any protective provision by them will be limited to the duration of court proceedings themselves rather than continued post-trial welfare. Therefore, the site advises, in order to obtain the best possible protection in these cases, a victim can only be advised to inform both the police and her lawyer of any threat made against her by the perpetrators and others, presumably with a view to enforcing the 15: 9 *threatening a witness* offence.

Notwithstanding current attempts to legislate for anonymous testimony, the website also notes that there are very limited circumstances when the public can be excluded from proceedings (usually intimate details of sexual crimes) and even rarer still occasions when the accused can be excluded. Having said this, the overall police position on witness protection presented in the advice would be to secure the witness’s evidence. However, **given the certain prior knowledge of victim identity, the threat of violence and lack of protection remains a barrier to co-operation in respect of international and organised crime.** In relation to organised drugs crime, one can also consider parallels with the position of some foreign drugs couriers coerced by threats to their family, for example<sup>16</sup>.

## ***7.2 On human trafficking and immigration issues***

Besides organised crime in relation to international drugs supply, human trafficking raises some more acute points for consideration in the development of a comprehensive witness

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<sup>16</sup> In May 2004 Helsinki District Court sentenced a 33 year old Estonian man to 11 years (one of its heaviest drug sentences) for 5 counts of aggravated drugs trafficking. In several trips over a year he had brought in 17 kilos of amphetamine and thousands of ecstasy tablets for an organized drugs gang operating from inside Helsinki prison. Reportedly, he had no real authority within the drug gang and was acting as a courier. However, his last trips were under coercion after he and his family had been threatened (HS 2004b).

protection programme for any EU member state. That is, its integration with immigration policy as a key issue when placing human rights at the core of any protection strategy.

From a human rights perspective, UK research by anti-slavery organisation ecpat(uk) emphasises the point that victims of human trafficking are ‘forced, coerced or deceived in order to exploit them through sexual exploitation, forced labour or services and practices similar to slavery or servitude’ (ecpat 2002). In response to a proposed EU Council Directive in 2002 on the issuing of short term residence permits to victims of human trafficking who co-operate in its investigation, they made two key recommendations, among others, based on their long experience.

1. *Reflection Period* of three months (rather than 30 days) for victims to decide on co-operation with authorities in the prosecution of traffickers. This was to be based on the Dutch model and handled via referral to a specialist agency. It would allow recovery from the trauma of the experience as well as collation of vital intelligence to use against the traffickers, whether the victim testifies or not.

2. *Permanent Residency* for those assisting a prosecution. This would both encourage co-operation and ensure protection, since risk does not end with criminal proceedings and co-operation is likely to increase risk to the individual and family. This is a view shared by the UK Metropolitan Police Clubs and Vice Unit and is reflected in the Italian model. On purely humanitarian grounds, it is argued that EU states must not deport trafficked persons if there remains a risk they will fall back into the hands of the traffickers and be subject to further human rights violations.

So, where Finland’s criminal justice system would seem to compel a victim of human trafficking such as a forced prostitute or similarly a forced drugs courier to testify, then a witness protection programme requires the capacity to ensure permanent residency and adequate after-care for the victim and their family as immigrants. At the time of updating this research report, a Ministry of Interior working group has recently proposed some amendments to existing immigration legislation in this area to protect victims of human trafficking along these same lines. Going as far in theory, if not in practice, as the above proposal to the EU, it has called for a *renewable* one-year residency permit conditional to the victim’s continued cooperation with the investigation authorities, along with a *minimum* thirty-day reflection period (YLE 2005).

A decision on the above awaits. Yet with regard to tackling the threat of international crime, the development of witness protection from a human rights perspective engages further questions of cultural diversity and immigration that need to be understood in order to appreciate deeper blockages to witness co-operation and effective witness protection needs. Some of the contemporary key issues in this respect have been usefully laid out by Elaine Pearson, the Trafficking Programme Officer for Anti-Slavery International (Pearson 2001).

Pearson has asked not only how intimidated victims can be encouraged to testify against their traffickers but also how to ensure that their human rights are not further violated in the court process and their safety guaranteed *after* the trial. Victim co-operation, she notes, is vital to the successful prosecution of a trafficker but such victims rarely report or testify. By understanding why this is, effective witness protection measures (in conjunction with policy on residence permits and reflection periods) can be ensured. For reference in this research text on the topic, the key reasons for non co-operation noted by Pearson are listed below:

Key reasons for non-cooperation of trafficking victims (Pearson 2001):

*Deportation:* They never get the opportunity to report due to quick deportation of undocumented immigrants. This is commonly the UK experience and underscores the need for three-month reflection period built into legislation along with a requirement for police/prosecutor co-operation with immigration authorities.

*Intimidation:* They fear for themselves and their families back home due to blackmailing and threats of the trafficker and their organisational reach beyond prison. E.g. a co-operating victim from Nigeria, secretly housed in a Western European woman's shelter, was found by her traffickers. She received threats to kill her two year-old daughter and her mother was also threatened. Unable to rely on protection, she withdrew her statement until the authorities eventually placed her daughter with her in the shelter. Thus, any witness protection programme must provide for the physical safety of both victim *and family*<sup>17</sup>.

*Cultural Oaths:* Trafficked persons from Nigeria undergo ritual cultural oaths of secrecy, which prevent victims from escaping, or speaking of their experiences to anyone. These can be more powerful than physical threats of violence.

*Prosecution:* Fear of prosecution for being an illegal immigrant, residing without work permit, engaged in prostitution or other illegal activity integral to the purpose of their being trafficked. The fear is real in many countries (e.g. Italy). Trafficked prostitutes, it is argued, should be treated as victims not criminals

*Shame:* Victims may feel that their situation is their own fault. Furthermore, that the court process will be a slow and painful reliving of the experiences which are painful enough to report in the first place. More often they simply want to go home to their families (one could also think of coerced drugs couriers in this way).

*Economic:* Where economic need has been a reason for being trafficked, it remains a factor after being rescued and a primary consideration for victims. They may continue to worry about the debts they may owe their traffickers, even if they have escaped the trafficking (e.g. Thai women in debt bondage in Japan: the family back home are forced to pay the victim's debts while she works abroad, so they ask her to send more money). They do not want to spend months or years in the destination country just to give evidence when they want to be working to pay off the debts back home for the family.

Based on this last point, it would be useful for a witness protection scheme if the above proposed immigration policy amendments on reflection periods and residency permits also allowed for a victim's need to work in order to provide money. Indeed, in offering key measures that would help ensure witness security and address the above factors, Pearson lists this as one among five for consideration. For the purpose of future witness protection programme development in this area, they can be reiterated and elaborated on a little here on the basis of Pearson's point of view.

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<sup>17</sup> One could similarly consider the case of the coerced Estonian drugs courier referred to on page 68

*Suggested measures to ensure trafficking victim's witness security (Pearson 2001)*

*Temporary Residence:* Legal provision for a stay of deportation for a trafficked person is integral to any witness protection programme (as per Belgium and Netherlands model). As a 'rest period' (i.e. above mentioned reflection period) this allows for victims to decide over testifying and for police to make investigation.

*Service Provision:* During the rest period for recovery from the ordeal (as per Hague guidelines), there should be provision of housing (not detention), secure and secret shelter, family protection, education, training and employment opportunities.

*Right to Work/Financial Assistance:* To ensure victims do not return home empty handed after their lengthy court case.

*Victim-Care:* The witness is more than a prosecution tool and the crime is more than profit generation for organised crime. They are victims of violence and they should be offered appropriate social assistance and protection rather than simply returned home once the prosecution is over. Italy is a case in point where the protection laws are good in theory but poorly implemented: A witness can gain a work permit if they denounce their traffickers, but they are rarely offered this by the authorities who prefer to treat them as illegal immigrants and deport them instead.

*After-Care:* There are cases of Nigerian women being intimidated and even murdered after trial, upon the release of the trafficker, or upon their return home. Protection may need to be ongoing until repatriation and safe reintegration is complete. This would require co-operation with origin and destination country authorities. The Italian/Nigerian experience for returning women has been a negative one of lengthy detention and forced health checks for STDs (sexually transmitted diseases), HIV/AIDS as well as being paraded before the press in a process of public shaming as criminals, not victims, in further human rights violation of their privacy and equal treatment by the state.

These last two points help further underline the general observation and principle argument of this research report: that **the traditional police tendency to view witness protection from a criminal justice rather than human rights perspective needs to be overcome**. Through the example of human trafficking, detailed reference to Pearson's work as presented in Nigeria at the first pan-African regional conference on the subject in February 2001, has been helpful in fleshing out and drawing attention to this point of view for any reader's consideration and future practice orientation.

For along with the prevention of trafficking and prosecution of traffickers, Pearson reiterated the protection of the human rights of those trafficked as the third of a three-pronged strategic approach to the problem of human trafficking to Western destination countries. More than this, she stressed to remind delegates that human rights protection is often the most easily neglected element by authorities:

*"The key to effective witness protection is to take a human rights perspective in order to ensure that the process of prosecuting the trafficker is an empowering one for the victim, rather than a process through which she is re-victimised."* (Pearson 2001)

To help secure witness protection from a human rights perspective, the following ten-point checklist is offered by Pearson for states to ensure in respect of trafficking victims and, for that matter, other non-nationals as coerced victims of organised crime in various guises:

1. Residence permit with 'Rest/Reflection Period' to decide on testifying.
2. Residency not to be limited to acting as a witness.
3. Right to stay to include right to work
4. Victim and family protection to be included.
5. Victim safety not to be subordinate to prosecution interests.
6. Victim to be kept informed of progress before, during and after prosecution.
7. Social assistance fully provided from housing to employment.
8. Funding for Non Governmental Organisations to assist trafficked persons
9. Voluntary repatriation but able to apply for permanent residency if risk to life on return.
10. Co-operation between countries of origin and destination.

Questions of immigration, human trafficking and human rights addressed in this chapter, may seem to have moved this report on witness intimidation away from its focus and origins within the Finnish Police Drugs Strategy 2003-06. Yet they illustrate the point that if the position of the trafficked prostitute as a witness is understood as a *victim*, then witness protection will be more effective and avoid re-victimisation by either the court process or international criminals later on. In some cases, coerced drugs couriers could be similarly viewed (see footnote 19 on page 68).

The final chapter will now return to the research's core topic of witness intimidation and protection practices in Helsinki and pull together its main findings and conclusions in respect of future development.

## **8. Conclusions – A Hidden Community Level Problem.**

The research explored witness intimidation in the interest of developing a witness protection programme in relation to Finland's 2003-06 Police Drug Strategy. It would seem that the issues surrounding intimidation and protection cover a broad spectrum from organised international drugs crime, prostitution and human trafficking of immigrants to internal criminal gangs, to forms of local neighbourhood deterioration and domestic violence.

Two fundamental points emerge. The first is that witness protection cannot be driven purely by the need to secure criminal convictions. Increasingly, it is being driven by a human rights obligation to protect life. This includes treating coerced participants in various forms of organised crime not just as informants turned witness but, ultimately, as victims of it.

The second point is to recognise that the kind of witness intimidation to be addressed, is by no means the preserve of organised crime. All the research suggests – both in the UK documents reviewed and that of the Helsinki officers interviewed – that it is predominantly a community level problem in various guises. Moreover, that much of it is hidden.

To this end any comprehensive witness protection programme needs to develop on three interactive fronts (see the diagram below):

- 1) It must have the core ability to provide formal police managed protection involving housing relocation and identity re-assignment where necessary. This is for the small but significant number of cases where the witness's life is truly at risk.
- 2) It must have the ability to provide and advise on court support measures. This is for the protection and backing of those who actually suffer lower levels of intimidation due their cooperation with the police, and added confidence to those who fear such intimidation because of their cooperation.
- 3) It must also work to promote good community policing practices in relation to intimidation and other reasons for witness reluctance. This is to encourage the general public to come forward as victims and witnesses who are otherwise actually prevented from doing so because of a perception of the possibility of intimidation.

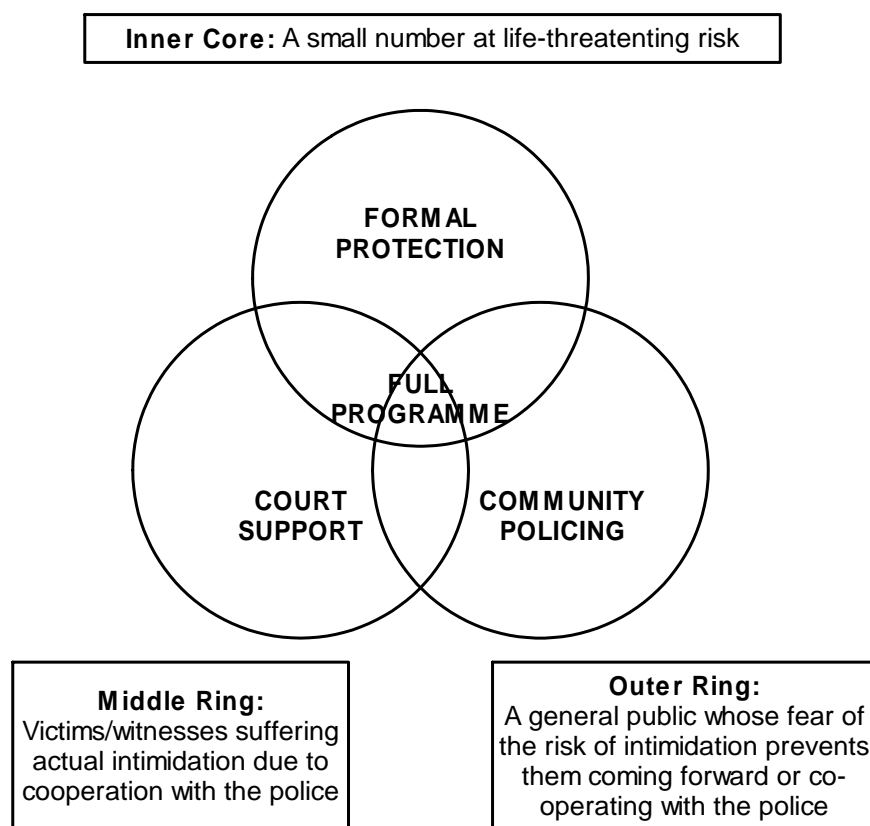
The interaction and mutual support of these three programme areas help build and maintain public trust and confidence in the police. They also help secure the delivery of justice in respect of organised as well as community level crime. More than this, they help the police fulfil their positive duty to protect life for those unable to protect themselves, regardless of the circumstances they have found themselves in.

One message from the research is that the seemingly separate forms of crime dealt with either locally, nationally or internationally, can be understood as intertwined at the community level: The violent partner may also be the market user of the migrant prostitutes on building sites; the same prostitute may be controlled by those involved in international drugs supply. The drugs supplied may be sold to local street users, who may commit local crime to buy it and intimidate residents against testifying. The residents are more easily intimidated if they are of low immigrant status and/or of low economic status. Racist violence can be used to intimidate. One of those residents may be the violent partner first mentioned, another may be a migrant prostitute and so forth.



The level of protection to be afforded in this respect, ranges from the rare extremes of permanent identity reassignment and secret relocation; rights to permanent residency and work for immigrants; anonymity for witnesses giving testimony in court and restricted public access to hearings; basic witness management and care before during and after the trial, as well as visible police activity and publicity in relation to witness protection and a robust community level police response to local forms of intimidation.

**Comprehensive Witness Protection:  
A programme of three overlapping services to for three forms of intimidation**



**Diagram: The Circles Interact**

***8.1 Good practices in three key areas of protection***

For reference, some of the existing good practices noted during interviews with officers have been signalled during the relevant passages of this work. Further good practices identified in US and UK policy development reports can be listed here for reference:

### In the Community – Police Activity

- In general, a community based policing approach that offers regular, visible and supportive police contact in vulnerable areas will help reassure intimidated communities. So, too, will proactive policing activity in high crime areas aimed at identifying, detecting and prosecuting habitual offenders to help prevent repeat victimisation. This is a basic community policing style and often requires good multi-agency working relations and practices to be developed and maintained.
- Good community policing helps cultivate local informants and public support for police activity at all levels. The use of local informants and police surveillance for local crime reduces the need for witness evidence in the first place. Where witnesses are needed, reassurance must be given that they will receive support if they report offences (and such mechanism must be in place). Publicising and practicing close police co-operation with organisations such as Victim Support will help in this.
- Much can be done to protect the identity of victims and witnesses. During initial police responses and investigations, keeping radio details to a minimum can reduce risk of disclosing identities as can not visiting the address (unless necessary) on the day of the incident. It is often better that the witness attends the police station to make a statement but it is also good practice to ensure that when releasing the *suspect* from the police station, they are not likely to meet the witness by accident.
- The urgent and practical needs of initial police responses and investigation may require street identifications to be made or identification parades at a later date. The use of mirrored screens for the later may be an easy remedy to the risk of identity disclosure and intimidation but consideration could also be given to the use of mirrored rear windows in police patrol cars for the former. Care can also be taken not to disclose witness details during case file preparation and its administration.
- At the time of taking a statement, consideration could be given to the way in which witnesses could be assessed and warned of the possibility of intimidation without unduly discouraging them and details provided as to what to do/who to call if they experience it. Also, to save time for the investigating officer later, a victim/witness liaison officer could be appointed to routinely check on case progress when requested by witnesses/victims. This could be incorporated into more automated administration systems for keeping witnesses informed of case progress in general.
- Early police identification of intimidated witnesses is important so specific court support measures can be activated in advance. Victim/Witness support organisations can be utilised for the purpose of early identification and notification to the police. So too can the prison services via the monitoring of moods and attitudes of suspects whilst in detention awaiting trial or serving sentence. Good local police/prison liaison mechanisms can give advance warning of intimidation or reprisals.
- To rigorously respond to, investigate and prosecute any identified cases of intimidation that amount to an offence, maximising whatever restrictive measures can be taken against the suspect before the trial (e.g. remand in custody, bail conditions). Civil injunctions through closer co-operation with local housing authorities can also be used where criminal sanctions are not available.

### The Courts/Prisons – Court Support

- Provide separate entrances, waiting rooms and other facilities for witnesses/victims.
- Provide proper security (uniformed personnel) and entrance lighting in courts and their precincts.
- When not giving evidence, uniformed officers could wait in *public* court areas or with witnesses, rather than discreet areas reserved for police officers only.
- Place clear notices in courts that intimidation is a crime, with details as to how to report it.

### The Individual – Witness Relocation

Good multi-agency working structures are important here, for relocation often requires much police co-operation with other agencies, in particular housing. For the genuinely endangered witness, one can consider three levels of protective relocation:

- 1) Emergency – placing the witness and family in a hotel for up to a few weeks.
- 2) Temporary – placement in a hotel for up to a year or out of town with family and/or friends.
- 3) Permanent – transfer to public housing or provide a one-time grant for new private housing.

Of note from the UK is that permanent housing relocation (and identity reassignment in more extreme cases) must not lead to the witness gaining any improvement in lifestyle, for this might be taken as an ‘inducement’ to testify and challenge the prosecution. Relocation, where paid for on behalf of the prosecution, must therefore be ‘like for like’ in terms of the witness’s resultant social and economic circumstances.

Precise details of good practices concerning full identity reassignment do not appear in public documents. However three basic levels can be readily thought of to compliment the three levels of protective relocation:

1. Immediate – Go ex-directory for telecommunications and take other measures to make one self less easily traceable through public/marketing records. Alter one’s general appearance (e.g. distinctive clothing, hairstyle) and places frequented (e.g. for shopping, socialising) and routes taken by public transport.
2. Intermediate – Lawfully change one’s name and notify new details to banks, authorities, etc (including passport). Change one’s car and, if possible, place of work or other places one is otherwise obliged to attend on a regular basis. Change address.
3. Full – Permanently adopt a complete false identity lawfully arranged by the police/authorities, including documentary evidence of a false past (e.g. birth certificates, education, qualifications, employment record, social security number, etc).

While the police/prosecution would need to be notified of and monitor the progress of a witness taking steps in the first two levels, the third level, of course, requires full police co-operation and some degree of legal authority in order to be undertaken.

Other lessons, suggestions and issues from elsewhere have been flagged during the main body of this report. The above are therefore by no means an exhaustive or definitive list of good practices and their suitability will ultimately have to be assessed by those with responsibility for front line policing and developing a witness protection programme. It is simply hoped this consolidation provides some useful material for the reader to work with.

### ***8.2 Monitoring and evaluation***

A suggestion can also be made as to what figures could be used as baseline data to monitor and later evaluate the impact of any witness protection programme. For the 12 month period of any given baseline year (e.g. 2003), the following data could be sought:

- From each of the Police Districts, the number of cases, by type, that could not be submitted for a prosecution because key witnesses or the victim refused to testify.
- From each of the Prosecutors' Offices, the total number of cases submitted by the police compared to the total number 'postponed'. This may indicate cases of witness reluctance for various reasons – not necessarily intimidation.
- From each of the Magistrates Courts, the number of 'Threatening a witness', 'attempting to incite a false statement', 'making a false statement in court', and 'making a false statement in official proceedings' cases heard.

However, the empirical data – the interviews with front line investigators in Helsinki – did help sketch a picture as to the nature of intimidation being experienced and that in most respects it was little different to that found in the early UK research. This in itself is an observation worthy of note, for it suggests that the contemporary urban policing environment in Helsinki, at least, is not so different to that in Britain's urban and suburban environs. So as far as modern policing is concerned, there may be increasingly more urban similarities than national differences in our changing societies.

Nevertheless, the basic empirical findings were of three forms of intimidation to be recognised and countered in the development of any policing strategy:

Firstly, it was evident that *unrealistic* fears of intimidation among a general public were beginning to make people cautious, if not preventing them, from coming forward as witnesses and possibly victims.

Secondly, it was evident, through the cases of motorcycle gang violence, that very *realistic* fears of violent reprisal was limiting the ability to effectively investigate some of the most serious forms of crime and violence. Indeed, in the absence of greater protective measures it seemed that in some cases criminals were likely to be getting away with murder. Moreover, one could speculate that there were cases where the police were at risk of failing in their duty to prevent the murder of cooperating witnesses in relation to organised crime.

But the third and final point concerning the nature of intimidation was evidence of a subtler community level sub-culture of intimidation at the hands of ‘pseudo-gangs’ trying to assert themselves and build up their criminal reputations as being ‘hard’.

In this third case, these ‘nobodies trying to be somebody’ as one officer described them, typically drew on the reputations of motorcycle gangs and organised criminals to spread fear in their local areas. Much volume and violent crime in the form of restaurant fights was said to be attributable to this spreading sub-culture, as too was an increasing reluctance for witnesses to come forward.

It is in this third area of community level crime – where organised crime and petty crime come together, often but not solely through local drug use – that the combined effect of any witness protection programme’s three areas of work need to be felt the most. For this is the area that reflects ‘increasing social exclusion’ as the urban policing problem of our time and key challenge to the police’s 2014 vision of making Finland ‘the safest country in Europe’.

**End.**

The Criminal Justice and Public Order Act 1994, Section 51:

- 1) A person who **does** to another person –
  - a) an act which **intimidates**, and is intended to intimidate, that other person;
  - b) knowing or believing that the other person **is** assisting in the investigation of an offence, or **is** a witness or potential witness or a juror or potential juror in proceedings for an offence; and
  - c) intending thereby **to cause** the investigation or the course of justice to be obstructed, perverted or interfered with,commits an offence
  
- 2) A person who **does or threatens** to do to another person –
  - a) an act which **harms or would harm**, and is intended to harm, that other person;
  - b) knowing or believing that the other person, or some other person, **has** assisted in and investigation into an offence or **has** given evidence or particular evidence in proceedings for an offence, or **has** acted as a juror or concurred in a particular verdict in proceedings for an offence, and
  - c) does or threatens to do the act **because of** what (within paragraph (b)) he knows or believes,commits an offence.
  
- 3) A person does an act ‘to’ another person with the intention of intimidating, or (as the case may be) harming, that other person not only where the act is done in the presence of that other and directed at him directly but also where the act is done to a third person and is intended, in the circumstances, to intimidate or (as the case may be) harm the person at whom the act is directed.
  
- 4) The harm that may be done or threatened may be financial as well as physical (whether to a person or the person’s property) and similarly as respects an intimidatory act which consists of threats.
  
- 5) The intention required by subsection (1)(c) and the motive required by subsection (2)(c) above need not be the only or the predominating intention or motive with which the act is done, or in the case of subsection (2), threatened.

## References:

- Banton, M. (1964). The Policeman in the Community. London, Tavistock.
- BBC (2000a). Noye trial witness shot dead, BBC News (6/10/2000). [www.news.bbc.co.uk](http://www.news.bbc.co.uk) 26/5/2004.
- BBC (2000b). Witness protection: a change for the better?, BBC News. [www.news.bbc.co.uk](http://www.news.bbc.co.uk) 26/5/2004.
- BBC (2003). Time to tackle witness intimidation, BBC News. [www.news.bbc.co.uk](http://www.news.bbc.co.uk) 27/5/2004.
- Bean, P. (2001). Informers and witness protection schemes. Informers: Policing, Policy, Practice. R. Billingsley, T. Nemitz and P. Bean. Cullompton, Willan Publishing: 153-162.
- Beattie, J. M. (2001). Policing and Punishment in London 1660-1750: Urban Crime and the Limits of Terror. Oxford, Oxford University Press.
- Bright, D. (2003). Catching Monsters. London, John Blake Publishing Ltd.
- Bright, J. (1997). Turning the Tide: Crime Community and Prevention. London, Demos.
- Cain, M. (1973). Society and the Policeman's Role. London, Routledge & Kegan Paul Ltd.
- Cain, M. (1979). "Trends in the sociology of policework." International Journal of the Sociology of Law 7: 143-67.
- Crawshaw, R., B. Devlin, et al., Eds. (1998). Human Rights and Policing: Standards for Good Behaviour and a Strategy for Change. London, Kluwer Law International.
- Dyer, C. (2004). £134,000 payout for informant accidentally betrayed by police. The Guardian (16/04/2004). London.
- ecpat (2002). Briefing on a proposal for: European Union Council Directive (COM (2002) 71 final). ecpat (UK). [www.antislavery.org](http://www.antislavery.org) 27/5/2004.
- Emsley, C. (1996a). The English Police: A Political and Social History. Harlow, Addison, Wesley Longman Limited.
- Finn, P. and K. M. Healey (1996). Preventing Gang- and Drug-Related Witness Intimidation. Cambridge, MA, Abt Associates Inc.
- Furniss, J., V. Edwards, et al. (2003). No Witness - No Justice: Towards a National Strategy for Witnesses. London, Criminal Justice Performance Directorate: 72.
- Geertz, C. (1993). The Interpretation of Cultures (first published 1973). London, Fontana.

- Hobbs, D. (1988). Doing the Business: Entrepreneurship, The Working Class and Detectives in the East End of London. New York, Oxford University Press.
- Hogan, J. and P. Andrea (2004). Probe into witness protection, The Age. [www.theage.com.au](http://www.theage.com.au) 27/5/2004.
- HS (2004a). Shady operators lure Estonian workers with false promises, Helsingin Sanomat International Edition (7/6/2004). [www.helsinginsanomat.fi](http://www.helsinginsanomat.fi) 7/6/2004.
- HS (2004b). Estonian man receives 11-year sentence for smuggling amphetamines, Helsingin Sanomat International Edition (21/5/2004). [www.helsinginsanomat.fi](http://www.helsinginsanomat.fi) 7/6/2004.
- Hutton, G. and D. Johnston (1999). Blackstone's Police Manual: Evidence and Procedure. London, Blackstone Press Limited.
- Ilie, L. (2004). Witness Protection not for Victims of Trafficking, The Human Rights Report. [www.hro.ro](http://www.hro.ro) 27/5/2004.
- Jansson, T. (2005). 'Damned Rat!' Witness Intimidation in Finland. Espoo, The Police College of Finland (PAKK).
- Johnston, L. (2000). Policing Britain: Risk Security and Governance. Harlow, Pearson Education Limited.
- Jones, T. (2003). The governance and accountability of policing. Handbook of Policing. T. Newburn. Cullompton, Willan Publishing: 603-627.
- Juvonen, P. (2003). Somalialaisnuorten tekemien rikosten ehkäisy Helsingin keskustassa [The prevention of crime committed by Somali youth in the Helsinki city center]. Haaste 4/2003.
- Korander, T. and L. Mäkipää (2005). Poliisin henkilöstön uhkailukokemuksetkysely poliisissa työskentelevien kokemuksista itseensä ja poliisin ulkopuolisiin kohdistuneesta uhkailusta [Police Officer's Experiences of Intimidation among Witnesses and Themselves]. Espoo, The Police College of Finland Research Unit (PAKK).
- Madden, D. (2004). Baltimore City Witness Protection Programme in Crisis, Black PR. [www.blacknews.com](http://www.blacknews.com) 27/5/2004.
- Mawby, R. I. (1990). Comparative Policing Issues: The British and American Experience in International Perspective. London, Unwin Hyman.
- Maynard, W. (1994). Witness Intimidation: Strategies for Prevention. London, Home Office Police Research Group: 44.
- Morris, S. (2005). Witness scheme to trap gangsters. The Guardian (19/3/2005). London.



- Neyroud, P. (2003). Policing and Ethics. Handbook of Policing. T. Newburn. Cullompton, Willan Publishing Ltd: 578-602.
- Neyroud, P. and A. Beckley (2001). Policing, Ethics and Human Rights. Cullompton, Willan Publishing.
- Norden (2003). Nordic Annual Report 2002, Nordic Council and Nordic Council of Ministers' Information Department. [www.norden.org](http://www.norden.org) 27/5/2004.
- Pearson, E. (2001). The need for effective witness protection in the prosecution of traffickers: a human rights framework for witness protection. The First Pan-African Regional Conference on Trafficking in Persons, Abuja, Nigeria.
- PolitInfo (2003). Finland: Country Reports on Human Rights Practices - 2002, PolitInfo US. [www.politinfo.com](http://www.politinfo.com) 27/5/2004.
- Rawlings, P. (2002). Policing: A Short History. Cullompton, Willan Publishing.
- Reiner, R. (1992). The Politics of The Police. Hemel Hempstead, Harvester Wheatsheaf.
- Sampson, F. (1999). Blackstone's Police Manual: Crime. London, Blackstone Press Ltd.
- Seale, C. (1999). The Quality of Qualitative Research. London, Sage Publications.
- SM (2004). Final Report on the Programme of Internal Security: Reducing crime and increasing the risk of detection, especially for drug crime, violent offences, economic crime and recidivism. Helsinki, Ministry of Interior.
- SMPO (2002). Police Drugs Strategy 2003-2006 (Poliisin Huumausaineiden Vastainen Strategia Vuosille 2003-2006). Helsinki, Ministry of Interior, Police Department.
- SMPO (2003). Police Annual Report 2003. Helsinki, Ministry of Interior Police Department.
- SMPO (2004). Police Annual Report 2004. Helsinki, Ministry of Interior Police Department.
- Tarling, R., L. Dowds, et al. (2000). Victim and Witness Intimidation: Key Findings from the British Survey (Research Findings No. 124). London, Home Office Research, Development and Statistics Directorate.
- Taylor, M. and V. Dodd (2004). Details of Carr's new identity stolen. The Guardian (13/05/2004). London.
- Unknown (2004). A life less ordinary, The Big Issue in the North. [www.bigissueinthenorth.com](http://www.bigissueinthenorth.com) 26/5/2004.
- Villiers and Palmer (2000). European Convention Human Rights, National Police Training Course Notes, Bramshill.

Wadham, J. and K. Modi (2004). Policing and the Human Rights Act 1998. Hard Cop, Soft Cop: Dilemmas and debates in contemporary policing. R. H. Burke. Cullompton, Willan Publishing: 208-225.

Walklate, S. (1996). Community and Crime Prevention. Controlling Crime. E. McLaughlin and J. Muncie. London, Sage.

YLE (2005). Police want more protection of victims of human trafficking, YLE News (11.10.2005). [www.yle.fi](http://www.yle.fi) 12/10/2005.