

63067

VICTIMS ARE PEOPLE

THE PHILADELPHIA
DISTRICT ATTORNEY'S OFFICE
F. EMMETT FITZPATRICK
District Attorney

▶ A special project of the
National District Attorney's
Association funded by the
Law Enforcement Assistance
Administration.

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Philadelphia District Attorney's Office
Commission on Victim Witness Assistance
F. EMMETT FITZPATRICK, District Attorney

A Report on Activities

OCT 1974 - OCT 1975

A special project of the National District Attorneys
Association funded by the Law Enforcement Assistance
Administration

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ACKNOWLEDGEMENTS

This is a report covering the first year of the Philadelphia Commission on Victim Witness Assistance. I am quite proud of the accomplishments of this office and wish to acknowledge those whose help at one point or another was indispensable.

The first person I would like to thank is F. Emmett Fitzpatrick District Attorney of the City of Philadelphia for his constant and extensive support of this project. I am also deeply grateful to Richard Lynch and Robert McKenna the former and present Executive Director of the N.D.A.A.'s National Commission on Victim Witness Assistance for their guidance and technical support.

Chief among the staff members is Dennis Barry, a Research Analyst whose administrative ability guided the research program and the day to day operations of the entire unit. I also wish to thank the paralegals who helped at various times during the year, i.e., Eileen Kane, Karen Hawkins, Joseph Tygh, Louis Narvaez and Joseph Helinek. Also helpful in the research were Cecil Willis, Jr., Joseph Dillman, and Ray Rosario. Detective Joseph Monaghan gave the office the benefit of his 24 years of Police experience.

The telephone alert system was ably supervised by Rayford Nichols and staffed by Carol Grillone, Angie Hogan and Karen Brady. Providing administrative guidance to this unit is the task of Mr. Robert Petraglia. To this group which took an idea and made it work efficiently, I give special thanks.

There is a special note of gratitude to Mrs. Sharon Small the Unit Secretary who typed all of the reports and performed most of the office secretarial duties. Her work in this area was uniformly excellent.

General thanks also to all the people in the Philadelphia District Attorney's Office whose help made this program work. I would like to thank those members of the Philadelphia Police Department who have helped ease the plight of victims and witnesses. Also, there were many Judges in Philadelphia who have taken their valuable time to assist this unit.

(2)

I hope I have not offended anyone by not mentioning them. Let me apologize now for any oversights. We all are very proud of this year's accomplishments and look forward to next year.

Thanks.

JOHN PATRICK DEVLIN
Unit Chief

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I. GOALS OF THE PROJECT

The general goal of the Commission on Victim Witness Assistance was to ease the plight of victims and witnesses. As part of this goal the issue of research was considered. When the Commission on Victim Witness Assistance was conceived, there were several options on how to proceed with regard to this research, i.e.:

- A. Not to conduct research
- B. To conduct research for a year or so and then enter into the service area
- C. To conduct research and services concurrently

The Commission chose the last option. Operating under the premise that many V/W problems were known A Priori, the various Field Offices began to provide services from the outset.

The Philadelphia office had as its only goal, research into the problems of V/W's. At the urging of District Attorney F. Emmett Fitzpatrick, however, the unit began to perform services in addition to the research efforts. A full report of these service activities can be found in the separate Activities Report.

II. RESEARCH GOALS

Attempts to define the research goals of the unit were very difficult. There was an enormous amount of information that would have been interesting to learn. Recognizing our limited resources, it was decided to:

- A. Concentrate solely on Victims and Witnesses who are involved in a case where there has been an arrest. Those people who are involved in cases where there has been no arrest were excluded. Their immediate problem rests in the hands of the Police and was, therefore, deemed not appropriate for this study.
- B. Concentrate on the Victim and Witness only in those areas where he or she interacts with the Criminal Justice System. While it would be nice to know the socio-economic or educational background of the victim, it would not be useful for our purposes. The prosecuting attorney has no influence on people's life style and thus no real way to use such data. Although it was posited that such data would be useful as a guide for targeting services, it was decided that there was enough data already available to adequately target these services.

The basic premise of our research was that people are made victims and witnesses by a series of events that are uncontrollable, therefore, the Victim Witness Unit should concentrate on those events that occur after the crime. Because of this belief, all of the research concentrated on those actions over which the Criminal Justice System had some influence.

C. The obvious place to research the problems of Victims and Witnesses is to survey the people themselves. This, therefore, was the first project initiated. At the inception, however, there were seen to be two possible problem areas:

1. Adequate Data Base. At the outset it was realized that there was very little defined data base. To combat this problem, it was decided to seek a large "N" in the V/W sample to better approximate the total population. To this end, more than 800 interviews of V/W's were conducted.

2. The Accuracy of Respondents Answers. In the V/W Survey, a consideration of the possible answers to the various questions unearthed the following concerns:

- a. The respondents' opinions may have mellowed over time. To circumvent this, individuals were surveyed 4-6 weeks after the case was disposed.
- b. Although the respondents may be answering in good faith, they may not know enough to answer fully. Consider e.g. the question "Did you consider the witness fee you received to be adequate?" A witness, unaware of the existence of a witness fee until he received one, may feel that \$5.00/day is terrific. If he were aware e.g. that Federal Courts pay their witnesses \$20/day then he would not be so excited. This is the reason

for the ancillary surveys conducted by this office. It was felt that these surveys would enable the research team to evaluate the results of the primary victim witness survey. Thus, surveys were conducted of the Police, Judiciary, Assistant District Attorneys, No-Shows and People with Private Criminal Complaints. The findings from these surveys are incorporated in the analysis of data in sections V and VI.

III. PROJECT DESCRIPTION

Listed in this section is a description of the activities performed by the Philadelphia Commission on Victim Witness Assistance. These activities are for the period October 1974-October 1975.

To fulfill the primary goal of this unit, i.e., to ascertain the reasons for victim or witness non-cooperation, an 11 Point Project Plan was developed. This plan is as follows:

Project A - This was a survey of victims and witnesses. The survey concentrated on those areas where the witness came into contact with the Criminal Justice System. As in every venture of this type, there is a limit to the number of questions that can be asked. This limit, coupled with the inability of this office to affect events outside of the Criminal Justice System (e.g. sociological or psychological factors) prompted the decision to limit the questionnaire to the area of Criminal Justice System Interactions. The data was tabulated and summarized by Opinion Research Corporation.

More than 800 questionnaires were administered.*

Project B - Data was gathered from Philadelphia District Attorneys regarding the plight of victims and witnesses. To this data was added the perceptions of the West Chester Pennsylvania District Attorneys. This data was used to evaluate the questionnaire for Project "A" and to evaluate all subsequent projects. 58 ADAs responded.

*The research data was published in a separate Survey Research Report

Project C - A questionnaire was administered to Police Officers in three Police Districts. This surveyed the perceptions of Police Officers with regard to victims and witnesses. 209 Police responded.

Project D - This was an attempt to administer the questionnaire of Project A, to witnesses and victims in City Hall. After several weeks of experimenting with various methods of administration, this method was abandoned as being too costly.

Project E - This was an attempt to survey the most uncooperative of all witnesses, i.e., those who fail to appear.

Project F - This was a proposed survey of the general public. It was felt that such an attitudinal study would contrast sharply with the data gathered in Project A. Unfortunately, there were insufficient funds for this project.

Project G - This is an ongoing project designed to secure the assistance of the media to disseminate information about this office. This project secured:*

	Mailings
33 Newspaper articles	1400 Reports
10 Radio shows	8973 Information
7 TV shows	Letters

Project H - This project was an attempt to communicate with the citizenry on a personal basis. Although this project was not a priority item, a sample of groups addressed follows:

- Southeastern Pennsylvania Board of Corrections
- Citizens Local Alliance for a Safer Philadelphia
- Americans United Against Crime
- Pennsylvania District Attorneys Association
- Steering Committee for 100 Citizen Groups
- Our Neighbors Civic Association
- N.E. Chamber of Commerce
- Academy for Career Education

*This is in addition to VICTIMS RIGHTS WEEK which was a week-long multidimensional public relations campaign which reached 430,000 people.

Grays Ferry Community Council
Fairmount Senior Citizens
Center for Rape Concern
Philadelphia Chamber of Commerce
Meeting of Trial Division ADAs
Delaware Valley Hospital
Authority
Philadelphia Chamber of Commerce
Executive Board
Wissanoming Civic Association
Pennsylvania District Attorneys
Association
Women Organized Against Rape
North Philadelphia Mothers Group
Catholic Daughters of America
Frankford Rotary Club
Southern Alternative Learning
Center
Meehan Middle School

Project I - A central clearinghouse for information regarding victims and witnesses was established in the Victim Witness Unit. This information was available to surrounding municipalities as well as the local Criminal Justice System. As a result of this, several implementation visits were made to other municipalities to explain the operation of a Victim Witness Unit.

Project J - This was a survey of those people who entered the Criminal Justice System with a Private Criminal Complaint. 150 surveys were completed.

Project K - This was a survey of the Judiciary regarding the problems of victims and witnesses. 56 judges were surveyed.

IV. SERVICES

Almost all of the services provided by the unit were in direct response to findings of the various surveys, e.g.,

Survey of Victims & Witnesses

<u>Problem</u>	<u>Service</u>
Getting to Court	Transportation of elderly & infirmed and 204 people during the SEPTA strike.
Ignorance of Social Service Agencies	A social service referral system was established.
Witness Fee Problems	This office helps individuals receive witness fees; is working to streamline the payment process and is working to exempt witnesses from paying wage tax on their fees.
Employer Intervention	A number of people complained of losing pay from work and several lost their jobs. This office interceded for them and has begun a program to encourage employers to permit their employees to appear in court with no loss of pay.
Property Return	Complaints from several interviewees caused the unit to investigate the system for returning property. A thorough analysis of the situation is planned for the second year of the unit.
Day Care Facilities	Several interviewees indicated that they required a babysitter to come to court. As a result, plans are being made to incorporate a Children's play area in the planned reception center.

Problem

Service

ADA SURVEY

Witnesses are ignorant of
Court Procedures

Publication of pamphlets
"25 Suggestions to a Witness"
"You're Going to be a Witness"
"Victim Witness Resource
Guide"
"You Can be a Crime Fighter"
"Miranda Cards"

Witnesses should be put on
Telephone Alert

A pilot alert system has
been initiated

Establish a Witness
Reception Center

Plans are currently being
prepared for such a room

JUDICIAL SURVEY

Improve the Service of
Notice Process

Study and experimentation
has been begun in this area

More time should be spent
with nervous witnesses

The V/W Unit calls nervous
witnesses and explains the
Court Process to them on an
ad hoc basis

POLICE SURVEY

Police Training needs to
be examined

Negotiations have begun to
improve the District
Attorney's input to the
training of Police

Witnesses should be put
on alert

A pilot system for alert
has been established

V. RESEARCH HIGHLIGHTS

The purpose of this paper is to summarize the research findings of the Philadelphia Commission on Victim Witness Assistance. This is a compilation of data from the surveys of:

1. Approximately 800 victims and witnesses
2. All Philadelphia Assistant District Attorneys
3. All members of the Philadelphia Judiciary
4. Approximately 200 members of the Police Department
5. Approximately 60 witnesses who were subpoenaed but did not appear
6. Approximately 100 people who filed private criminal complaints

These surveys were conducted during the period 11/74 to 8/75 by the staff of the Victim Witness Unit. The data from the survey of victims and witnesses was tabulated and analyzed by Opinion Research Corporation. A complete description of the research projects can be found in the FINAL ACTIVITY REPORT section.

- A. Victims - The great majority of crime victims (78%) were not harmed, and among those who were injured, only 4 out of 5 required subsequent medical attention.

In most cases (61%), the victims reported that their stolen property was never returned but among those whose property was recovered, two-thirds (67%) reported that this recovery took place prior to the trial. It is interesting to note that 13% of the victims claimed they did not receive their property, even though it had been recovered by the police.

- B. Crime - Over four respondents in ten (45%) said that the crime in their court case involved something being stolen. The next most frequently named crime was a physical attack on a person.

Weapons were not used in most crimes; seven in ten respondents (51%) stated that a weapon was not involved. Interestingly,

one-fourth of the respondents (25%) involved in incidents where a weapon was used indicated that in any future incidents they would not get involved in a court case. This corresponds to 9% in cases where weapons were not used. Because of the small sample sizes, the difference is not statistically significant.

In this study, at least half of the crimes (51%) were committed during the day. In the 1974 C.P. Survey, about four crimes in ten (39%) occurred during the day. Six out of ten of the crimes (62%) took place in the witness's or victim's home or neighborhood.

Most of the crimes (57%) had more than one witness. In almost half of these cases (47%), these other witnesses talked to the police after the crime had taken place. One in five (19%), however, refused to get involved and did nothing.

- C. The Waiting Period - In most instances (54%), the victims and witnesses had to appear at the police station as well as to appear at court. For police station appearances, respondents said they had sufficient notice, even though many of them had less than a day's notice.

More than half of the victims and witnesses were required to appear in the D.A.'s Office or court more than once in connection with their case. Over three-fourths of the respondents (79%) felt that they had sufficient time to rearrange their personal schedules for these appearances.

- D. The Trial - The majority of court cases were postponed at least once (58%); however, this represents a sizable decrease from the 1974 C.P. Survey. The respondents felt that the main reasons for these postponements were that the accused did not appear at court or that the defense attorney was not prepared or was not present.

Over half of the court cases (52%) were completed within six months from the time of the incident. Municipal Court cases were more likely to be completed faster than Common Pleas Court cases.

An overwhelming majority of respondents (91%) said they always understood when and where to appear for court. However, only half of the respondents (52%) were informed that they could contact the D.A.'s Office regarding their courtroom appearance.

- E. The Courtroom Experience - Respondents (13%) claimed that lost pay was the only significant problem encountered with their employers due to their courtroom experience. However, it is important to note that, in the 1974 C.P. Survey and the current one, four respondents (1%) reported that they lost their jobs because they testified.

Sitting for hours in the courtroom was mentioned by over half of the victims (51%) and witnesses (53%) as a problem they encountered in their court cases. The next most frequent problem mentioned was trips to the court that were perceived as unnecessary (40%).

Even though all witnesses are entitled to receive a witness fee, only 19% of the respondents in this study claimed to have received one. This was down substantially from the 1974 C.P. Survey (32%).

More than eight out of ten victims (85%) and witnesses (86%) felt that their involvement was very or somewhat important to their court cases. Also, two-thirds of the respondents (66%) said that if they were involved in a similar situation in the future, they would respond in the same way.

When given an opportunity to compare how they were treated by the D.A., judge, and defense counsel, respondents rated the treatment by the police as the most favorable. The D.A. received the second highest rating.

Respondents claimed that they were not intimidated when they testified. Victims and witnesses rarely claimed that they were afraid to testify (8%) or afraid others would be hurt if they testified (7%).

Both victims and witnesses claimed that speeding up the court process, less postponements, and better scheduling of cases would make it easier for a witness to testify. The next most frequent change mentioned was that judges should give out stiffer penalties.

F. Uncooperative Witnesses

1. Seriousness of the Problem. The uncooperative victim or witness is a serious problem to the successful prosecution of cases. While all parts of the Criminal Justice System saw this as a problem, the A.D.A.'s saw it as being the most serious. Ninety-three percent of Philadelphia Assistant District Attorneys saw the uncooperative or reluctant victim or witness as a problem. When asked if this was a very serious problem, 70% of ADAs indicated that this was indeed a "very serious problem." This contrasts sharply with the Judges (29%) and the Police (39%) who felt that this was a "very serious" problem. It is hypothesized that the differences in response are due to the different functions performed by each group.

The ADA is interested in successful prosecution of cases, thus the witness is imperative to his work. The Judge, however, is interested in both Prosecution and Defense. The Police need witnesses to build a case but can also prevent crime by patrol and other methods. Thus, since the focus of these groups differ, their difference in response is to be expected. THIS FACT IS A POSITIVE ARGUMENT FOR THE PLACING OF A VICTIM WITNESS UNIT IN THE DISTRICT ATTORNEY'S OFFICE AS OPPOSED TO ELSEWHERE.

2. Problem Areas - Once it had been determined that victim witness non-cooperation was a serious problem, it was decided to ascertain if any types of case were particularly problem laden. The results are best illustrated by the following table:

Table 1

In which of the following cases do you experience the most victim witness non-cooperation?

	Surveys			
	ADA	Judge	Police	CC*
Gang Related Crimes	16%	31%	14%	-
Theft where goods have been returned	8%	16%	26%	22%
Rape	15%	21%	9%	29%
Aggravated Assault	8%	12%	12%	15%

*The District Attorney's Office in Chester County, Pa. conducted a similar survey of Police Officers in three of their departments. This data will be referred to whenever appropriate. Note that in this instance, gang related crime is not as serious problem for this suburban community as it is in Philadelphia.

Gang related crimes, rape and aggravated assault difficulties all seem to stem from intimidation - either real or imaginary. Since most intimidation is unfounded, it is hypothesized that counseling of victims in the crimes listed above may reduce problems in these areas. Such counseling may also identify actual problems of intimidation. Law Enforcement agencies can then take the appropriate actions.

It has been the experience of the Philadelphia Victim Witness Unit that victims of crime whose property has been returned are reluctant to become involved. This experience has also indicated that when the reasons for testifying are explained to these people most of them feel more important and want to testify. This finding was reinforced by the No-Show Survey. The survey indicated that there is a propensity for people not to come to court when the crime deals with stolen property or an attempt to steal something. Of all the crimes in Philadelphia last year, those involving stolen property accounted for 32% of the total.

Interestingly in this survey, 57% of those failing to appear were involved with crimes of stolen property.

This data correlates with information from our previous survey of the Judiciary, Assistant District Attorneys and the Police. In these surveys as indicated in Table #1, it was indicated that the most non-cooperation of victims and witnesses occurs in thefts where goods have been returned.

3. Problems Encountered With Witnesses. In an attempt to define the specific problems with witnesses, the following data was collected:

What problems do you most frequently encounter in connection with witnesses?

ADA Survey (Open ended questions)

No-show after continuances	33%
Fear of defendant	13%
Aggravation of witnesses with repeated appearances	13%

Judicial Survey

Witnesses arriving late	36%
Ignorance of procedures	33%
Ignorance of legal vocabulary	17%
Witnesses not feeling important to the case	14%

Police Survey

	Phila.	Chester County
Ignorance of procedures	17%	28%
Unwillingness to cooperate	41%	34%
Inability to remember details	15%	7%
Not feeling important to the case	11%	10%

This data has generated the hypothesis that if someone in the Criminal Justice System would take the time to explain the procedures to which the witness is about to be subjected, then the witness will understand what is expected and why. It is also posited that this will help make the witness feel more important and that he/she will be more willing to accept the inconveniences caused by the Criminal Justice System Proceedings.

If this hypothesis is true, one would expect witnesses to feel closer to Police than ADAs or Judges because the Police have more contact with the average witness. This fact was verified by the survey of victims and witnesses. In this survey, 72% of the witnesses felt that their treatment by the Police was "good or excellent." This contrasts with 63% for the D.A. and 56% for the Judges.

4. Most Serious Problem. One of the most serious witness problems facing the Criminal Justice System is the witness who has been subpoenaed to Court and has failed to appear. A survey of no-shows (those people subpoenaed to court and not appearing) has provided the following data:

Question #5

Why were you not able to appear for this case?

	Responses	Percentage
(1) Insufficient notice	1	5%
(2) Never notified	9	20%
(3) Did not want to get involved for fear of reprisal	2	5%
(4) Could not get time off from work	9	20%
(5) Other (Please list & explain)	22	50%

The responses to number 5 were as follows:

Seven wanted to just drop the case

Five said they were put on call and
never called

Four said they forgot the court date

Four said they were sick

Two said they could not make it because
they were on vacation

None of the respondents admitted to
failing to appear before this time

Thus, none of the respondents indicated that they just didn't want to be bothered. This may actually be their true feeling or the respondents may have been fearful of telling the truth. To seek remedies for Commonwealth Witnesses not showing, the following question was asked:

Question #7

Is there anything we can do to make it easier for people to appear at court?

Twenty-three percent felt that we should try to eliminate unnecessary trips to court.

Nine percent felt that we should notify them the day before court to verify the date.

One person felt that some sort of protection should be afforded to witnesses.

- G. Training - There was consensus among those in the field that additional Victim Witness training is desirable. Better than 70% of the ADAs indicated a need for additional training. Fifty-three percent of the Judiciary indicated a need for additional ADA Training. (Even though the question was not asked per se', no judges indicated a need for additional Judicial training). In the Survey of Police, 84% indicated a desire for additional training. (This is despite the fact that Philadelphia has a Police Force nationally recognized for the quality of its training.) In Chester County, almost 90% of the officers saw a need for additional training. More than 30% of

these officers wanted additional training from the D.A.'s Office.

It would seem from this data that training should play a big part in any revamping of the System.

H. A Priori Hypotheses

Based on the intuitive knowledge of prosecutors, it was hypothesized A Priori that there were four factors that directly affected witness attitudes

1. Trial Delay
2. Intimidation
3. Inadequate Court Facilities
4. Loss of Income

Listed below are the number of comments made by the various groups in response to open-ended questions in the various surveys.

	Police	Judges	ADAs	Witnesses
Trial Delay	74	31	35	302
Intimidation	78	*	8	42
Loss of Income	36	*	16	*
Inadequate Court Facilities	*	15	*	*

*Number of responses is too small to be significant.

Of the hypotheses listed above, the only one that has very little direct support for it, is inadequate court facilities. This may, however, be reflected in the fact that 44% of the victims and witnesses were disgusted by the whole system.

VI. IN CONCLUSION

The objectives of this research were to determine what problems witnesses and victims have encountered with the Criminal Justice System in Philadelphia, why people are reluctant to testify, and how the Criminal Justice System might be improved to make it easier for witnesses to testify.

The results of this study indicate:

1. The need to improve communications between the court and victims/witnesses on:
 - How to receive a witness fee
 - How to receive stolen property recovered by the Police
 - Helping witnesses and victims become more aware of the court process
 - Informing victims and witnesses of their rights
2. The possible need for the D.A.'s office to operate with or through community organizations in dealing with victims and witnesses of neighborhood crimes.
3. The need for a reception center and alert system for the Philadelphia Common Pleas Courts to help eliminate the problems of victims and witnesses sitting for hours in the courtroom and making unnecessary trips to the court.
4. There is also a need to speed up the court process, which includes fewer postponements and better scheduling of cases.

In short, the Criminal Justice System should realize that VICTIMS ARE PEOPLE.

CONTACT SHEET SUMMARY

	Dec.	Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sept.	Total
Escort Service			1	1					1	1	4
Social Service Referral	1		3	15	9	2		1		1	32
Employer Interven. Service						6	1			2	9
Property Return Assistance	1	1	1		1	1	1	12		4	22
Transportation Service	1			234	6	15	16	10	6	14	302
Witness Fee	1		4	1	3			23	35	38	105
Rape Counselling			1	4		15	16	97	15	40	187
Extensive Info.	5		1	8	6			52	11	37	120
Day Care Facilities						1					1
Citizen Volunteers				1							1
Intimidation Control									6		6
Notified of Court Appearance						15		246	189	253	703
Put on Alert						25	20	162	171	198	576
Misc.	2		4	16	11			8	14	9	62
Total Services	11	1	15	280	36	80	54	611	447	597	2132

This is a summary of the documented cases of assistance. Undocumented assistance and any assistance requiring less than 2-3 minutes is not recorded here.

END