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# The Witness Service Five Years On: An Evaluation in 2003

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**THE WITNESS SERVICE FIVE YEARS ON:  
AN EVALUATION IN 2003**

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**Scottish Executive Social Research  
2003**

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## **ACKNOWLEDGEMENTS**

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David Loble and David Smith

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## **EXECUTIVE SUMMARY**

### **The purpose and scope of the evaluation**

The main aim of the evaluation was to assess the effectiveness of the Witness Service in providing support and assistance to witnesses across Scotland, 5 years after the positive evaluation of the initial pilot schemes. It was also intended that the evaluation would identify issues relevant to the extension of the service to the High Court, due to take place in the summer of 2003. The 6-month evaluation began in November 2002, a few months after the Service had become available in all Sheriff Courts in Scotland. The Service is managed by Victim Support Scotland, and has 32 court-based coordinators and assistants, based in 23 offices, and supporting about 300 volunteers at any one time. The Service is organised in 10 'clusters' of courts, each with a 'core' court, which is the busiest in the cluster. Glasgow Sheriff Court stands alone, as the busiest in the country. In order to ensure coverage of a range of courts and geographical areas, the courts chosen as the sample for the evaluation were Glasgow, Kilmarnock, Kirkcaldy, Linlithgow, Alloa and Oban. The 6 coordinators included in this sample, helped by 12 assistants, are responsible for the delivery of the service in a total of 24 courts. The coordinators for each court were interviewed, as were other staff of the Service, 36 volunteers and 111 witnesses. Sheriffs and staff from all the relevant agencies were also interviewed to obtain their views of the Service.

### **The work of the Witness Service**

#### *Recruitment and training of volunteers*

The Witness Service depends on volunteers, and in general staff of the Service did not think that recruitment or retention of volunteers was a problem. It was, however, more difficult to recruit enough volunteers in small communities, in which the possibility of meeting neighbours in court was potentially embarrassing. Volunteers are usually recruited by advertisements in the local press. All applicants are interviewed and, if thought suitable, undertake a 4-day training programme. They are given a criminal record check before being allowed to start work. Some drop out at the training stage or are told that they are not suitable for the work, usually because of their own recent experience of victimisation.

The training was highly valued by most volunteers, and seen as a necessary preparation for the work of supporting witnesses. After training, volunteers 'shadow' an experienced volunteer until they and the coordinator, who monitors their work closely in this probationary period, think they are ready to work autonomously. The coordinators continue to monitor the volunteers' work, and 'refresher' training has been arranged for long-serving volunteers. It is clear that selection, training and the maintenance of standards are taken seriously, and systems are in place that enable these tasks to be performed effectively.

#### *The scale of the work*

Between October 2002 and March 2003 the Witness Service recorded over 30,000 'contacts' with witnesses, most of them brief (under 30 minutes). A contact means any interaction between the Witness Service and witnesses or their supporters, from the most fleeting (for

example, giving directions to the courtroom) to the more extended process involved in, for example, explaining the layout and procedure of the court. The sample courts accounted for 29 per cent (8,763) of all recorded contacts in the evaluation period. The proportion of contacts that were brief varied among the sample courts, from 90 per cent in Glasgow to just over 50 per cent in Alloa. Only 96 of the recorded contacts in the sample courts lasted for over 4 hours, most of them from Kilmarnock, which presumably reflects the fact that 16 per cent of all contacts there were in connection with High Court appearances. The figure of about 30,000 is certainly an underestimate, since some volunteers do not record the briefest contacts (such as a quick request for directions), and variations in the duration of recorded contacts probably also reflect, in part, differences in recording practice. From observation and interviews with witnesses for the evaluation, however, there is no doubt that the Witness Service has some contact with virtually everyone who attends court as a witness. This is so even though the facilities available to the Service seem usually to fall short of the ideal of a witness information desk in the main foyer of the building.

### *Maintaining standards*

The Witness Service is committed to the maintenance of a high standard of service, and undertook an evaluative survey of its own in 2002. This produced positive results, but because of problems of reliability the Service is developing an evaluation form which will be given to witnesses in court. Both volunteers and staff generally believe that the work of the Service is worthwhile and satisfying; the main complaints related to the demand for form-filling to record contacts (the monitoring form is currently being revised) and the inherent unpredictability of the work, which made it difficult to plan accurately for the allocation of resources.

### *Work before and after court*

In addition to the basic service of providing information and reassurance, witnesses are also offered the opportunity to see the courtroom before they have to testify. In the 6 months to March 2003 12 per cent of witnesses nationally were recorded as having used this service, and the figure in the sample courts was 8 per cent. The more anxious and inexperienced witnesses are more likely to find this useful. Another service that is offered but little used is the presence of a volunteer in the courtroom itself. This was recorded on only 151 occasions nationally in a 6-month period, and on 30 occasions in the sample courts. The value of this provision is not clear, since it takes a volunteer out of action for the duration of the witness's time in court, and because the volunteer can have no contact with the witness in court, the reassurance provided is likely to be minimal. Similarly, the Witness Service receives relatively few pre-court referrals from the Procurator Fiscal service or Victim Information and Advice (VIA), though referrals from the latter increased in the first 3 months of 2003. The great majority (96% in the sample courts according to the latest figures) of referrals are self-referrals. Although the Witness Service also offers post-trial support, such as referral to an agency that could offer support or advice, the national figures suggest that this makes up only a small proportion of the workload: under 5 per cent of witnesses contacted were recorded as having been referred after the trial to any other agency, and most of these referrals were to criminal justice officials rather than to welfare agencies. This figure may, however, be misleadingly low, since many witnesses who receive support never in fact give

evidence in a trial, and post-trial support given on the day of the trial would not appear as such in the Witness Service's records.

### *Implications for the High Court*

Since volunteers cannot discuss details of cases with witnesses, it is not always possible to identify the alleged offences which brought witnesses to court, and thus it is difficult to assess how different cases dealt with by the High Court will be in terms of their demands upon the Witness Service. The sample courts, however, included 2 where the High Court regularly sits on circuit, and where in practice a High Court Witness Service was already being offered. While additional training is being provided for volunteers at the High Court, the consensus of interviewees was that the skills required were essentially those also needed for the Sheriff Court. The main differences envisaged were that the proportion of cases requiring lengthy contact would be greater, and that the uncertainty and anxiety endured by witnesses would also be increased because of the higher proportion of complex and prolonged cases heard at the High Court.

### **The views of service users**

Most of the 111 witnesses interviewed had not known of the Witness Service until they were approached by a volunteer. Witnesses were grateful for the approach, finding the volunteers friendly and helpful, and feeling that no-one else seemed interested enough to give them information or support. The fact that the Witness Service was provided by volunteers was appreciated, and most witnesses wanted only the basic, friendly information service that makes up the bulk of the volunteers' work. There was some indication that victims tended to have longer contacts with the Service than other witnesses. The main complaints of witnesses were about lack of information and the consequent uncertainty about what was happening; and 31 of those interviewed said that they were in some degree anxious, a small minority very much so. Witnesses also complained of discomfort and lack of stimulation during their often lengthy waits. While few witnesses were actively fearful of the personal consequences of being willing to give evidence, the proportion who are fearful may well be greater in the High Court.

### **The views of other agencies**

Interviews were held with a range of criminal justice personnel about their views of the Witness Service. Although not all were well informed about the Service's work, this should not necessarily be taken as a negative indicator. It is understandable that Sheriffs, for example, should lack detailed knowledge of the Witness Service, since its work is mainly conducted outside the courtroom; Sheriffs would, however, become acutely aware of the Service if its work led to problems in the conduct of trials. In this context, a low profile for the Service may be an indication of success: it provides discreet, unobtrusive support to witnesses that does not interfere with the work of other parts of the criminal justice process. Of the 30 interviewees, only one was sceptical about whether a specialist service for witnesses was needed; the rest were very positive about the Witness Service's work, seeing it as "filling a void" and meeting needs no other service was in a position to meet. The capacity to offer in-court support was seen as a valuable aspect of the Service. The apprehensions of

some interviewees when the Witness Service was first introduced had proved to be groundless: working relationships with the Service's staff and volunteers were good, and the Service was seen as a discreet, unobtrusive, impartial and accessible resource. Extension of the Service to the High Court was seen as a logical next step, though it was thought that it might have to struggle harder to gain acceptance there. The issue of the division of responsibility between the Witness Service and VIA was not seen as problematic.

## **Conclusions**

The Witness Service has successfully established itself as a valued and needed resource for witnesses in Sheriff Courts. It recruits and retains volunteers with the required skills and commitment, trains them carefully, and monitors their performance. Volunteers feel that they are well supported by the coordinators of the Service. The Service has some contact with the great majority of witnesses who attend court; most contacts are brief and involve the provision of information and reassurance, and this is exactly what witnesses want. They are highly appreciative of the volunteers' work, but still find the experience of attending court stressful and frustrating. It might be useful to consider further means of reducing this frustration, such as ensuring that once accused persons have come to the court they remain there. The offer of other types of support, such as a visit to the courtroom or the presence of a volunteer in court, is welcomed, but taken up only by a minority of witnesses; and it is rare for witnesses to be referred to any other agency after the court hearing. The work of the Service is also highly valued by the staff of agencies involved in the criminal justice system, and by Sheriffs, and none of the problems which it was feared might arise when the Service was first introduced has materialised. The extension of the service to the High Court is seen as necessary and feasible. The Witness Service has arranged additional training for volunteers who will be involved in High Court work, but the skills and knowledge required are not seen as essentially different from those needed in the Sheriff Court. It is likely, however, that a greater proportion of High Court cases will involve longer contacts with witnesses and more emotional support, which will have implications for the resources provided for the Witness Service.

## **CHAPTER ONE                      INTRODUCTION**

1.1 This report is the result of research commissioned by the Scottish Executive in November 2002 to evaluate the effectiveness of the Witness Service in providing support and assistance to witnesses across Scotland. The evaluation took place almost 5 years after the evaluation of the three pilot schemes (Lobley and Smith, 1998) and began 3 months after the extension of the Service to all Sheriff Courts. It was also intended to inform the process of extending the Witness Service to the High Court in the summer of 2003.

### **Background**

1.2 The Witness Service was initiated in Scotland in 1996 following a successful bid by Victim Support Scotland to fund 3 pilot Witness Service projects in Ayr, Kirkcaldy and Hamilton Sheriff Courts. There had been growing concern in the preceding years over victims' issues in general, and about victims as witnesses in particular. For example, in 1990 Victim Support Scotland had been instrumental in establishing the Hamilton Sheriff Court Working Party, which explored the difficulties experienced by victim witnesses; in 1991 the Scottish Office commissioned research which specifically examined the experiences of witnesses in the Scottish criminal justice system (Stafford and Asquith, 1992); and in 1995 the Lord Advocate established a working group to improve arrangements for supporting and preparing child witnesses.

1.3 The 3 pilot projects (at that time known as Witness Support schemes) were established towards the end of 1996, and in 1998 an evaluation based on 18 months of research concluded that if an advice and support service were provided in court, witnesses, and particularly prosecution witnesses, would make use of it (Lobley and Smith, 1998). Although most of the contacts with witnesses were identified as being brief, this seemed to have been appropriate to the situation: witnesses who had contact with the pilot projects were overwhelmingly positive about the service they received, which in many cases they experienced as emotionally sustaining as well as practically helpful. The evaluation suggested a possible method of service delivery for the extension of the service to all Sheriff Courts, involving a group or cluster of courts organised by geographical location and volume of business, with a coordinator based in some central court in the cluster. It was subsequently agreed that the Service should be rolled out nationally and that responsibility for service delivery would remain with Victim Support Scotland.

1.4 Victim Support Scotland decided to organise the service into 10 clusters of courts, each with a 'core court' identified as the court with the greatest volume of business, while the service for Glasgow Sheriff Court was established as a self-contained service. The service in each cluster is organised by a paid coordinator, with assistants as appropriate, and with a pool of volunteers providing the day-to-day service for each court. The model of service delivery was based on that developed in the Ayr and Kirkcaldy courts during the pilot period (Hamilton had followed a model more closely linked to the Victim Support community-based service), and consequently the organisation was able quickly to establish the service in the cluster courts local to Ayr and Kirkcaldy - Kilmarnock, Dunfermline and Cupar. In June 2000 Victim Support appointed a Witness Service manager to oversee the expansion to all courts and in the following months the service was established in all the main courts, with the last 'core court', Dumfries, beginning to operate in February 2002. By that time all the major

centres of population had access to a court-based Witness Service, and the final service was established in Rothesay in August 2002.

### **The conduct of the evaluation**

1.5 For the purposes of this evaluation it was agreed that the main focus should be interviews with relevant personnel in a sample of 6 Sheriff Courts including large, medium-sized and small courts, defined by volume of business. The evaluation commenced in mid-November 2002, and following discussions between the research team and the Criminal Justice Research Team of the Scottish Executive, it was agreed that the sample courts would be Glasgow, Kilmarnock, Kirkcaldy, Linlithgow, Alloa and Oban, providing a range both of volume of work and of location. Initial visits to the courts to establish contact with the coordinators took place in December, and as both Alloa and Oban are staffed exclusively by volunteers, the coordinators for these courts were initially seen at Falkirk and Paisley respectively. The 6 coordinators covered by the study, helped by 12 assistant coordinators, have collective responsibility for service delivery in a total of 24 courts. During January to April 2003 interviews and discussions were held with a range of personnel in the criminal justice system in each area. These included staff in the Procurator Fiscal and Victim Information and Advice service, court staff and Sheriffs, police and social work staff, and a defence lawyer. In addition, further discussions were held in each court with a total of 12 Witness Service staff, 3 staff of the Service based in its head office, and 36 volunteers. The actual delivery of the service was observed, and the views of the service users, witnesses and family members were sought and obtained.

## CHAPTER TWO THE WITNESS SERVICE

2.1 The specification for the Witness Service drawn up by the Scottish Executive in November 1999 described its purpose as follows:

*The main objective of the service is to provide a range of court-based support services to witnesses to deal with the experience of attending criminal trials in Scottish Sheriff Courts (Scottish Executive, 1999).*

The Witness Service's own leaflet, 'Going to Court?', explains that it "exists to help people through the judicial process by providing practical and emotional support", that the independent and confidential service is "free and available to *all* witnesses", and that it is provided by trained volunteers in the court building. The Witness Service is currently provided in all 49 Sheriff Court locations, along with 2 annexes, and is staffed by 32 court-based coordinators and assistants in 23 offices, supported by a dedicated training officer and an administrative manager, and organising approximately 300 volunteers at any one time. The staffing levels are set to increase to accommodate the extension of the service to the High Court, both in the dedicated courts and while the High Court is sitting on circuit. Although some of the staff had previous Victim Support experience, many had no previous involvement with courts or the criminal justice system. They were appointed to create an overall team of coordinators with organisational skills and abilities who could cope with the unpredictable demands of work in the Sheriff Court. The vast majority of the court-based staff are female.

2.2 Each coordinator is responsible for the recruitment and organisation of the volunteers in their cluster, and most made use of local newspaper advertisements and publicity features, along with posters in locations such as libraries and doctors' waiting rooms. During the course of the evaluation discussions were held with 36 active volunteers, the vast majority of whom had responded directly to an advertisement or article, with only a few having heard about the service by word of mouth. With only a few exceptions, staff did not consider the recruitment of volunteers to be a problem. In some specific areas the response to advertisements and publicity was low; the main reasons suggested for any difficulty were either along the lines of "it's not the sort of area volunteers come from...they have no tradition of volunteering", or, in some small communities, "everybody knows everyone else, they don't want to come to court and meet friends and neighbours". Within the 6 sample courts all coordinators thought they were operating with a sufficient number of reliable volunteers, with the exception of the Oban court, which only had 2 local volunteers available, although a volunteer from another court could provide cover if necessary. The advertisements in Oban produced only 3 applicants, one of whom subsequently decided not to complete the training.

### **Volunteers: recruitment and training**

2.3 All potential volunteers undergo a selection process that involves an initial interview and then, if they are selected, a 4-day training programme, which is followed by a period of 'shadowing' an experienced volunteer and/or a member of staff. All staff and volunteers are

subject to a criminal record check, which was initially carried out by the police, but is now administered by Disclosure Scotland. The training programme is based on that developed during the pilot phase, with modifications introduced over time in the light of experience and participants' comments and responses. Additional guest speakers have been accommodated, such as police officers and experienced volunteers, and alterations have been made to the time allocated to certain topics; exercises based on cases actually encountered in court have also been introduced. The training programme is based on the assumption that most potential volunteers will have little or no previous knowledge of Sheriff Courts, and for most volunteers that assumption is well founded. The 4-day course is delivered over 2 weeks, and wherever possible is held in the relevant court, although some volunteers who applied after the initial service was established, and those from some of the smaller courts, have combined with others to create a viable group. The groups vary in size from 8 to 16 participants; the optimum number is thought to be 12. The course provides a detailed introduction to the work of the Sheriff Court and the role of the various professionals in the criminal justice system. Whenever possible a representative of the various professional groups - Sheriff clerks, Procurators Fiscal, etc. - makes a contribution to the course, and in addition to talks, a combination of general discussions, handouts and role-play exercises is employed to provide what a number of volunteers described as an "intensive but enjoyable preparation" for the role of Witness Service volunteer.

2.4 The potential volunteers are introduced to the Witness Service Code of Conduct, which outlines the overall objectives of the service, the general conduct and method of working expected from all staff and volunteers, and in particular the major areas of potential difficulty, such as confidentiality and the contamination of evidence. Although some interviewees described the course as enjoyable, a small number found it "very daunting", and at the end were unsure if they could cope: "I doubted I could do this". However, as part of the overall selection process the participants are monitored throughout the course by the Witness Service Training Officer (based in the Glasgow regional office) and the local coordinator, and a final assessment is completed at the conclusion of the course; only those considered to have the necessary ability are invited to proceed to the next stage, although a few may need coaxing and encouragement. After undergoing all or part of the training some come to the conclusion that the Witness Service is "not right for them", while some have to be encouraged to accept that decision. On average at least one participant on every course does not continue to be a volunteer, and the figure has been as high as 3 out of a group of 12. One of the most common reasons for this 'deselection' is that the individual's experience of being a victim is still very fresh and "their emotions are still too raw".

2.5 Of the 36 volunteers interviewed, 9 were men, a proportion similar to the overall ratio of male to female volunteers. All 36 had undertaken the initial training course, but at various courts and points in time: some were just coming to the end of their probationary 'shadowing' period, while others had more than 5 years' experience. They also had a wide and varied experience of education and training; 5 were studying at college or university, another was employed by a different organisation as a part-time trainer, and a couple had never been on any sort of training course before. One stated that he had run training courses in his previous employment and "was very impressed with the level of instruction and the quality of the handouts" in the Witness Service course; another, a university graduate, commented, "I've been on loads of courses and this was one of the best". The volunteers interviewed also came with a wide range of previous experiences: they included retired police officers and 2 younger people who hoped to join the police, former members of the armed forces, students (of law, psychology and social work), and people from assorted other

occupations, including a teacher, a social worker, a nurse and a publican. A number also had experience with other voluntary agencies, including Victim Support, the Women's Royal Voluntary Service, Citizens' Advice Bureaux and The Samaritans. Virtually all had responded to advertisements, and while most did not have a clear idea at that stage about the actual nature of the service or their potential role in it, they thought that it sounded more interesting or worthwhile than many of the other types of voluntary work. Although a few had a professional interest in the work of the court, and others had previously attended court as either witnesses or jurors, the majority had never been to court before. A couple had initially applied to Victim Support, but on receiving the literature thought the Witness Service sounded more appealing. While the majority of the volunteers were not actively seeking paid employment, one did say that she had applied as she "thought it would look good on my CV". However, this particular volunteer had already given more than 12 months' service. A number made the point that at the outset they had thought that as they were joining a voluntary organisation it would have a more casual approach, whereas the training impressed on them that they were joining a professional organisation with high standards and expectations, where they would have a serious role. As one volunteer commented, "You need to be focused at all times to safeguard against inappropriate conversations", while another completed the course feeling "frightened that they would abort a trial because I had said the wrong thing".

2.6 Most of the participants considered the training to have been as adequate a preparation to equip them to undertake the role of Witness Service volunteer as any "theoretical" course could provide: "they couldn't have done more to prepare you for this". The majority thought that the length of the course was "just about the right length"; some said that at the outset they thought 4 days seemed excessive, but in fact were surprised to find that they "needed all the time, plus a bit more". There were, however, a few dissenting voices: 4 thought that much of the content was not relevant and that they were "not really prepared for the actual job", while another couple said that there was too much information that was "off-putting", when in reality "it is not as difficult as they made out". However, all the volunteers were in agreement that no amount of theoretical training could adequately prepare them for the work, and that the period of shadowing and on-the-job training was invaluable. One volunteer summed up the feelings of many when she said: "Nothing can really prepare you for the first time you walk into the waiting room – it is very daunting".

2.7 The initial progress of the volunteers is closely monitored by the coordinators, and when, by mutual agreement, they are thought to have developed a sufficient level of confidence they begin to operate more independently. All thought that they were well supported by the Witness Service staff, and a number welcomed the fact that they were able to develop their experience and confidence at their own pace, with no automatic period after which they were deemed to be 'qualified'. The coordinators continuously monitor the work of all the volunteers: they observe them working within the court and have regular discussions during the course of the day, assessing and commenting on the nature of the work carried out. Although this process of shadowing and monitoring standards is more problematic in the less busy courts without paid staff, systems of reporting back to the coordinator have been established to ensure that regular contact is maintained. In addition, more formal discussions and meetings are held at which any new developments are explored and explained and volunteers get the opportunity to air any issues or areas of concern. In some courts with long-serving volunteers a 'back to basics' training session has been held which was designed to reinforce standards and to reiterate the boundaries and limitations of the service, to ensure that everyone was still working in the manner initially agreed and

approved. Most of the volunteers welcomed the idea of periodic ongoing training, whether covering new ideas and developments or existing practice: “it’s always useful to have a refresher”.

2.8 The coordinators did not consider volunteer retention to be a problem, although one experienced member of staff stated that “if you get more than 2 years from a volunteer that is a bonus”. A couple of volunteers made the point that the fact that they are not under a contractual obligation to attend, so that the decision to work or not rests with themselves, made them feel more committed, although another did say, “I love it here, and if it was a paid job it would be brilliant”. Although a small number of volunteers inevitably decide that the daily reality of court work is not to their liking, the majority leave when changes in their personal circumstances – such as their own ill-health, having to care for others, or the offer of paid work - prevent them from continuing to make an adequate time commitment: A number made comments such as: “this is really worthwhile...if one person thanks you for your help you know you are doing some good”, while another summed up:

*The service has evolved over the last 2 years and we are a bit more polished. I'm still here, and I wouldn't be if I were not convinced that we are providing a valuable service; people are genuine in their thanks.*

### **The scale of the work**

2.9 Since the start of the initial pilot projects all volunteers have completed a monitoring form to record the details of each contact with a witness, although the actual forms have been modified, and to some extent simplified, in the light of experience. From October 2002, when the Witness Service was operating in all Sheriff Courts, to March 2003, 30,218 support-contacts with witnesses and their family or friends were recorded. This figure does not represent the number of individuals seen, but the number of contacts: a witness may well attend court a number of times in connection with the same case, while some individuals will attend court for different cases over time. During the same period the 6 sample courts recorded 8,763 contacts, approximately 29 per cent of the total. These figures, however, should be treated with caution: it is obvious from discussions and observation that despite efforts by Witness Service management to ensure that the data collection is carried out nationally in a uniform manner, different volunteers have different interpretations of certain items on the form. While it might be assumed that the simple count of overall contacts would be accurate, it is likely that it is a (slight) underestimate, as some volunteers do not record the most fleeting request for information and feel that there needs to be some meaningful discussion with the witness for the interaction to qualify as a contact that should be recorded. Others will log every contact, however brief, as the witness needed some information, and the Witness Service was on hand to provide it. Two of the professionals interviewed expressed some ‘surprise’ at the number of contacts recorded, concluding (correctly) that “some of these must be very minimal”. The records for the sample courts from October to March indicate that 80 per cent of all contacts were for less than 30 minutes, although this proportion does vary across the courts: 90 per cent of contacts in Glasgow were recorded as lasting for under 30 minutes, but the proportion in Alloa was 52 per cent. Differences in volunteers’ recording practices, variations in court practices and varying ratios of volunteers to witnesses can all help to explain this variance; on occasions, in certain courts, there were more volunteers than witnesses. A total of only 96 contacts with a duration of more than 4

hours was recorded across the 6 courts in the 6-month period, by far the greatest number of them in Kilmarnock, presumably indicating a feature of High Court support work, which accounted for 16 per cent of all contacts there. The nature of the service provided also presents some difficulties for recording; while it will be obvious if a witness has been supported in the actual courtroom, the distinction between providing 'information' and 'emotional support' can be a fine one. Some volunteers regard the process of sitting with a witness and providing information as just that, and would record it accordingly, whereas others consider such an interaction to be providing emotional support as well. The section of the form recording the 'nature of service provided' allows for any one witness to receive a number of types of service, and figures for the most recent 6-month period suggest that in the 6 courts no more than 17 per cent of all 'supports' can be classified as emotional, escorting, concerned with safety, or in-court support. That is, more than 80 per cent of contacts involved the provision of information. Research in England suggests that this is precisely what most witnesses want:

*...witnesses wanted more information and explanations, they gave emotional support a much lower priority (Plotnikoff and Woolfson, 1998).*

## **Accommodating the Witness Service**

2.10 The issue of accommodation for the Service in the court buildings was often a problem, but generally as a result of physical limitations rather than lack of cooperation. In some courts existing personnel had to be relocated, or building work had to be carried out to accommodate the new service, while in others the limitations of existing resources have resulted in facilities that are not ideal. In Linlithgow the service is housed in spacious accommodation, but a short distance away from the court. It seems, however, that all Witness Service and court personnel have worked positively to overcome the difficulties caused by this accommodation problem, although one volunteer still thought that the service "is not fully integrated into the court". In Alloa, as a result of the lack of available space, the service operates from a corner of the staff restroom/kitchen, while in Oban the volunteers only have access to a lockable cupboard. The physical layout of the different courts obviously affects details of the way in which the Witness Service staff and volunteers carry out their work: although the Witness Service specification (Scottish Executive, 1999) refers to a suitably staffed "witness information desk...in the main foyer, reception or appropriate area of the building", out of the sample courts only Kilmarnock has suitable facilities for such a desk (though Oban does have an information point in the entrance area). Notices and leaflets are on display in the entrance and waiting areas, but only a very small number of witnesses spoken to had read any of the information. The majority of contacts are made by the witnesses in person on the scheduled day of the trial, although they may have been informed in advance about the service by other agencies, such as the police, Procurator Fiscal or Victim Support. The volunteers all wear prominent identification badges and in all the courts they make themselves known to the witnesses in the entrance, reception or waiting areas. Direct observation suggests that virtually all witnesses have some contact with the volunteers and are given the opportunity to make use of the service. The volunteers will direct witnesses, or accompany them if required, to the appropriate court official and/or waiting area, and then explain to them individually, or in family groups, the nature of the service. This includes giving details of the general court procedures and possible developments during the course of the day, explaining the facilities that are available and the

arrangements for claiming expenses, and attempting to answer any questions. The act of providing basic information gives the volunteer the opportunity to engage with the witness, and if required this initial contact can be developed during the time spent waiting; as one volunteer explained, “I provide simple information, have light-hearted conversations, and try to reduce any anxiety”. The volunteers will sit with witnesses who obviously appreciate the company, and in all instances will ‘tour’ the waiting areas, returning at regular intervals to keep the witnesses updated with any information; and, as one volunteer explained:

*You can see witnesses who are not keen to talk at first, and we have to accept their wishes, but we are also aware that over time they can come round, and they might welcome some companionship after a few hours.*

## **Maintaining standards**

2.11 As mentioned above, some volunteers were initially surprised, and impressed, by the high standards and expectations set by the Witness Service. To complement the comparative analysis that is available to the Witness Service management from the data collected about each contact, the management of the Service has established a ‘Best Practice Team’, which has a staff member from each of the ‘clusters’, and currently meets 6 times a year. This group works to guidelines set out in the Witness Service Quality Framework document, and has been concerned with developing and maintaining a standardised service across the country. This has involved identifying any local differences in any aspect of the service, establishing reasons for these, and wherever reasonably practical creating a uniform approach based on the agreed best practice. In an attempt to gauge the opinions of service users, a survey was conducted in Paisley, Hamilton and Aberdeen courts over a 3-month period in 2002. Questionnaires were sent to 327 witnesses who had indicated a willingness to participate in further research. Many volunteers indicated that they were uncomfortable about asking for this level of involvement, and often said that they would only be willing to ask for this help if they had spent a considerable amount of time with the person concerned. A total of 123 service users responded, and most were very positive about the service, although there were some negative comments. However, this was possibly not a representative group, for the reasons of selection already mentioned, and, as in any consumer survey, those motivated enough to return the questionnaire are probably not typical of the entire population. In a continuing attempt to monitor witnesses’ opinions of the service, a new evaluation form is being developed which witnesses will be given while in court; this will mean that a greater number of service users get an opportunity to comment on the service.

2.12 The volunteers interviewed thought they were involved in a worthwhile service, whether this was providing basic information or the higher level of involvement entailed by providing emotional support. They were generally impressed with their training, and, coupled with the support of staff and experienced volunteers, this made them feel well equipped to carry out the tasks required. Even those volunteers seen in the 2 unstaffed courts thought they were well supported, with sufficient contact with the Witness Service staff. Although the unpredictable nature of the court business was a concern to some - “some days we are rushed off our feet, on others there is nothing to do” - other volunteers accepted that aspect of the work and almost regarded it to be a ‘bonus’ if they left court early, or were not needed. One area of concern that was identified by a number of volunteers was the

monitoring form used to collect statistics on the volume and nature of the contacts (see 2.9 above). Some were unclear about why they needed to collect such detailed information, and some found it to be time-consuming: “I don’t come here to do paperwork”. As mentioned above, there is not total agreement in practice about what counts as a contact that should be recorded, nor is there a uniform method of completing the form: some volunteers involve the witness in the process, perhaps making a joke about more paperwork, while others make discreet notes and complete the forms in the office at a suitable time. The monitoring forms have been revised further in an attempt to improve the process, and although from April 2003 the volunteers will no longer be expected to ask if the witness is prepared to participate in further research, they will still have to complete a section on ethnic origin, which some find unnecessary, and even offensive.

2.13 The staff interviewed also thought they were involved in providing a service that is important and valued, although a couple did say that once the service was established and “up and running” the day-to-day job was “fairly mundane”. The new staff had undertaken the same initial training as the volunteers and made similar observations - that while it provided a good basic introduction, there still remained a lot to be learnt ‘on the job’. They did in general feel that they were an integrated part of a national service, and not isolated in their own cluster. The unpredictable nature of the work created difficulties in planning and organising volunteer resources: “we waste an awful lot of time just trying to find out what is happening”; and this was obviously more of an issue in the clusters with a number of small courts. Although the coordinators receive court/witness lists in advance, the anticipated programme of work can change drastically between 3.30 p.m. and 9.30 on the following morning – as the research team experienced when making arrangements to interview witnesses. A number of the staff interviewed expressed concern over their salary, both the actual level and the scale, and inevitably comparisons were made with others, not least with Victim Support Scotland’s community-based staff. Although there have been instances where an assistant has been appointed to the position of coordinator, some of those interviewed felt there was limited opportunity to progress, in both their career in general, and in their salary in particular. In view of these comments, and as the service becomes more firmly established and part of normal court routine, the issue of staff retention may present more problems than that of volunteer retention.

### **Pre-trial visits and company in court**

2.14 One aspect of the service involves providing information on the procedures and layout of the courtroom. In addition to explaining the roles of the personnel involved and the probable sequence of events, this can also involve showing a diagram or a photograph of a courtroom, or, if circumstances permit, an actual visit into a court. The opportunity to have a visit into the courtroom varies across the courts; some have limited space, and only one courtroom, and even in courts with the capacity for such visits, by the time the witness has arrived and been ‘checked-off’ there are often professionals in the courtroom preparing for the work ahead. Witness Service staff make arrangements for witnesses who have made contact in advance and who wish to have a visit before the trial to either come to the court at a time when it is known it will be quiet, or more often to arrive early on the day of the trial. They are met at the entrance area and wherever possible shown the actual courtroom before going to the waiting area. During the 6-month period from October to March 2003 approximately 12 per cent of all witnesses supported made such a visit, while the corresponding figure over the 6 sample courts was 8 per cent, with some variation from court

to court. Only a minority of the witnesses interviewed had received a pre-trial visit, and although most found it useful to some extent (“I’m glad I got to see the court first, I know what to expect”), a few were not sure it had made any difference and only went along with the idea because it was offered; 2 declined because they had previously sat on a jury in the court, and another 3 declined because they were “not bothered”, one adding that he had been at the court a number of times before, “but never as a witness”. One volunteer said she was surprised when she started the job by what it entailed: she had originally envisaged “sitting listening to people, not giving out information”, but after 9 months had concluded that most of the witnesses “want answers to simple questions, not things like pre-trial visits”.

2.15 One aspect of the service referred to in the Witness Service specification (Scottish Executive, 1999) is providing someone to accompany a witness into the courtroom, if this is requested. During the 6 months from October to March 2003 this was recorded nationally on only 151 occasions, approximately half of one per cent of the total support-contacts, and during the same 6-month period it was recorded on 30 occasions in the sample courts. Not all professionals knew that this formed part of the service, nor did they think it was particularly necessary, even for children and teenagers, who were often given as examples of witnesses who had used this service. One coordinator made the point that it was also rather counter-productive from the point of view of overall quality of service, since once a volunteer had gone into the court they were not able to assist another witness from the same case. She also said that, from experience, when witnesses understand exactly what the support entails, that is that the volunteer will sit in the court but with no contact whatsoever with the witness, they often decide they would rather have the volunteer waiting for them to offer support and comfort after the ordeal.

### **Contact before and after trials**

2.16 Prior to the introduction of the service in any court, meetings took place with the relevant agencies, such as court personnel and the Procurator Fiscal, to explain the role and purpose of the Witness Service and to establish lines of communication. The coordinators maintain these links with agencies in contact with potential witnesses, and although members of the Procurator Fiscal service spoke highly of the service provided, particularly to anxious and/or child witnesses, the numbers actually referred in advance of trials are low. The national records indicate that approximately 93 per cent of all contacts were self-referrals, and the latest comparable figure for the sample courts is 96 per cent; less than 3 per cent of contacts were referred by the Procurator Fiscal or the VIA service, although the rate of referrals from VIA increased considerably in the first 3 months of 2003. The lack of advance referrals makes the planning of resources, such as the numbers of volunteers to make available, and perhaps also the appropriate level of experience of a specific volunteer, particularly difficult.

2.17 Although post-trial support is a feature of the service, the data is recorded in such a way that it would only appear in the rare event that support was not given on the day of the trial. However, from observation it would seem that the vast majority of contacts are made before or during the trial, and many of the witnesses who attend court never get to the stage of actually giving evidence. Regardless of whether evidence has been given, some witnesses may wish to seek support from other agencies, and leaflets are available, in 13 languages plus Braille, which give details of the Witness Service, including the opportunity to be guided to other support agencies if required. In addition, each service has information cards with the

telephone numbers of a range of relevant local agencies such as Victim Support, the Citizen's Advice Bureau, domestic abuse projects, etc. The most recent detailed national records, for the 6-month period from April to September 2002, show that less than 5 per cent of contacts are recorded as having been referred to another more appropriate agency. The majority of these are to the Procurator Fiscal, court staff or lawyers, rather than organisations whose main function is caring or support.

## **Working relationships**

2.18 Good working relationships with the court personnel, involving the exchange of relevant information, are obviously crucial to the success of the Witness Service. Court staff are able to identify witnesses who may be in need of support and assistance, or who may want further information, and can also provide general progress reports to the volunteers to pass on to the witnesses. Many witnesses feel ignored and neglected, and the volunteers are able to reassure them that they have not been forgotten. As one volunteer explained:

*Here we try to treat people the way we would expect to be treated. We have the time to explain things, answer questions, help sort out any problems and generally try to keep them informed. I ask the court officer what's happening and then pass on the information – that's the most important part of our job.*

Some members of the Witness Service, and Sheriff Court staff, mentioned that in the early stages of the service's introduction there had been some uncertainty over the role and purpose of the volunteers: "initially people were wary, as they are with all newcomers, but we had no real problems". However, as that quote suggests, any uncertainty was generally attributed to inevitable 'teething problems', and often associated with a 'clash of personalities' rather than any issue of principle. Over time the Witness Service has worked to cultivate relationships that are mutually supportive, and therefore of benefit to all those attending court.

## **Implications for the High Court**

2.19 An attempt was made to explore the types of offences which had led to witnesses' attendance at court, in order to assess what proportion of offences were serious enough to raise the kind of issues which may be associated with witness support in the High Court. Although data is recorded on the type of crime involved, volunteers point out that as they are forbidden to discuss evidence or any aspect of the case this will not necessarily be available. Equally, it is not unusual for a witness to be unclear as to the actual charge. The detailed national records that are available for the period from April to September 2002 record that in approximately 30 per cent of contacts the nature of the crime was not known, or no crime was involved. These records indicate that by far the most common crime type recorded was assault (approximately 28 per cent of all contacts), followed by crimes of dishonesty (almost 12 per cent), motoring offences (8 per cent), and breach of the peace (7 per cent). Murder and rape, both actual and attempted, accounted for 535 contacts, slightly more than 2 per cent of the total. The records also indicate that for the same period just over 80 per cent of the contacts were with Crown witnesses in criminal trials, a little over 8 per cent were with the accused or defence witnesses, and the remainder were with family members or friends of

witnesses, with a small number categorised as ‘civil/other’. Almost 13 per cent of all contacts were with known victims, although for the reason mentioned above the true figure will probably be greater. Almost equal numbers of males and females were recorded as having been contacted, and 2,020 contacts (about 8%) were recorded with people under the age of 17, probably the easiest age band to determine.

2.20 Discussions took place with Witness Service staff and volunteers in 2 courts where the High Court regularly sits on circuit, and with others who had recently attended the advanced training course designed to prepare staff and volunteers for the official extension of the service. Staff and volunteers in the circuit courts have been ‘unofficially’ providing a service to people attending for High Court business, as it would have been unnatural, if not impossible, to attempt to differentiate between the two groups of witnesses; in Kilmarnock a *de facto* High Court service has been provided for more than 3 years. In May 2002 the Witness Service training officer sought opinions from staff and volunteers on the content and duration of the proposed advanced course, and almost half of those who responded thought a course of ‘one or two days’ would be sufficient. However, to accommodate the content, which was agreed following consultation with service staff already involved in providing the service to the High Court, the course has been designed to last 4\_ days; this was considered by some to be too long, with “too much repetition for experienced volunteers”, although a similar number thought it to be “about the right amount of time”. One person argued that the course “could easily be shorter, and then they could train more for the same budget”. Those experienced in High Court support work identified certain differences from the Sheriff Court: personnel and procedures are different, the nature of the crimes is more serious, there is often a need for more emotional support over a longer period, and there is more likelihood of family and friends being affected both by the offence and the evidence. However, all stressed that the basic skills required were the same as for the Sheriff Court: “I don’t treat the High Court work any differently”; “we don’t want to make it into something that it is not”. The point was made that it should not be assumed that all High Court witnesses are going to be more worried than those in lower courts, as a witness for a Sheriff summary trial can be as frightened and anxious as any, and at least the witness for the High Court will have made a statement at precognition, and so is likely to be more aware of what to expect and better prepared. There is much inherent uncertainty in the operation of the judicial system, and it was thought that this would be compounded in High Court cases: witnesses are required to attend who in all probability will not be called to give evidence, but are kept available “in case they are needed”, while a whole ‘set’ of witnesses will be cited to appear to provide a reserve or back-up case if the preferred trial cannot proceed. One experienced worker thought that the uncertainty about whether the case will proceed, and the amount of time spent waiting and wondering if they will in fact have to give evidence, were the biggest issues for many witnesses, and this was confirmed by witnesses in interviews (see 3.4 below).

## **Conclusions**

2.21 The Witness Service has been successfully extended to every Sheriff Court in Scotland, and has some contact – usually brief – with the great majority of people who attend court as witnesses. Most contacts involve the provision of basic information rather than more intensive emotional support, though the distinction between the two is not a firm one. Volunteers come from a wide range of backgrounds and are rigorously trained and well supported in their work. The management of the Service is committed to the maintenance of high standards and the dissemination of best practice. To an extent the Service is already

being provided in the High Court, and the consensus is that the skills required for supporting High Court witnesses are the same as those needed in the Sheriff Court. Additional training has been provided for High Court work, however, and it is expected that a higher proportion of High Court cases will involve emotional support, and that the management of the uncertainty that is inherent in the judicial process will be more complex and demanding.

## CHAPTER THREE THE VIEWS OF SERVICE USERS

3.1 From January to early April visits were made to the sample courts to interview witnesses. Although these visits were planned to coincide with what were expected to be busy sessions, the reality on a number of occasions did not match initial expectations. A total of 111 witnesses were interviewed in waiting areas and corridors at various times of the day; some had recently arrived while others had been waiting for a number of hours. None of those approached refused to discuss matters, although some were far more communicative than others. Of those interviewed 62 were male (56 per cent) and all but 3 were white; 2 were Russian, attending court with the support of an interpreter to assist when their command of the English language failed. Nine interviewees were known to be victims, 3 were known to be defence witnesses, and 7 were family members and friends of prosecution witnesses. Both Witness Service workers and court staff said that it was usual for Crown witnesses to attend court alone, while many defence witnesses “turn up with their supporters”.

3.2 Five of those interviewed knew nothing of the Witness Service; they had not previously heard of the service and at the point of interview had not spoken to a volunteer (although at least 2 of this group did subsequently have a discussion with a volunteer). A further 70 had not known of the existence of the service before the volunteer approached them. As one young man in a ‘vulnerable witness’ waiting room said:

*The Procurator Fiscal said we would be able to wait in this room, but he didn't mention the Witness Service.*

About a half of those who were not aware of the Witness Service had previously attended court, although for some “it was a long time ago”. Almost 60 per cent of those interviewed were not attending court for the first time, although a small number of these had only attended previously in connection with the same trial: “this is my third day here for this”. Of the 36 witnesses who already knew about the Witness Service, 24 had previously encountered the volunteers at court, although not necessarily at the same court, 7 had been informed of the service by other agencies, 4 had actually read an information leaflet, and one had previously been a social worker.

### **Witnesses' experiences: anxiety and uncertainty**

3.3 Although the vast majority of those interviewed had spoken with the volunteers, most had not made many demands of the service; 17 had made a pre-trial visit to the courtroom, while a further 5 declined the offer (see 2.15 above). Another 7 had had more sustained contact with the volunteers, and 5 of these were known to be victims. They were all very grateful for the companionship and support provided, making comments such as “The Witness Service are the only people who have helped us”; “really good that they are here to sit and talk to me”; and “an excellent service when you think it is voluntary”. Thirty-one of the witnesses considered themselves to be nervous or anxious to some extent, and a minority added that they were *very* concerned: “I'm scared of all of this”. Some were concerned at the prospect of giving evidence: “it happened 2 years ago, it's all very hazy, not sure I will be any use”; “don't know why I'm here, I don't know anything to help the case”. As a retired

police officer waiting to give evidence commented: “You can never really get used to this, they can always ask you the unexpected”. A small number of witnesses were worried about the associates of the accused: “It’s the hangers-on that bother me, not giving my evidence”; “I’m very nervous about leaving the building”. Some of these anxious witnesses did gain some reassurance from the volunteers (“it’s good to have these people here to help us”; “they are as helpful as they can be, keep checking on us”), but one young man who was frightened of possible repercussions from the accused could gain no reassurance from the mere presence of a volunteer: “he’s a regular here, he knows where I stay, the police tricked me; I’d never do this voluntarily”. Fear of intimidation from the accused and his associates was generally considered to be more of an issue in the High Court (see 4.7 below), and more serious intimidation may be expected in more serious cases, although the British Crime Survey of 1994 and 1998 found that only a small number of respondents reported being intimidated in their capacity as witnesses; in the majority of instances the intimidation consisted of verbal abuse, rather than threats or actual assault (Tarling *et al.*, 2000).

3.4 Another area of anxiety for some, and of concern to almost all the witnesses interviewed, was the length of time they had to wait, coupled with what was considered by many to be a total lack of information. As one witness explained:

*She [the volunteer] said we might have a long wait. We’ve been here over 3 hours now, no official seems interested in us.*

Another commented that in a wait of over 3 hours “I’ve been given no information at all”. This problem is not confined to Sheriff courts: in a survey of witness satisfaction in England and Wales, one of the researcher’s suggestions was that a reduction in waiting times would have most effect on increasing witness satisfaction if it were combined with an improvement in the amount of information given during the wait (Whitehead, 2001). Frequently witnesses stated that the Witness Service volunteer was the “only person who has spoken to us”, or “the only person who has explained what might happen”. The volunteers maintain close working relationships with the court staff and try to get ‘progress information’ to pass on to the witnesses, but obviously have no control or influence over the ultimate length of time involved. Some witnesses acknowledged this with comments such as “My only question was how long will I be here”, “They are nice to talk to, but they can’t do anything about the wait”, and “I don’t even know if the case is going ahead”. The Crown Office and Scottish Court Service Joint Statement on Crown Witnesses (1998) says that:

*We share responsibilities to cooperate to ensure that witnesses at court are advised at least every two hours of the progress of the cases.*

However, many of the witnesses interviewed had waited for longer than 2 hours and had been given no information; they did not know if the case was proceeding, and if it was whether they would ultimately be required to testify. Although the research team did observe court staff giving witnesses ‘up-dates’ on progress this was the exception rather than the rule. Even those witnesses who were fortunate enough to be released after a wait of less than 2 hours still reported that “the waiting is the worst part of this”. Not surprisingly, some of the witnesses expressed frustration over the number of times they had had to attend the court

before the trial proceeded, and one victim asked for directions to the Procurator Fiscal as he wanted the case dropped on the ground that it “was a waste of time”. Two witnesses complained that they were having to attend for the second time as on the first occasion they waited all morning and were sent away for a lunch-break; the accused, present during the morning, failed to return after lunch, and so the trial could not proceed. Another 2 witnesses were observed being told at 10.30 that they were not required that day and would have to return on another occasion, as the accused had failed to arrive. They remonstrated about this, as they had walked past the accused inside the court building, but were told that he had arrived late and had not been present when his name was called. This uncertainty, which was evident in all the courts visited, adds to the frustration the witnesses experience, and the Witness Service, with no control over the events that produce delays, can only hope to ease the situation.

3.5 Although the length of time they had to wait was the main issue for most witnesses, a small number were also critical of the conditions and facilities: lack of a drinking water fountain was mentioned by some, along with inability to buy coffee in one court, while in another it was the quality of the coffee that was the problem. Inadequate and old reading matter was also criticised. Although these issues are not directly the concern of the Witness Service, in one court the volunteers brought in copies of a free daily paper, and in others provided old magazines; some also supplied drinking water on occasions. In general, the witnesses seemed to have low expectations; one said, “It’s not very nice in here, but I don’t suppose you can expect anything else”; another commented that the “facilities here are OK, I came expecting much worse”; and another concluded that “this court is more civilised than some I’ve been to”. Some of the courts visited accommodated smokers, which for a number of witnesses was a great relief (“At least I can have a smoke here”), although one complained that he was told he had to wait in a room that was populated by heavy smokers. A few young men volunteered that although they had been to court before, this was the first time they had attended as witnesses, and one who had waited for over 4 hours remarked: “It’s OK in here, better than the cells”.

3.6 Although the majority of those interviewed had not made substantial demands on the service they appreciated the presence of the volunteers, and regularly made comments such as “I’m OK, but good of them to be here for folk who need them”, “a good service for the first-timer”, and “would be really good if you were anxious or frightened”. Two of those interviewed said that they had recently attended the High Court and thought that the Witness Service should be provided there. The physical layout of the court may limit the opportunity for some witnesses to make more extensive use of the service: one witness was quite explicit when interviewed that she “just listened to what they had to say”, as she did not want to ask questions in a crowded waiting room where others could not help but overhear. A few more also said they had “sat and listened”, and it might be inferred that in a quieter area they might have felt more able to talk and ask questions. Despite the service provided by the volunteers, 5 witnesses stated that they would be very reluctant to get involved with the criminal justice system again; none of them had actually given evidence, but all were deterred by the waiting. In the words of one woman, who was attending court for the second time in the same case:

*I've been here 4 hours and no-one tells you anything. I'm not bothered about giving evidence, just this waiting. In future I'm going to keep my eyes shut and see nothing.*

## **Conclusion**

3.7 The Witness Service is valued by the great majority of witnesses; indeed, the Service's volunteers are often seen as the only people in court to treat witnesses with consideration and respect. The basic, friendly service which is what most witnesses receive is also what most witnesses want, and the volunteer status of those providing the service is recognised and appreciated. But witnesses also recognise that the Witness Service can do little about the aspects of attending court that are most trying for witnesses – in particular, the combination of uncertainty, anxiety and frustration that arises from the common experience of lengthy waits, often in an uncomfortable and unstimulating environment. The experience of being a witness is sufficiently unpleasant to lead some witnesses to feel that they would be most unwilling to go through it again. While only a small minority of witnesses felt positively afraid of the possible repercussions of giving evidence (or being willing to do so), it is likely that High Court cases will involve a higher proportion of such witnesses, with implications for the work of the Witness Service and its communication with other agencies.

## CHAPTER FOUR THE VIEWS OF OTHER AGENCIES

4.1 Interviews and discussions were held with a range of personnel in the criminal justice system; some were nominated by senior staff of their agency, such as the Procurator Fiscal service or the Sheriff Principal, while others were identified during the course of visits to the court. Although they were all accommodating and cooperative, a few stressed that they only had limited knowledge and understanding of the service, and it was not possible to identify a Sheriff in Glasgow to be interviewed, as the Sheriff Principal reported that “not one indicated having any experience of the benefits or otherwise of the service”. Many of the 30 people interviewed had experience of the Witness Service in other courts, and so were, for example, able to comment on the initial process of the service’s establishment in a different location. Some of the interviewees also canvassed opinion from their colleagues in advance, and one reported that “I have only got praise, even from defence agents”. Even those who prefaced the discussion with the statement that they had a limited understanding of the service generally had a favourable impression of it and thought it was worthwhile. Only one was neutral or sceptical:

*I am not aware of any positive, nor any negative results from this service. I would have thought an extra member of the Sheriff Clerk staff could achieve much the same.*

4.2 A number of those interviewed spoke of their personal experiences of having to give evidence, and how even in their ‘privileged’, that is, knowledgeable position they found it a “daunting” experience. As one explained:

*I was clerk of Court for 5 years and saw anxious witnesses and thought nothing of it, but then one day at very short notice I had to give evidence and I could not believe how nervous I was, and I knew the procedures and what to expect. For a normal witness it must be a very difficult and apprehensive time.*

Any support or assistance that could be provided to ‘normal’ witnesses was welcomed; it was generally accepted that the professionals in the criminal justice system do not have the time to interact with witnesses, who are often “sent to waiting areas and then ignored”. One member of the Procurator Fiscal service thought there had been a “screaming need” for someone to take care of the prosecution witnesses, and that the Witness Service had “filled a void” created by a lack of resources and initiative elsewhere in the system. The Witness Service staff and volunteers were often seen as the only people with both the time and commitment to assist and support the witnesses. Interviewees were clear that they themselves did not have time to spend with witnesses, “holding their hand” or “answering lots of questions”, and some doubted if their colleagues would be inclined to undertake such work even if time were available; one observed that the Witness Service workers were not only volunteers, but also mostly local, and as such were “making an investment in their community”, unlike the professionals who move around from court to court.

4.3 One interviewee summed up the views of many when he said that the Witness Service is “now fully accepted as one of many agencies that work in the court”, while another, who had experience of the service in at least 7 courts, stated that “they have a positive presence in all the courts”. When discussing the establishment of the service a number reported that they knew very little, if anything, about it before hearing that the service would be coming to their court area, and this no doubt contributed to some of the early ‘teething problems’ referred to above, when people were uncertain of the role and remit of this new agency. In contrast, one court officer stated that she had been involved in a planning meeting and so “knew all about them and what they would and wouldn’t be doing”, and consequently reported that there had been no problems or difficulties when the service was introduced. The importance of adequate prior consultation before the extension of the service into a new area was reiterated a number of times; consultation with court officials was seen as especially important, since these are staff with whom the Witness Service volunteers need to work on a daily basis. A couple of interviewees mentioned that any early difficulties were within their agency, associated with organising the administration to ensure a reliable information flow, and thus “nothing to do with the Witness Service”. Some of those interviewed had been involved in the Witness Service training, had been impressed with its overall quality, and were reassured that some of the problems or “pitfalls” they had envisaged had been adequately covered and explained. One interviewee, who had previously worked as a defence solicitor in another area, stated that although there had been inevitable concerns initially about the possibility of inappropriate comments by volunteers to witnesses, she had been reassured that the training stressed the importance of this issue, and was not aware of any such problems in practice. Another defence solicitor expressed similar initial concerns about possible contamination of evidence, but also thought the training adequately covered the issue, and was not aware of any actual incidents of this kind that had arisen from the work of the Witness Service.

4.4 In addition to the role of the Witness Service workers in being available to reassure witnesses that at the very least they had not been forgotten, a number of those interviewed also stressed the value to their own agency of the facility to provide a pre-trial visit, and so relieve the pressure on their “stretched resources”. Although forming only a small part of the overall work of the service, in-court support was often mentioned, by all types of interviewee, as a valuable aspect of the service. However, not all Sheriffs were aware that this was offered, nor were they all of the opinion that it was necessary. A couple thought that “so-called vulnerable witnesses”, and particularly children, were often underestimated: “they are much tougher than many think”; and the argument was also made that the Sheriff is able to conduct the court in such a manner to put witnesses at their ease. However, one Sheriff still thought it was valuable to be able to call upon the Witness Service to accompany a young witness into court; this was often to appease the parents’ anxiety and concern, and the volunteer was seen to be independent, and so acceptable: “even the solicitors are more at ease”. Some interviewees, including Sheriffs, were of the opinion that if a witness can be “calmed down”, and put more at ease, and also provided with some basic information about what to expect within the courtroom, the business of the court can run more smoothly. Witnesses are obviously crucial to the running of the court; as one court official said, “if something goes wrong with just one witness we can lose the day’s work”.

4.5 These interviewees regularly described a Witness Service that had successfully established itself in Sheriff Courts as a valuable resource. They spoke of “good working relationships” and described the staff and volunteers as “unobtrusive, approachable and committed” in their work of providing information support and reassurance that is not available from any other source. Comments such as “they have been a godsend” and “we

would certainly miss them if the service was withdrawn” are typical of the views expressed. The only exception to this was in Oban, where the service has only been actively supporting witnesses since September 2002. Most of the professionals interviewed had experience of the service in other areas and considered it to be worthwhile and of value to witnesses, but thought that in the short time the service had been operational, in a very quiet court with few trials, and therefore few witnesses, it had failed to make much of an impression. It was acknowledged that the unpredictable nature of the court’s work must present organisational difficulties, and that it would take time to get the service fully established in the way described in all the other areas.

4.6 Most of those interviewed had in mind prosecution witnesses, who account for the majority of all contacts, and even within this category some made a distinction between “decent witnesses” - those who inadvertently get involved in an incident and may need support - and a group of regular court users who are experienced in the ways of the court. Although the Witness Service clearly states that it is available to all witnesses attending court, not all the professionals were aware of this; a few thought it was only for the Crown witnesses, and another was uncertain, and thought that some solicitors were equally unclear. Although the defence solicitor interviewed understood the full remit and scope of the service, he was equally sure that some of his colleagues would not consider informing their clients about the service.

### **Extending the service to the High Court**

4.7 There was a general consensus among the professional interviewees that the extension of the service to the High Court was logical and overdue. A number had direct experience of the experience of witnesses in the High Court, and spoke of the serious nature of the offences, the perceived fear of intimidation from family and associates of the accused, and the large numbers of witnesses called. In the words of one experienced professional, “the witnesses are herded around like cattle, without any information”, while another thought that the large number of witnesses called but then sent away, perhaps on a number of occasions, meant that “you end up with even more disgruntled witnesses wanting to know what on earth is happening”. The social work professionals interviewed believed that there was a role available for the Witness Service in providing support and conducting pre-trial visits, but that it was important that the remit of the appropriate agencies be clearly defined. One added that the High Court cases were more complex than typical Sheriff Court cases, with witnesses who could be in fear for their lives, and that “even the best-trained volunteer may struggle to cope with these difficult situations”. Supporting witnesses who fear intimidation is already a feature of the work carried out by the volunteers, but in the 6 sample courts ‘safety/intimidation’ accounted for less than one per cent of the recorded ‘nature of service provided’. A couple of interviewees thought that although the need for the service was not in doubt, it might be more difficult to gain acceptance in the High Court, since the staff there were considered to be “harder, more experienced and resistant to change”. This was not, however, a view shared by the Witness Service staff who had established working relationships with some of the same staff on circuit. The general view can be summed up in the words of one interviewee:

*the witnesses see lawyers supporting and assisting the accused, but there is no one for them: they are certainly in need of well informed support.*

## **Relations with VIA**

4.8 While the Witness Service was extending its provision to all Sheriff Courts, the Crown Office Procurator Fiscal Service was originating what has come to be known as the Victim Information and Advice service (VIA). A feasibility study was carried out in 1999, and in November 2000 a pilot service was established in Aberdeen, followed 6 months later by one in Hamilton. The service has since been extended to Edinburgh, Glasgow, Kilmarnock, Dundee and most recently Paisley. An operational protocol between Victim Support Scotland and VIA was established in July 2002, where it is stated that the VIA service has a “dedicated victim information function...” and that it is “targeted at victims, witnesses and next of kin in more serious and sensitive cases reported to the Procurator Fiscal”. The protocol goes on to recognise that “overlap in certain activities will be required to ensure that the most effective service is provided...” but also acknowledges the need to “minimise duplication”. Members of VIA staff were interviewed in 2 of the sample court areas, Glasgow and Kilmarnock, although other interviewees, including Witness Service staff, also had experiences of the service. Staff from both the Witness Service and VIA reported “amicable, supportive relationships” and of working in partnership, and VIA officers spoke of making referrals to the Witness Service for pre-trial visits and general support: the Service was the court-based support agency, and “they have the time available”. From October to March 2003 the 2 offices referred a total of 90 witnesses, the majority being referred in 2003. A couple of those interviewed thought that the extension of the Witness Service to the dedicated High Court would only enhance the working relationship as both agencies would be located in the same building and so have daily face-to-face contact. It was stressed that VIA is primarily an information service, making most contacts by letter or telephone, with a clear and specific client group, whereas the Witness Service is available to provide support to all court users. There was a general consensus that the VIA service, social work and the Witness Service all had relevant roles, and that as long as they each understood their specific remit, they should be able to “mesh together to enhance the overall service to the witnesses”. A few of the professional interviewees considered the remit of VIA to be quite limited, and thus not seriously impinging on the established supportive role of the Witness Service; and one, who felt that in terms of support in the High Court there are “lots of fingers in the pie”, suggested that the Witness Service would always have an important role:

*“the public will trust them because of their independence”.*

## **Conclusions**

4.9 The views of professionals interviewed for the evaluation were overwhelmingly positive. The Witness Service was seen as providing valuable support, information and reassurance to witnesses, which no other agency had the time or resources to do. If, as was the case for some professionals, the Service was almost invisible, this was taken as a sign of its success in providing discreet, unobtrusive help and in avoiding the kind of mistake that could have led to complaints about contamination of evidence. Interviewees were confident that the Service could and should be extended to the High Court, and issues of demarcation of responsibility and communication with VIA were seen as resolvable, and indeed in the process of being resolved.

## CHAPTER FIVE CONCLUSION

5.1 In 3 years the Witness Service has become firmly established and accepted in the Sheriff Court, although there is probably still room for its further development in some of the smaller, less busy courts. The Witness Service has developed a method of working that enables its volunteers to make contact with virtually all witnesses attending court, and, subject to physical limitations (see 3.6 above), to provide witnesses with the opportunity to make such use of the service as they consider appropriate. The work of the service is typically low-key; the majority of contacts are fairly brief, and involve the straightforward giving of information, but are no less valued for that. Even witnesses who made no demands on the service still welcomed the presence of the volunteers in the court. The staff and volunteers display a high level of commitment to ensuring that they offer support to all those attending court, without having an effect on the judicial process. The training and support provided to volunteers has ensured that the initial anxieties expressed by some regarding possible contamination of evidence have not materialised. The volunteers have been described as discreet, unobtrusive and approachable, and they have developed a style of operation that is appropriate for the service they are offering. Although the support is in the main provided by volunteers, the organisation is regarded as professional, committed to maintaining high standards, and providing an essential service that no other agency has the time, or perhaps the inclination, to deliver.

5.2 The judicial process is steeped in uncertainty: some witnesses were not sure why they were required to attend court, some claimed to have received less than 24 hours' notification that their attendance was required (one of these had to work a night-shift before reporting at 9.30 in the morning), and many complained that previous hearings had been cancelled at very short notice with little or inadequate explanation. Witnesses are uncertain how long they may have to wait, whether the trial will in fact proceed, and whether they will be required to give evidence. Although the information sheet provided by the Procurator Fiscal Service explains that witnesses should be prepared to wait all day if necessary, and also gives some reasons why a witness may not be required to give evidence, it would seem that very few witnesses take the time to read this information. The uncertainty and the lack of official information, coupled with the actual wait, create a feeling of frustration and annoyance that leads some witnesses, and in this study at least one victim, to feel that in future they will attempt to have no further part in the judicial system. The Witness Service does all it can to alleviate the situation, but the sources of delay and uncertainty are beyond its control.

5.3 In his review of practice and procedure in the High Court, Lord Bonyon comments on the support provided by the Witness Service, and also recommends that a witness waiting to give evidence "should be informed hourly of the progress of the case" (Bonyon, 2002). He is specifically addressing the situation in the High Court, but this suggestion would also be well received by witnesses in the Sheriff Court. Another recommendation, concerning reluctant witnesses who have had to be apprehended, suggests that:

*consideration should be given to providing the court with the additional options of releasing the witness on bail and of tagging and monitoring the movements of the witness (Bonyon, 2002).*

This suggests another possibility: that when accused persons have surrendered to their bail they might be fitted with a 'passive' tag to ensure their continued presence in the court building until their case is heard (the technology would be similar to that used in, for example, libraries and clothes shops). This would reduce the opportunity for accused persons to absent themselves from the court during the course of the day (as in the case mentioned above where the accused failed to return after lunch), with the consequent inconvenience to witnesses, and could also enable access to certain areas, such as waiting rooms for Crown witnesses, to be more effectively restricted.

5.4 The Witness Service already has experience of providing support to witnesses involved in High Court trials on circuit, and the formal extension of the service to include the dedicated High Court was generally considered to be logical and overdue. Experience has shown that careful consultation and liaison with all the agencies involved will help ensure the smooth introduction of the service. It is essential for this to apply at all levels in the relevant organisations, so that personnel who will have day-to-day contact with the Witness Service staff and volunteers fully understand their role and purpose; this should avoid some of the early 'teething problems' encountered in some of the Sheriff Courts. To ensure that witnesses have a real opportunity to make use of the service offered, facilities need to be provided to enable the witness and volunteer to talk in relative privacy. Any developments to improve the standards of care and attention given to witnesses must provide benefits to a system that depends on their cooperation, during what is for some a worrying and anxious time, and for many a very frustrating and time consuming experience.

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