

**Putting People First?  
A survey of witness satisfaction  
in three Gauteng Magistrates' Courts**

by

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## **Executive Summary**

This report reflects the findings of a survey of witnesses – including victims and other prosecution and defence witnesses – conducted in late 2003 at three magistrates' courts in Gauteng.

While witnesses are sometimes presented as recipients of state services, they should preferably be seen as a group of people who assist the courts, and the state, by providing information relevant to reaching a verdict in criminal cases.

The interest in witnesses is motivated by a concern to support witnesses through encouraging a positive attitude towards their role in the courts, as well as the need to ensure that the witness is able to give truthful evidence to the best of his or her ability.

Several aspects of the experience of serving as a witness have the potential to undermine witness motivation, and the quality of witness evidence. In addition to the negative impact for victims (who may be particularly vulnerable) and other witnesses, such factors also have an overall negative impact in reducing the willingness of members of the public to cooperate with the criminal justice system.

This report discusses information from the survey on:

- Support, information and facilities provided to or for, witnesses, and the response to witness complaints.
- The length of time witnesses spend at court and their responses to this.
- Witness intimidation.
- Witness satisfaction: their sense of being appreciated and their willingness to be witnesses in future.
- Witness complaints and recommendations for improving the criminal justice system.

The findings of the survey are compared with the results of a Public Service Commission (PSC) national survey of witnesses, conducted at roughly the same time, and with a 2001 survey of witnesses conducted on behalf of the National Prosecuting Authority (NPA).

The survey does not deal with expert witnesses or state officials, such as police, who serve

as witnesses in their professional role.

### **Selected findings**

- Family member or friends often assist witnesses by accompanying them to court but one third of witnesses, including 32% of victim witnesses, indicated that no one had accompanied them to court.
- While 91% of witnesses indicated that they had been informed about what time they needed to arrive at court, only a minority of witnesses had received information on other issues such as what would happen at court (16%), how much time would be involved in being a witness at court (13%), or what they would need to bring to court (19%). The Public Service Commission made comparable findings in their survey of a national sample of witnesses, though slightly different findings were made in the 2001 NPA survey.
- Where respondents had asked for information, 82% indicated that the question was answered properly and politely. Similar findings were made in the PSC survey.
- The survey also reached similar conclusions to the PSC survey in relation to the lodging of complaints. Of the 40% of witnesses who indicated that they had complaints, few witnesses indicated that they had spoken to officials about these, and a minority of these indicated that they were satisfied with the response that they had received.
- The CSVr and PSC surveys indicate that most witnesses are not informed about witness fees.
- Roughly half of those who had used public toilets rated these as poor or very poor, while respondent satisfaction with the quality of waiting areas was only slightly greater.
- Four out of five mobility disabled respondents indicated that facilities for them were inadequate. The PSC survey made slightly better findings in this regard but nevertheless suggests that there is a significant problem with these types of facilities.
- Of witnesses who had given evidence, roughly a third indicated that they had waited in court on the day on which they gave evidence for more than two hours. Similar findings are made in the PSC and NPA surveys.
- Roughly half (53%) of the witnesses interviewed indicated that there had been days when they had come to court to testify but not actually testified. Almost half (47%) of these witnesses indicated that this had happened on three or more days. Similar findings are made in the PSC survey.
- Over a quarter (27%) of witnesses answered in the affirmative to a question about whether there was anything that had made them feel frightened or intimidated. In the PSC survey 22% of respondents indicated that they felt intimidated at court at some stage during the case. However the PSC contradicted the results of the CSVr survey in relation to whom respondents most often felt intimidated by. This issue should be explored by further research.
- When asked to explain the source for their feelings of intimidation, witnesses referred variously to: threats that they or family members would be killed or subjected to violence; concerns about potential violence (in the absence of specific threats); physical attacks; the fear of testifying and being cross-examined; and the risk that they, family members, or friends, would be jailed.
- Regarding levels of satisfaction with their court experience, respondents in this

survey were split fairly evenly between those who were very or fairly satisfied (48%), and those who were very or fairly dissatisfied (48%). In the PSC survey a similar proportion (44%) indicated that they were very satisfied or satisfied, though a much smaller proportion indicated that they were dissatisfied or very dissatisfied.

- A relatively high percentage (63%) said that they either felt fully appreciated, or appreciated to some extent, as a witness.
- A majority (60%) of respondents indicated that they would be willing to be a witness again in a criminal trial in future. In the PSC survey the number indicating a willingness to appear in court again was somewhat lower with 39% indicating that they would be very or somewhat willing, and 56% indicating that they would be 'not very willing' or 'not at all willing'.
- In terms of an overall ranking of issues the following emerged as key concerns of witnesses:
  - Time wasted as a result of remands and the amount of time spent waiting at court.
  - The need for improvements in court facilities.
  - Ensuring that officials of the court and criminal justice system deal with witnesses in a polite, respectful and helpful way.
  - Improving the provision of information to witnesses;
  - Witness intimidation.
  - Ensuring that the justice process functions in a fair way and that this is made apparent to witnesses.
  - Compensation of witnesses for transport or other expenses incurred in attending court.

## **Conclusion**

In addition to motivating for further attention to be paid to the issues that are highlighted, the report also motivates for witnesses' surveys to be carried out on a regular (perhaps bi-annual) basis. This will be a way of assessing progress in developing a court system more sensitive about the way in which it works with witnesses.

## **1. Introduction**

### *The motivation for the focus on witnesses*

The people who are the focus of this survey fall into three categories of witnesses important to criminal cases: victim witnesses, other prosecution witnesses, and defence witnesses.<sup>1</sup> These three categories of witnesses might have quite different motivations for participating in the court process.

- Victims who are witnesses often have an interest in working with the criminal justice system in order to try and ensure that the perpetrator is held responsible for his or her actions. Despite this, acting as a witness may be at some personal cost to the victim. While there is the potential for some satisfaction and 'closure' if the perpetrator is convicted, there is a risk that a conviction might not be achieved, or in a case where there is a conviction, that the victim might not be satisfied with the sentence imposed by the court.<sup>2</sup> The process of attending and giving evidence in court may also serve to prolong the ordeal which they have already been through, by

forcing them to relive the sometimes extremely traumatic events, and by exposing them to potential discomfort and even embarrassment through cross-examination. Further trauma is sometimes brought on through bringing them face-to-face once again with the perpetrator of the offence.

- Prosecution witnesses may be people who have close ties with the victim, and are giving evidence out of loyalty to the victim. They are also often bystanders or other people who have no direct involvement in the incident or relationship to the victim. They may be assisting the court, because they have been subpoenaed to do so, or they testify out of a sense of public duty.
- Defence witnesses may include the accused person or others either connected with him or her, or in a similar position to some prosecution witnesses, with no ties to the accused, but with information the defence believes may assist it in presenting its case. Like victims or other state witnesses they may also have a range of motivations for giving evidence in court. They might wish to defend someone to whom they are connected, or believe in that person's innocence, have a concern for justice, or a sense of public duty.

Witness evidence is not always truthful or accurate. Criminal justice officials including police, prosecutors and presiding officers, always have to assess whether such evidence is reliable.

But whatever the motivation of the witness, and despite the challenges in assessing truthfulness and accuracy, witness evidence is crucial to the ability of the criminal justice system to investigate and prosecute criminal cases, and to decide on the validity of accusations against specific individuals through the trial process.

The problem of the potential unreliability of witness evidence links in with one of the challenges facing criminal justice officials and others providing support to witnesses: witness evidence relies on the faculty of memory. Supporting witnesses involves helping them to present evidence in a way that minimises the impact of the deterioration of memory over time. One way of supporting the effective use of witness evidence in this respect is for the police to ensure that full and accurate statements are taken from witnesses. Beyond this, it is important to ensure that unnecessary delays are avoided. Other steps that can be taken include providing witnesses with an opportunity to refresh their memory by ensuring they read their statement prior to giving evidence in court.

Another challenge facing the criminal justice system is that witnesses do not necessarily have a positive motivation to assist the courts. They may be frightened, or have occupations which require their presence, or simply be uninterested in being involved in the case. But even positive motivation may be lost if their participation causes them discomfort or unhappiness. Examples of factors which impact on the motivation of witnesses are ([Ntuli and Bruce, 2001](#), pp. 19-23):

- A general attitude of not wanting to become involved in a case;
- Fear and intimidation related to potential victimisation;
- Reluctance to face cross-examination;

- Frequent postponements and lengthy delays; and
- Occupational and financial concerns – such as concerns about the loss of income or difficulties in taking time off from work.

A concern with the views of witnesses should therefore be related to optimising the use of witness evidence within the criminal justice system. This means trying to ensure that witness evidence of the best quality is presented, as well as trying to ensure that witnesses are positively motivated to assist the court in making a determination about the truth, and that the negative consequences of participating in the court process for them are minimised.

These concerns also dovetail with the concerns of government, expressed most directly in the Batho Pele policy, to ensure that the recipients of government services are served efficiently and are satisfied with the quality of service they receive.

Victims who are witnesses are in some ways receiving a service from government, in that the government has investigated and prosecuted violations that have allegedly been committed against them. But the idea that they are recipients of government services is in some ways mistaken.

In an accusatorial system such as exists in South Africa, the state bears the onus of proving guilt in criminal trials. The state is also viewed as the aggrieved party in that an offender has broken a state law. So, even where victim-witnesses are providing evidence, they are supporting the interests of the state, and the general public, in bringing offenders to justice, even though they may also be acting in their own best interests. The need to provide victim-witnesses with assistance and support is confirmed through government's focus on victim empowerment. This is in part intended to assist them in overcoming the consequences of victimisation. High standards of service, provided to victims in the courts, can contribute towards this end, through helping victims overcome some of the feelings of hopelessness, despair or shame which arise from their experience of victimisation. On the other hand, poor quality services and secondary victimisation, such as insensitive treatment, may have the reverse effect.

But whether they are victims or not, witnesses are not primarily recipients of government services. Witnesses are in general terms a category of people, whose unifying characteristic is that they are providing information to the courts, and assisting the courts to come to a finding about the truth.

Particularly notable here are those witnesses who come forward to give evidence out of a sense of concern, public duty and social responsibility. Special value and acknowledgement should be given to these people in relation to the assistance they provide to the criminal justice system.

The role of defence witnesses should also not be devalued. One of the hazards of criminal justice, particularly where the accused are not properly represented, is the risk that innocent people may be convicted. Defence witnesses may therefore have information relevant to proving the innocence of an accused person, or simply provide information to the court which presents a fuller understanding of the case before it. Defence witnesses also need to be supported in participating fully in the criminal justice process.

### *The survey and this report*

The original interest in conducting this survey lies in work conducted at the Centre for the Study of Violence and Reconciliation (CSVr), which had focused largely on the challenges and problems facing criminal justice officials in working with witnesses.<sup>3</sup> The broader project was intended to support optimum use of witness evidence in the South African criminal justice system. Motivating this is a concern to promote effective due-process based criminal justice that conforms to the principles espoused by the South African Constitution.

The survey was conducted at three regional magistrates' courts over two weeks in late October and early November 2003.

The survey is an exploratory one intended to illustrate the potential benefits of the greater use of witness surveys in the criminal justice system.

After discussing the methodology, the sample and the profile of respondents, this report then discusses information from the survey on:

- Support and information provided to, and facilities for, witnesses and satisfaction with the handling of complaints.
- The amount of time spent by witnesses at court and their responses to this.
- Witness intimidation.
- The overall satisfaction of witnesses and their sense of being appreciated and their willingness to be a witness in future.
- Questions dealing with content of complaints, and recommendations made by witnesses for improving the criminal justice system.

In discussing these findings, the survey also makes reference to selected findings from two other recent surveys. These are:

- The report of a survey of 'court users' conducted on behalf of the Public Service Commission (PSC) in late 2003 shortly after the CSVr survey was conducted.<sup>4</sup> This included interviews with 1133 witnesses at 42 magistrate's courts throughout South Africa. The survey was carried out, and report produced by the Community Agency for Social Enquiry (CASE), who also carried out the fieldwork on this CSVr survey. The questionnaires for the PSC study drew on some of the questions used in the CSVr survey and as a result a number of the findings are directly comparable.
- The findings of an exit poll and follow-up survey conducted by the Institute for Security Studies (ISS) in 2001. The survey was conducted on behalf of the National Prosecuting Authority (NPA) and focused largely on satisfaction with prosecutors. It was conducted in 18 courts and covered 900 victims and 900 witnesses who were surveyed by means of an exit poll, and 540 follow-up interviews of victims and witnesses whose cases had been completed.<sup>5</sup>

In conclusion the report makes a number of recommendations regarding the use of surveys to measure witness satisfaction, and priority areas for intervention.



As indicated above, the CSVR survey forms part of a body of work intended to promote effective use of witness evidence as part of the transformation of the criminal justice system in South Africa. At the time it was done, no large-scale surveys had been conducted in South Africa focussing on the broad experiences of witnesses in the courts. The NPA survey is specifically focused on satisfaction with prosecutors. The PSC survey, which was conducted shortly after the CSVR survey, was motivated by broad concerns regarding the responsiveness of government services to the public, and not by a specific awareness of the importance of witnesses to the criminal justice system.

## **2. Methodology – comparison with the British Witness Satisfaction Survey**

The questionnaire for the survey was developed using the questionnaire for the British 2002 Witness Satisfaction Survey ([Angle, et al, 2003](#)) as a point of departure. The British questionnaire was adapted and scaled down in length. In adapting the survey, CSVR was assisted by suggestions made by staff of organisations in the victim empowerment field, and from the Department of Justice, as well as drawing on its own background of research on witness issues.

For purposes of comparison it is also important to note that the British witness satisfaction survey uses a somewhat different methodology to that employed in this survey. The British survey followed a two-stage process in terms of which witnesses were first approached while at court and asked if they would be willing to participate in the survey. If they agreed, their contact details were taken and interviews were conducted, generally by telephone, only after the verdict in the case had been given.<sup>6</sup>

For reasons such as time and resource constraints, the CSVR survey was conducted at the courts themselves, to which a small team of a dozen fieldworkers (including two fieldwork supervisors) was deployed. The courts were chosen because they were busy ones. The relatively high volume of cases, they dealt with each day meant the survey could be completed timeously.

The courts were regional magistrates' courts in Johannesburg, Soweto and in a primarily black residential east of Johannesburg. Regional magistrates' courts were chosen because they deal with a large number of witnesses and also a significant proportion of the cases involving serious offences which are processed by the court system.

It must be emphasised therefore that the survey was conducted while most of the cases were still in progress.<sup>7</sup> This factor impacted on which questions were selected. For instance, the British survey asked questions not only about specific facets of the witnesses' experience before and at court, but also about their overall satisfaction and dealings with the police, the witness and victim support services, the prosecutor, defence lawyers and the judge or magistrate. It asked about the actual experience of giving evidence, as well as the witnesses' views with regards to the fairness of the verdict and the sentence. The CSVR researchers decided not to include some of these types of question as we anticipated that many of our interviewees would not as yet have given evidence.<sup>8</sup> A further concern was the length of the questionnaire. A number of other possible questions were excluded so as to limit the interview to a maximum of half an hour.

### 3. The Sample

The survey was conducted in the hallways and waiting areas of the three courts. People waiting in these areas were approached by the fieldworkers and asked if they would be available to answer the questions. Respondents were randomly selected, and the times of interviews were staggered throughout the day.

The total number of persons interviewed was 456. Of these, 157 (35%) indicated that they were the victim of the offence, 71 (16%) were other prosecution witnesses, and 221 (49%) that they were defence witnesses. Expert witnesses or public officials such as police officers or state social workers were not interviewed.

This report is intended as an exploratory witness satisfaction survey not intended as an evaluation of the individual courts. The names of the courts are therefore not provided. Instead, the letters A, B and C have been assigned to the three courts. Overall, the greatest proportion of respondents (43%), were interviewed at Court A. One in three respondents were interviewed at Court B and one in five came from Court C (Table 1). The breakdown of interviews conducted at these three courts was representative of the proportional volume of cases heard in each.

**Table 1: Distribution of respondents by court**

Court	Frequency	%
Court A	194	43
Court B	160	36
Court C	95	21
<b>Total</b>	<b>449</b>	<b>100</b>

### 4. Profile of respondents

Of the 456 respondents, 386 (85%) were 'African', 34 (7%) 'Coloured', 22 (5%) White, 12 (3%) 'Indian' and 1 'Other'.

Overall 274 men (61%), and 173 women (39%) were interviewed. The greatest proportion of respondents was defence witnesses, accounting for nearly one in two respondents (Table 2).<sup>9</sup>

**Table 2: Gender of persons interviewed**

	Victim/injured party	Other prosecution witness	Defence witness	Total
Male	87	43	144	274
Female	70	28	75	173
<b>Total</b>	<b>157</b>	<b>71</b>	<b>219</b>	<b>447</b>

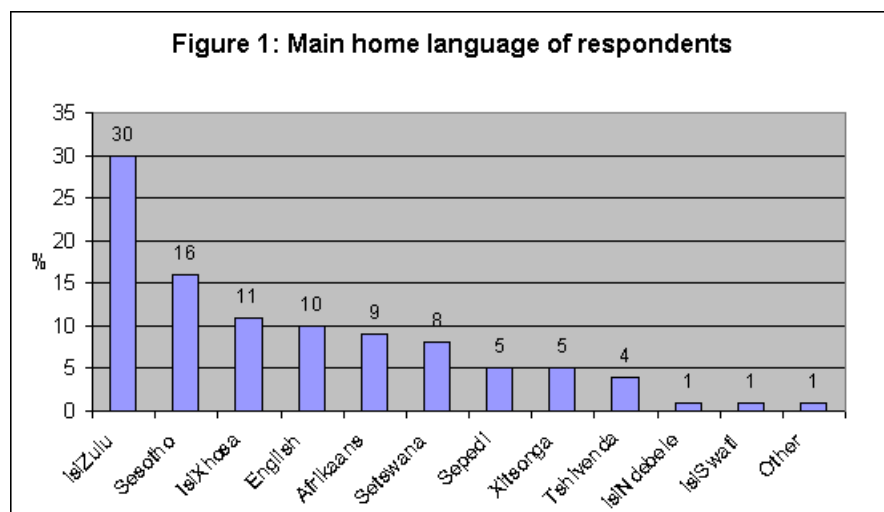
<b>Male</b>	<b>32%</b>	<b>16%</b>	<b>53%</b>	<b>61%</b>
Female	41%	16%	53%	61%
<b>Total</b>	<b>35%</b>	<b>16%</b>	<b>49%</b>	<b>100%</b>

In terms of age, 63% of respondents were 34 years or younger. Twenty-nine respondents (6%) were younger than 18 years. There were only two respondents over 64 years of age (Table 3).

**Table 3: Age of respondents**

	Frequency	%
Less than 18	29	6
18-24	91	20
25-34	167	37
35-44	109	24
45-54	45	10
55-64	13	3
65-74	1	<1
75 and older	1	<1
<b>Total</b>	<b>456</b>	<b>100</b>

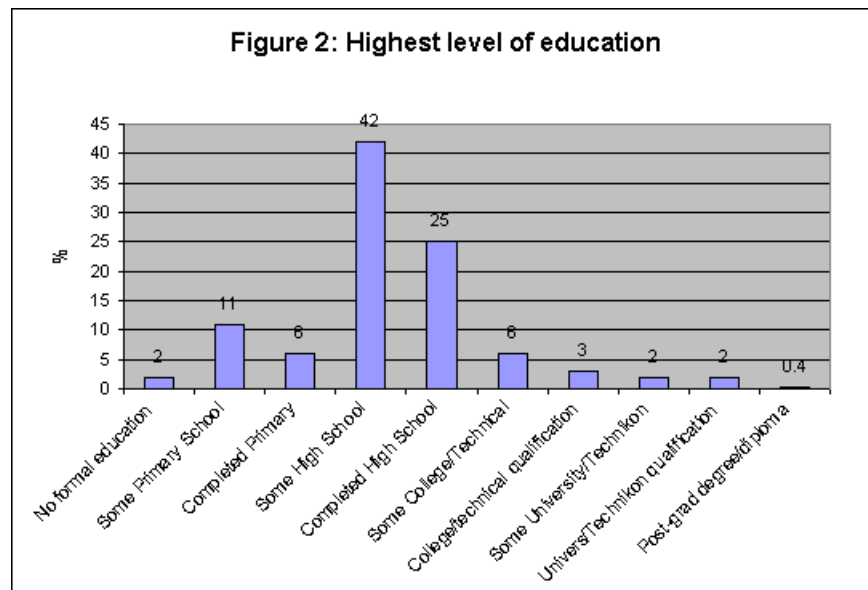
The breakdown of respondents in relation to the question, 'What language do you primarily speak at home?' is given in Figure 1. Slightly less than one in three respondents said their main home language was isiZulu, while slightly more than one in six said their main home language was Sesotho. Responses here reflect the high level of heterogeneity of Gauteng's population which, more so than other provinces, serves as a 'melting pot' of South African, and other, language groups.



Seventy eight percent of respondents said they reside permanently in Gauteng, while one in five (21%) said they lived in one of the other provinces. Only 1% said they were from outside South Africa.

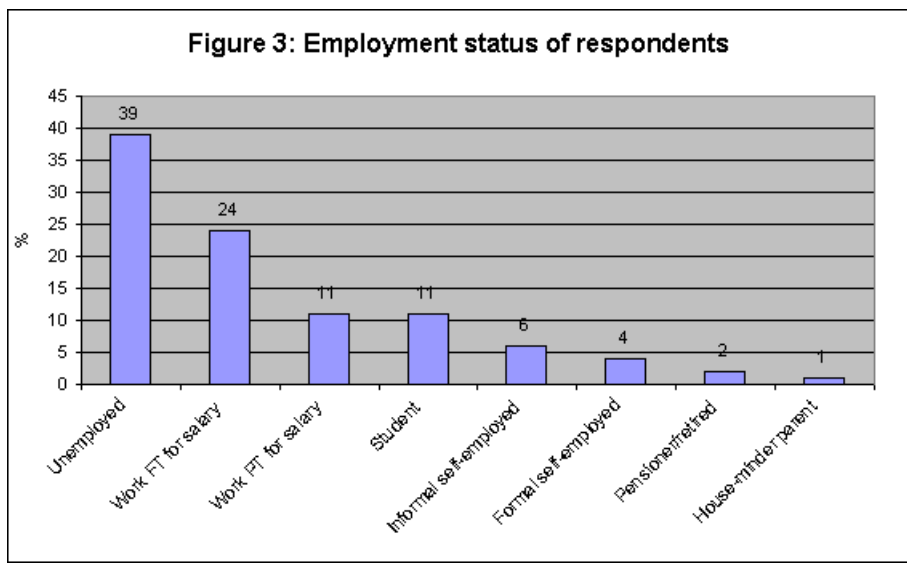
Two in three respondents had at least some high school education, or had completed high school. Only two percent of respondents had not received any formal education, while approximately 12% had some tertiary education or held a college or university/technikon qualification (Figure 2).

This indicates that respondents had a similar educational profile with the adult population of Gauteng province, according to the 2001 Census results. According to the Census, of those aged 20 years and older, 62% of Gauteng province respondents had some secondary education, or had completed high school, while 13% had some post high school exposure or qualification. However the sample of witnesses in this survey is not directly comparable to that reflected in Census data on those 20 years and older, partly as somewhere in the region of 10% of respondents to the survey were less than 20 years of age ([see Table 3 above](#)) (Statistics South Africa, 2003).



Nearly four in ten respondents (39%) said they were unemployed, while one in three were working either full-time, or part-time for a salary. One in sixteen were working in the informal economy, and one in twenty five were self-employed in the formal sector (Figure 3).

These figures are congruent with the 2001 Census data. Within Gauteng census figures reflect an unemployment rate<sup>10</sup> of 36%, while for the country as a whole, the unemployment rate is pegged at 42%.



In relation to the question 'How long have you been at court today, the majority of respondents (51%) said they had been in court for one to four hours. Thirty eight percent said they had been in court for an hour or less, while the remaining 11% said they had been in court for four hours or more. This reflects the time at which respondents were interviewed and does not necessarily indicate how much time the average witness waits at court when they attend court (on questions of time spent at court see the data in [Section 7](#)).

The types of offences that were the subject matter of the cases in relation to which respondents were appearing as witnesses in court are reflected in [Table 25](#).

**5. Results of the Survey Part 1 — Support, Information, Facilities and Response to Complaints**

*Support received*

In response to a question on whether anyone had offered them support 'as a witness or victim' 341 respondents (75%) said that they had been offered support. As outlined in Table 4 below, family and/or friends were the most likely source of support for witnesses, accounting for nearly two in three cases. A victim/witness support service was least likely to be the main source of support.

**Table 4: Main person who offered support**

	Frequency	%
Family/friends	218	64
Prosecution/lawyers	52	15
Police	46	14
Other	14	4
Victim/witness support services	10	3

Do not know	1	0
<b>Total</b>	<b>341</b>	<b>100</b>

Table 5 illustrates witness responses in relation to who accompanied them to court. By comparison with the 75% of witnesses who had been offered support, 294 (66%) indicated that someone had accompanied them to court to support them or ensure that they were safe. Witnesses or victims were most likely to be accompanied to court by a family member or a friend, with 90% of all responses being from respondents who were accompanied by people in one of these two groups.

**Table 5: Who accompanied you to the court today?**

	Frequency	%
Family member	203	69
Friend	62	21
Person from victim/witness support service	6	2
Police	6	2
Other victims or witness	4	1
Other	13	4
<b>Total</b>	<b>294</b>	<b>100</b>

As reflected in Table 6, 86% of minors said that they had been accompanied to court. The same percentage of male and female witnesses was accompanied to court by someone.

**Table 6: Profile of those who were accompanied to court**

Did anyone accompany you to court for support or to ensure your safety?	%
Witness type	Yes
Victim/injured party	68
Other prosecution witness	73
Defence witness	61
<b>All respondents</b>	<b>66</b>
Race group	Yes
African	67
White	41
Indian	50
Coloured	68

Other	100
<b>All respondents</b>	<b>66</b>
<b>Age category</b>	<b>Yes</b>
Less than 18	86
18-24	73
25-34	64
35-44	58
45-54	59
55-64	77
65-74	100
75 and older	100
<b>All respondents</b>	<b>66</b>
<b>Sex</b>	<b>Yes</b>
Male	65
Female	66
<b>All respondents</b>	<b>66</b>

*Provision of information to witnesses*

Witnesses were asked a series of questions about the information they had received regarding attendance at court (see Table 7). On average 31% of witnesses had received information on these questions with the highest percentage (91%) having received information on what time they would need to arrive at court and 44% having received directions to the court. Respondents were least likely to have received information on:

- What they would need to bring to court (19% had received information).
- What would happen in court (16% had received information);
- How much time would be involved in being a witness in court (13% had received information); and
- How long they would need to wait at court before being called to give evidence (6% had received information).

**Table 7: Information provided to witnesses**

Were you given any information about any of the following?	Yes	No	% yes
What time you needed to arrive at court	413	43	91
Directions to the court	199	257	44

What to do when you arrived at court	120	336	26
What you needed to bring with you to court	85	371	19
What would happen in court	72	384	16
How much time would be involved in being a witness in court	57	399	13
How long you would need to wait at court before being called to give evidence	26	430	6
<b>Average (Mean)</b>	<b>139</b>	<b>317</b>	<b>30</b>

Respondents were also asked whether they thought that the information provided was sufficient. Of the 30% of witnesses who said they had received information on each of these topics, most (71%), said they had received sufficient information.

Respondents who had received information, were most likely to say that the information was insufficient regarding:

- How much time would be involved in being a witness in court (44% said the information was insufficient);
- How long to wait in court before being called to give evidence (36% said the information was insufficient);
- What would happen in court (30% said the information was insufficient);
- What to do when they arrived at court (22% said the information was insufficient).

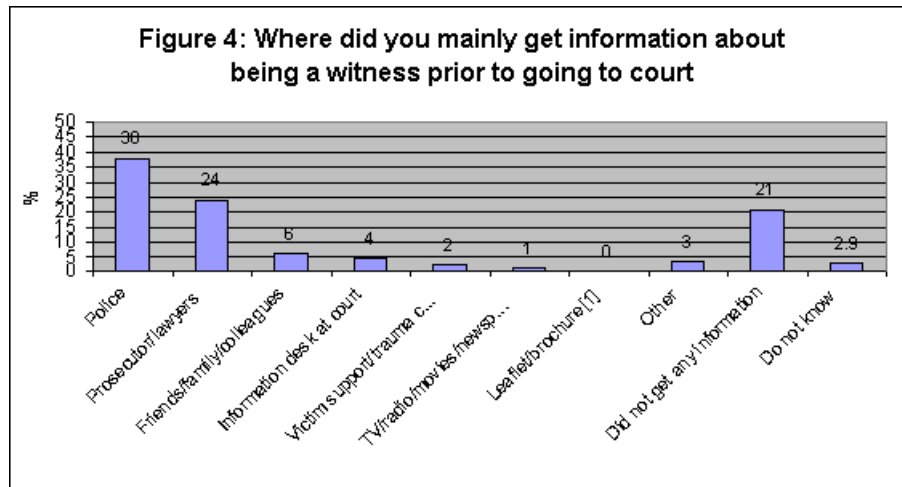
**Table 8: Whether information received by respondents was sufficient**

Were you given any information About any of the following?	Yes	How much information			
		Enough	Not enough	Don't know	Total
How much time would be involved In being a witness in court	57	56%	44%		100%
What you needed to bring with You to court	85	79%	18%	4%	100%
What time you needed to arrive at Court	413	87%	12%	1%	100%
Directions to the court	199	82%	17%	1%	100%
What to do when you arrived at Court	120	74%	22%	4%	100%
What would happen in court	72	64%	30%	6%	100%
How long to wait at court before Being called to give evidence	26	56%	36%	8%	100%



<b>Average (Mean)</b>	<b>139</b>	<b>71%</b>	<b>26%</b>	<b>3%</b>	<b>100%</b>
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Where witnesses received information prior to going to court, they were most likely to have received this information from the police (38%), or a prosecutor/lawyer (24%). Least likely sources of information were a leaflet/brochure (.2%), or TV, radio or newspaper (1%). One in five witnesses said they had not received any information before going to court (Figure 4).



Seventy one percent of witnesses said that they knew where to go when they arrived at court. Responses to the question 'If you have any questions, where is the main place that you can go at this court to have your questions answered?' are reflected in Table 9. Altogether, 305 respondents (67%) identified a specific place where they could go, or person they could ask about their query. This was most frequently identified as the information desk with prosecutors or lawyers and police also mentioned a significant number of times. However, nearly one in five respondents said they did not know where to go to have their questions answered.

**Table 9: If you have any questions, where is the main place that you can go to at this court to have your questions answered?**

	Frequency	%
Information desk	125	27
Prosecutor or lawyers	67	15
There is nowhere to go	66	14
Police	50	11
Ask people who are walking around	35	8
Court staff in general	28	6
Other	3	1
Do not know	82	18

<b>Total</b>	<b>456</b>	<b>100</b>
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Of people who had actually approached one of the above people to have their question answered, 196 managed to get their question answered while 29 could not find the person in question.

Table 10 gives the response of the 196 people who managed to get their question answered in relation to how the responding person dealt with their question. The overwhelming majority (82%) indicated that their questions had been answered properly and politely, with only 3% indicating that the person had answered neither properly nor politely. Answers to this question therefore differed quite dramatically from the data on complaints ([see Table 15](#)), where the majority of respondents (34 out of 64) indicated that that they were not satisfied with how their complaints were responded to.

**Table 10: Did the people who you asked, answer your question properly in a polite manner?**

	Frequency	%
Answered question properly and were polite	161	82
Answered question properly but were not polite	17	9
Were polite but could not answer question properly	12	6
Were not polite and could not answer question properly	6	3
<b>Total</b>	<b>196</b>	<b>100</b>

*Information regarding witness fees*

As reflected in Table 11 only 24 (5%) of witnesses indicated that they had been informed that they could claim expenses for attending court. Twenty (4%) said they had been given a claim form to claim expenses for attending court.

**Table 11: Witnesses informed that they could claim expenses for attending court.**

	Frequency	%
Yes	24	5
No	430	94
Do not know	2	<1
<b>Total</b>	<b>456</b>	<b>100</b>

*Notice to attend court*

When asked who had subpoenaed, instructed or requested them to attend court, witnesses confirmed that it had variously been the police, prosecutor or lawyer for the defence or that 'the magistrate ordered me to come at the last hearing'. Responses to a question about when witnesses were given the actual court date are reflected in Table 12. Roughly two-thirds had

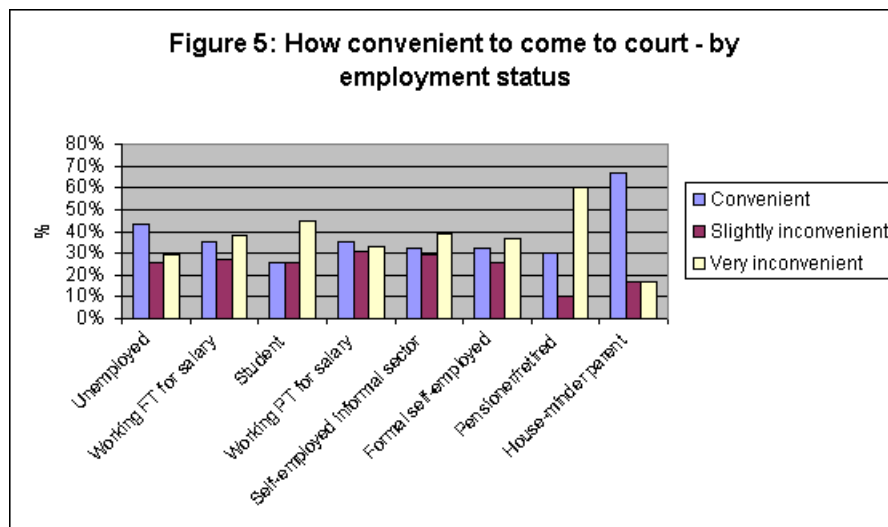
been informed four or more days prior to the court case, while a third had been informed less than four days previously. Sixty-six respondents (14%) indicated that they had been informed the previous day with 18 of these indicating that this had been after 6 pm the previous evening. In Court C, 60% of respondents were only informed about the date of their court case two to three days before appearing at court. This applied to only 39% of those from Court A, and 23% of those from Court B.

**Table 12: When informed of date of court case (by court type)**

	Court A %	Court B %	Court C %	Total %
After 6 pm yesterday	3	1	11	4
Yesterday before 6 pm	11	4	19	10
Two or three days ago	15	18	30	19
Four days to a week ago	17	13	8	13
One week to a month before	35	30	21	30
Over a month before	19	34	12	23
Do not know	1			
<b>Total</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>

When asked how convenient it had been for them to attend court on that day, roughly two-thirds of witnesses indicated that it had been very inconvenient (35%), or slightly inconvenient (27%). The remainder (37%) said that it had been convenient.

Employment status did not have a major impact on whether they said it was convenient or not for them to attend court on that day (see Figure 5). Unemployed people, and most of the small number of full time house-minder parents, were slightly more likely to say that it had been convenient. Most of the small number of pensioners interviewed, and 45% of students said it had been very inconvenient.



### Facilities

Witnesses were asked how they would rate the quality of various facilities (see Table 13). Of the 71% of respondents who expressed opinions on these questions, one in three (32%) rated facilities as poor or very poor, while on average 23% rated facilities as adequate. Only 16% rated facilities as good or very good. Almost 50% (159 out of 325) of those who expressed an opinion about public toilets at the courts, rated these as very poor. A high percentage of witnesses (43%) responded that they had not used facilities providing refreshments.

**Table 13: The quality of facilities**

	Public Toilets		Waiting Areas		Availability of Refreshments		Average
	Frequency	%	Frequency	%	Frequency	%	%
Very good	23	5	15	3	11	2	4
Good	52	11	77	17	41	9	12
Adequate	91	20	131	29	96	21	23
Poor	99	22	89	20	38	8	17
Very Poor	60	13	75	16	75	16	15
Have not used/ don't know	131	29	69	15	195	43	29
<b>Total</b>	<b>456</b>	<b>100</b>	<b>456</b>	<b>100</b>	<b>456</b>	<b>100*</b>	

\* Total is actually less than 100 due to rounding.

### *Provision for the disabled*

Twenty one witnesses (5%) indicated that they had a disability or infirmity that affected their mobility. Table 14 indicates that the vast majority of these people (81%) indicated that facilities for mobility disabled people were inadequate.

**Table 14: Are there adequate facilities for people who have difficulties with mobility?**

	Frequency	%
Yes	4	19
No	17	81
<b>Total</b>	<b>21</b>	<b>100</b>

### *Handling of complaints*

Respondents were asked if they had any complaints about any aspect of the court process. Of the 181 witnesses who indicated that they had a complaint, 64 (35%) indicated that they had spoken to someone about their complaint. Only half of those had spoken to a state official, with the other half making these complaints to advocates or lawyers, their own friends or family members, or to other witnesses. Relatively few (11 people) indicated that they had spoken to justice department personnel such as the magistrate, prosecutor or other court official. Persons making complaints to state officials were most likely to make these complaints to police members (Table 15).

The majority of people who complained, were not satisfied with the response which they received to their complaints, though they tended to be more satisfied with the responses given by friends or family members, than with the responses of officials. They were particularly dissatisfied with responses from lawyers and advocates. Of the 31 witnesses who indicated that they made a complaint to a state official, only twelve(39%) were satisfied with the response. Respondents who were satisfied with the response of a family member, or other witnesses would perhaps primarily have been concerned to air their grievances, rather than being concerned with remedial steps.

Respondents were also asked about the content of their complaints or grievances in the interview. Details of their responses to this question are discussed in [Section 9](#).

**Table 15: Who did you speak to about this complaint? – Did you feel satisfied with how this person responded?**

Who did you speak to about this complaint?	Did you feel satisfied with how this person responded?		Total
	Yes	No	
Police	7	12	19
Advocate/lawyer	4	11	15

Family/friends	11	4	15
Prosecutor	3	3	6
Other court official	1	2	3
Magistrate	1	1	2
Other witness	2		2
Other	1	1	2
<b>Total</b>	<b>30</b>	<b>34</b>	<b>64</b>

### Discussion

One of the principal ways in which witnesses can derive support when attending court is through a person who accompanies them to court. Family member or friends often assist witnesses in this way but almost one third of witnesses, including victim-witnesses indicated that no one had accompanied them to court.

Another important way in which the attendance and participation of witnesses at court can be supported is by providing information related to attendance at court. Other than in relation to what time they needed to arrive at court, the majority of witnesses indicated that they had received no information regarding what would happen at court, how much time would be involved, or what they would need to bring to court. The Public Service Commission survey reached comparable conclusions. Over two thirds of respondents in their survey (68%) indicated that no one had explained to them the steps to be taken in the court process the first time they came to court. Similarly, 61% of users indicated that no one had explained to them what was expected of them during the court process (Public Service Commission, 2005:34-35). However, the 2001 National Prosecuting Authority (NPA) survey reached slightly different conclusions on this point, with 57% of witnesses indicating that the prosecutor had explained to them what was expected of them in court (Institute for Security Studies, 2001:20).

While a quarter of witnesses indicated that they were aware of an information desk where they could be assisted, the majority appeared unaware of such a facility. Some did think they could get assistance from prosecutors, lawyers or police, if they had any questions, though roughly 40% indicated that they did not know how to get their questions answered, that there was nowhere to go, or that they would just ask anyone.

On a positive note though, where respondents had asked for information they were generally pleased with the manner in which the question had been dealt with, with 82% of respondents indicating that the question was answered properly and politely. The Public Service Commission (PSC) survey reached similar conclusions with 84% of respondents saying both that they had been given the correct information and that this had been done in a polite manner (2005:27). In both surveys, 12% of respondents indicated that they had not received polite responses.

In addition to being able to assist witnesses with their queries, courts orientated to meeting the needs of the public should also be receptive to complaints, and where feasible, assist

people in resolving their problems. Information on complaints can also serve as a source of information for court managers on problems which witnesses are experiencing. However while 171 (38%) of witnesses indicated that they had complaints, few witnesses indicated that they had spoken to officials about these. Of those who had spoken to officials, a minority indicated that they were satisfied with the responses they had received.

The national Public Service Commission witness survey reached similar conclusions regarding complaints. Of the total of 1133 respondents, 417 (37%) indicated they had at some point felt dissatisfied with the service provided by officials or staff at the court. However of these only 63 (15% of those who had felt dissatisfied) said they had at some point lodged a complaint or reported the problem. Most complaints were lodged with the investigating officer, prosecutor, and to a lesser extent the court manager. Of these, 43% indicated that nothing had happened, and 28% that they were still waiting for an answer (2005: 44).

A further demotivating factor for witnesses may be the costs they incur as a result of attending court. While witness fees were not intended as a payment for witnesses, but merely served to reimburse them for costs incurred, where they are provided they also serve as a small acknowledgement of the contribution made by witnesses. However very few respondents in this survey indicated that they had been informed that they could claim expenses for attending court or been given a claim form for this purpose.

The 5% of witnesses indicating that they had been informed about witness fees is however substantially lower than in the PSC survey. Here, 35% indicated that they had been informed about witness fees. (Public Service Commission, 2005: SPSS data). Similarly, in the NPA survey, , 38% of respondents indicated that the prosecutor had informed them of the right to claim witness fees (Institute for Security Studies, 2001: 26). Nevertheless the bulk of evidence still suggests that most witnesses are not informed about the potential for them to claim such fees. While providing witness fees more consistently would add to the costs faced by the Department of Justice, this should still be seen as an important system for supporting the participation of witnesses in the criminal justice system.

The inconvenience of attending court for many witnesses, with roughly a third of respondents indicating that this was very inconvenient for them, is also a de-motivating factor in relation to participation in the criminal justice system. Being given short notice no doubt adds to this inconvenience. While the majority of respondents indicated that they had been informed about the need to attend court more than a week previously, roughly a third had only been informed within the last week, while a significant minority (14%) indicated that they had only been informed the previous day.

The quality of facilities would also have an important impact on the morale of witnesses particularly if they have to spend extended periods of time at court. However, roughly half of those who had used public toilets rated these as poor or very poor, while respondents' level of satisfaction with the quality of waiting areas was only slightly greater.

In relation to facilities, mobility disabled respondents also appeared particularly dissatisfied, with four out of every five saying that facilities for them were inadequate. The PSC survey made slightly better findings in this regard but nevertheless indicates that there is a significant problem with these types of facilities. For example, 14 out of 23 disabled

people said there were no toilets for people with mobility impairments; 10 out of 24 indicated that there were no ramps, and 16 out of 23 indicated that there were no lifts for them (Public Service Commission, 19).

**6. Results of the Survey Part 2 — Remands and Time Spent Waiting at Court**

*Time elapsed since alleged offence*

Witnesses were asked about the amount of time which had elapsed since the alleged offence had taken place. The majority of witnesses (55%) said that the offence had taken place within the last three months.<sup>11</sup> A substantial number (43%) however indicated that the offence had taken place more than three months ago (Table 16). While this data is merely an indication of the time which had elapsed from the date of the offence to when the interviews were conducted, it suggests that it is often a considerable amount of time before the date of the offence, to the eventual date on which witnesses are called to give evidence.

**Table 16: Time elapsed since alleged offence**

	Frequency	%
This month	64	14
1 to 3 months ago	189	41
4 to 9 months ago	89	20
10 to 15 months ago	75	16
16 to 21 months ago	19	4
More than 21 months ago	12	3
Do not know/refused to answer	7	2
<b>Total</b>	<b>455</b>	<b>100</b>

*Opportunity to refresh memory*

Witnesses were asked if they had been given a chance to read their statement in order to refresh their memories of the content of the statement. The full question read 'Have you been given a chance to read your statement today or on another day when you came to court? OR was the statement read to you today or on another day when you came to court?' As reflected in Table 17, 51% of witnesses said they had been given such an opportunity. This included 60% of defence witnesses, and 42% and 49% respectively of victims and other prosecution witnesses.

**Table 17: Have you been given a chance to read your statement today or on another day when you came to court? OR was the statement read to you today or on another day when you came to court?**

	Yes %	No %	Do not know/Other %	Total %



I'm a victim/injured party	42	58		100
I'm another prosecution witness	49	47	4%	100
I'm a defence witness	60	39	1%	100
<b>All respondents</b>	<b>51</b>	<b>48</b>	<b>1%</b>	<b>100</b>

*Waiting period before testimony*

The 143 witnesses who indicated that they had given evidence were asked how long they had waited at court before giving evidence on the day they testified. Forty of them (28%) indicated they had waited less than one hour, 50 (35%) indicated that they had waited up to two hours, 33 (23%) indicated that they had waited up to four hours, and 17 (12%) indicated they had waited longer than four hours. The same witnesses were also asked how long they thought was a reasonable time for a witness to wait before giving evidence (see Table 18). Over 90% of respondents said that witnesses should give evidence within two hours.

**Table 18: How long do you think it is reasonable to wait from the time a witness/victim arrives at court to the time they give evidence?**

	Frequency	%
As soon as the witness arrives	53	37
Within 1 hour	68	47
Within 2 hours	10	7
Within 4 hours	2	1
Longer than 4 hours	4	3
Wait as long as it takes	1	1
Do not know	6	4
<b>Total</b>	<b>144</b>	<b>100</b>

*Time wasted at court*

More than one in two witnesses (53%) indicated that there had been days on which they had come to court to testify but did not actually testify. The number of times on which they claimed this had happened are reflected in Table 19. The greatest proportion (24%) of respondents said they had come to court on two days to testify, but did not give evidence. In 5% of cases, respondents came to court to testify on seven or more days, but were not called to give evidence.

**Table 19: How many days were there when you came to court to testify before today, but did not actually testify?**

	Frequency	%
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1 day	57	23
2 days	60	24
3	42	17
4	31	13
5	12	5
6	16	7
7 - 10	8	3
11 or more	4	2
Do not know	13	6
<b>Total</b>	<b>243</b>	<b>100</b>

The same witnesses were also asked what was the longest they had to wait in court before being told they were not needed. Roughly a quarter (28%) of these witnesses indicated that they had not waited more than an hour before being told. However, almost half (49%) indicated that the longest they had to wait was more than two hours, with 36 (15%) indicating that the longest they had to wait was more than four hours (Table 20).

**Table 20: What was the longest you had to wait before you were told you were not needed that day?**

	Frequency	%
Told as soon as arrived	32	13
Up to 1 hour	37	15
More than 1 hour up to 2 hours	55	23
More than 2 hours up to 4 hours	70	29
More than 4 hours	36	15
Do not know	13	5
<b>Total</b>	<b>243</b>	<b>100</b>

### Discussion

Over recent years much has been made of the blockages and delays in the criminal justice process. Information in this survey only reflects the point at which witnesses were interviewed rather than the overall duration of each of the cases which they had been involved in. The majority of respondents in this survey indicated that the original alleged offence had occurred less than four months previously, though a minority of witnesses (23%) indicated that the offence concerned had taken place ten or more months previously.

In the light of the often extended duration of cases one issue which is of importance is whether witnesses are given the opportunity to read their statements. While 51% of

respondents indicated that they had been provided with such an opportunity, a similar percentage (48%) said that they had not.

It would be most helpful to the witness if they were given their statement to read on the day that they were supposed to give evidence. While suggesting that witnesses are not infrequently provided with their statements, the data here does not actually clarify to what extent this was done on the day the witness actually gave evidence.

It may be noted that the 2001 NPA survey came up with slightly different findings, with 64% of witnesses indicating that the prosecutor specifically had assisted them in going through their statements.

Related to the prolonged nature of many cases are two other problems experienced by witnesses. One of these is the amount of time they spend waiting at court and the other is the number of times they are called to court. Of the 456 witnesses interviewed, 141 (31%) indicated they had given evidence. Of these, roughly a third indicated that they had waited in court on the day on which they gave evidence for more than two hours.

About half (53%) of the witnesses interviewed indicated that there had been days where they had come to court to testify but not actually testified. Almost half (47%) of these witnesses indicated that this had happened on three or more days. A similar percentage (43%) indicated that on some of these days they had waited more than two hours before being told that they were not needed at court.

There are similar findings in the PSC survey. Of those who had testified, 31% said that they had waited in court for more than two hours on the day on which they had testified (2005:40). A third of respondents (36%) indicated that the case had been postponed three or more times. Respondents were also asked how long they had to wait at court from arrival until the case started on the first day on which they had come to court for this case. Here, 38% of respondents indicated that this had been more than two hours (2005:31).

In the NPA survey, 37% of respondents indicated that, on days on which the case had been postponed, they had had to wait an average of more than 2 hours before being informed about the postponement (Institute for Security Studies, 2001: 8)

## **7. Results of the Survey Part 3 — Intimidation**

When asked 'Has there been anything about being a witness/victim that has made you feel frightened or intimidated?' Twenty seven percent (120 out of 451) of respondents answered in the affirmative. Victims were relatively more likely to answer this question in the affirmative than other prosecution, or defence, witnesses (see Table 21). While defence witnesses were less likely to do so, one in five also gave a positive response to this question. A higher proportion of witnesses at court B also answered 'yes' to this question than at other courts. Female witnesses were also more likely to answer this question in the affirmative.

**Table 21: Has there been anything about being a witness that has made you feel intimidated?**

	Yes %	No or don't know %	Total %
<b>Witness type</b>			
Victim/injured party	36	64	100
Other prosecution witness	27	73	100
Defence witness	21	79	100
<b>All respondents</b>	27	73	100
<b>Court</b>			
Court A	20	80	100
Court B	38	62	100
Court C	23	77	100
<b>All respondents</b>	27	73	100
<b>Sex</b>			
Male	22	78	100%
Female	35	65	100%
<b>All respondents</b>	27	73	

When asked to classify the source of the intimidation, approximately three-quarters (86 out of 120) of those involved indicated that this originated from other people. A quarter (27 out of 120) indicated that the intimidation was related to the court process or environment. There was a small overlap between these categories with seven witnesses indicating that they were intimidated by both (Table 22).

**Table 22: Was this intimidation by an individual OR group OR the whole process OR the court environment?**

	Frequency	%
Yes by individual	59	50
Yes by group	20	16
Yes by individual and group	7	6
Yes by process/environment only	27	23
Yes by process/environment and group and individual	7	6
<b>Total</b>	<b>120</b>	<b>100*</b>

\* Total actually exceeds 100% due to rounding.

The individuals who indicated that they were intimidated by other people were asked which people they mainly felt intimidated by. A majority of respondents (61%) said they were intimidated by parties related to the defence (the defendant, the defendant's friends or family, defence witnesses or the lawyer). Much smaller proportions were intimidated by the victim, victim's friends or family or prosecution witnesses (total of 15%), or by officials such as police or magistrates (total of 12%).

When classified by type of witness (Table 23) it becomes apparent that victims accounted for nearly half (49%) of those who felt intimidated by other people. Looked at in relation to the overall sample this means that 29% of victims (45 out of 158), 20% of other prosecution witnesses (14 out of 71), and 15% of defence witnesses (33 out of 221) felt intimidated by other people.

Of those victims who said they felt intimidated by other people, 80% (36 of the 45) said they felt intimidated by parties related to the defence. Interestingly 36% (12 out of 33) of defence witnesses, who said they were intimidated by other people, said this was by the defendant.

**Table 23: What individual or group did you mainly feel intimidated by? (categorised by type of witness).**

	Victim/injured party	Other prosecution Witness	Defence witness	Total
Defendant	24	2	12	38
Family/friends of defendant	8	2		10
Police	1	1	5	6
Just general feeling	5	2		7
Victim		1	5	6
Defence witness(es)	4	2		6
Family/friends of victim			4	4
Prosecution witness	1		3	4
Judge/Magistrate	1	2	1	4
Lawyer		2	1	2
Other/Do not know	1		3	4
<b>Total</b>	<b>45</b>	<b>14</b>	<b>33</b>	<b>92</b>

Respondents were asked an open-ended question regarding what in particular made them feel frightened or intimidated. Respondents who indicated that their feeling of fear or intimidation was related to another person or group of people gave a wide variety of

responses.

- A small number of respondents indicated that they had been victims of attacks or attempted attacks sometimes on their way to court. This included one shooting.
- Some respondents indicated that they had been threatened with violence, in some cases to the effect that they or members of their families would be killed.
- A number indicated that there had been other actions by one of the parties to the case such as visiting their house, making remarks, or a person pointing, staring or laughing at them.
- A few respondents indicated that the cause of their feelings of intimidation was contact which they had with the accused at the ID parade or as a result of 'sitting in the same room as the accused'.
- A number of respondents indicated that their feeling of fear was based on concerns about what might happen as a result of their being witnesses rather than anything had happened. These included statements indicating a concern that family and friends of the accused would do something to them, or that their house would be burnt down. A couple of witnesses indicated that their concern was in relation to the fact that the accused or his/her associates had guns. Witnesses were also worried that the accused might be acquitted and victimise them after this.

Respondents who implied that their feeling of intimidation was related to the court environment or process said their fear was related either to the process of testifying or to a concern about the outcome of the case.

- A number of witnesses were frightened or intimidated by the court process or procedures and particularly the process of testifying. Among this group, the biggest worry was about being cross-examined. Others expressed fears in relation to appearing in court for the first time, the fact that the court process took place in public, or that their evidence/testimony might not be believed.
- There were also witnesses who were concerned about the possibility of imprisonment as a result of the case. Others were worried that their children would be jailed, or that their children would not be provided for if someone else (potentially a parent or guardian) was jailed. Some witnesses may have been concerned that they would implicate themselves. Some also indicated that they had been disturbed by seeing other people being sentenced.
- Some witnesses indicated that they found the whole experience of being at court intimidating.

Table 24 provides a rough estimate of the incidence of these concerns amongst those witnesses who indicated that they felt frightened or intimidated.

**Table 24: Main thing by which intimidated (Estimate)**

Source of intimidation	Estimate of relative incidence – as %
Potential danger	25
Threats – killing	14

Threats – violence	14
Other actions	13
Attacks or attempted attacks	5
Encounter with accused person	4
<b>Other people (sub total)</b>	<b>(75)</b>
Testifying	11
Outcome and jail	10
Whole experience	4
<b>Process and environment (sub total)</b>	<b>(25)</b>
<b>Total</b>	<b>100</b>

When data on persons who said they were intimidated by other people is examined in relation to the type of offence of the case for which the witness was attending court (Table 25), it becomes apparent that there is a positive correlation between offences of violence and intimidation. Overall, 62 of the 92 witnesses (67%) who said that they were intimidated by other people, were giving evidence in cases either of assault GBH, attempted murder, sexual offences, common assault or robbery.

Intimidated witnesses in cases of assault GBH or attempted murder (33%), sexual offences (30%) and common assault (29%) also represented a relatively high proportion of the overall number of witnesses appearing in cases involving these types of offences. By comparison, a smaller percentage (14%) of witnesses appearing in cases of robbery indicated that they felt intimidated by another person. This may be related to the fact that cases of robbery, though violent, are more likely to be 'stranger crimes' committed by a person who is not otherwise known by the victim. By contrast, cases of assault GBH, sexual offences and common assault are more frequently carried out by a person known to the victim.

This is consistent with research carried out elsewhere where witnesses in cases of violent crimes have been found to be more vulnerable to intimidation, particularly where perpetrators are known to them (see for instance Home Office, 1998).

**Table 25: Intimidated witnesses – type of case (offence) in which appearing**

	Total intimidated by other people	Total number of witnesses in cases involving this type of offence	% intimidated by person/group
Assault GBH or attempted murder	22	66	33
Sexual offence	12	40	31

Assault common	16	56	29
Theft or handling stolen goods	13	66	20
Robbery	12	88	14
Housebreaking	4	33	12
Malicious damage to property or arson	1	5	20
Traffic offence	1	5	20
Unlawful gathering	1	5	20
Drugs related offence	1	19	5
Fraud or forgery	1	19	5
Other/ Don't know/Refused to answer	8	52	15
<b>Total</b>	<b>86</b>	<b>422</b>	<b>20</b>

Witnesses who said they were intimidated by other people were asked how serious this intimidation was. Almost four out of every five described their fear or intimidation as extremely serious or very serious (Table 26).

Witnesses tended to describe the intimidation as extremely or very serious irrespective of whether they were victims, defence or prosecution witnesses, whether they were male or female, or whether they had testified or not. There was a slightly higher variation between different courts with witnesses at Court B (where higher levels of intimidation were also reported – [see Table 21](#)) being more likely than the other two courts to say that this was extremely serious or very serious.

**Table 26: How serious was intimidation by an individual or group?**

Levels of intimidation (by demographic type)	Extremely or very serious %	Fairly serious or not very serious %
<b>Witness type</b>		
Victim/injured party	75	25
Other prosecution witness	79	21
Defence witness	82	18
<b>Total</b>	<b>78</b>	<b>22</b>
<b>Sex</b>		



Male	75	25
Female	82	18
<b>Total</b>	<b>78</b>	<b>22</b>
Court		
Court A	69	31
Court B	84	16
Court C	73	27
<b>Total</b>	<b>78</b>	<b>22</b>
Testified or given evidence in this court case?		
Yes, I have testified	73	27
No, have not testified	80	20
<b>Total</b>	<b>78</b>	<b>22</b>

All of the witnesses who indicated that they felt frightened or intimidated were asked if they had told any official about this. One third of these witnesses (41 out of 120) said they had told an official with most of these indicating that they told the police or prosecutors. When asked whether they felt that the official had dealt with the issue effectively, the number who said yes, and who said no, was roughly the same (Table 27).

**Table 27: Did you feel that intimidation was dealt with effectively?**

	Frequency	%
Yes	18	44
No	19	46
Do not know	4	10
<b>Total</b>	<b>41</b>	<b>100</b>

#### **Discussion**

It is interesting to compare the findings on intimidation with those of other witness surveys. In the CSVR survey, 27% of witnesses indicated that they had felt intimidated. However the figure of 27% masks quite significant discrepancies between the three different courts with 38% of respondents at Court B complaining of feelings of intimidation, while at courts A and C this was 20% and 23% respectively.

These latter two figures resemble the overall findings of the PSC survey, where 22% of respondents felt intimidated at court at some stage during the case.

In the NPA survey, 12% of witnesses said they felt 'unsafe waiting inside or outside the court for their case' (Institute for Security Studies, 2001: 31). However the question asked in the NPA survey is narrower than the broad questions asked in the CSV and PSC surveys, and the results in the NPA survey should probably not be seen as directly comparable to the results in the other two surveys.

Despite the fact that the results of the CSV and PSC survey are in some ways comparable with regard to overall levels of intimidation, the two surveys provide quite different findings with regard to sources of intimidation. In the PSC survey these were identified as primarily the magistrate (33% of those who indicated that they had felt intimidated), and prosecutors (20%). Of parties related to the defence it was primarily the defence lawyers (18%) rather than the defendant (12%) and his or her family or friends (14%). The general court environment (22%) and language of the court (10%) also accounted for a significant proportion of respondents' feelings of intimidation.<sup>12</sup>

The CSV survey reached similar conclusions regarding the proportion of respondents who referred to the court environment as a source of intimidation. However, different findings were made in relation to the relative importance of other sources of intimidation. Unlike the PSC survey the CSV survey indicates that parties related to the defence are the source for most peoples' feelings of intimidation. According to the CSV survey, victims are disproportionately represented amongst those feeling intimidated, and are likely to indicate that they feel intimidated by parties related to the defence. Unlike the PSC survey, relatively few respondents to the CSV survey said they felt intimidated by officials.

The handful of surveys conducted thus far reflects a mixture of findings, particularly about the source of witnesses' feelings of intimidation. There is a need for further research to bring greater clarity to our understanding of this problem.

At the same time there is a clear indication that intimidation is a significant problem which, in addition to being related to threats to the safety of witnesses,<sup>13</sup> would invariably impact on the motivation of witnesses and their willingness and ability to assist the criminal justice process.

**8. Results of the Survey Part 4 — Overall Satisfaction, Sense of Being Appreciated and Willingness to be a Witness in Future**

When asked about their overall experience as witnesses the number of witnesses who described themselves as 'very' or 'fairly' satisfied' (218) was roughly the same as the number who described themselves as 'fairly' or 'very' dissatisfied (217). More than a quarter of witnesses (126) said they were very dissatisfied (Table 28).

**Table 28: In terms of your satisfaction/dissatisfaction, how would you rate your experience overall?**

	Frequency	%
Very satisfied	59	13
Fairly satisfied	159	35

Fairly dissatisfied	91	20
Very dissatisfied	126	28
Do not know	20	4
<b>Total</b>	<b>455</b>	<b>100</b>

There was little to distinguish between the three different groups of witnesses in terms of satisfaction levels (see Table 29). For instance the percentage of victims/injured parties who were fairly or very dissatisfied (50%) was only a few points higher than defence witnesses (48%) and other prosecution witnesses (45%) (Table 28).

**Table 29: Level of satisfaction with overall court experience (by witness type)**

	Very satisfied	Fairly satisfied	Fairly dissatisfied	Very dissatisfied	Do not know	Total
Victim/injured party	15%	30%	25%	25%	5%	100%
Other prosecution witness	11%	41%	19%	26%	3%	100%
Defence witness	12%	35%	17%	31%	5%	100%
<b>Total</b>	<b>13%</b>	<b>35%</b>	<b>20%</b>	<b>28%</b>	<b>5%</b>	<b>100%</b>

While witnesses did not demonstrate high levels of satisfaction with their court experience, a significant proportion said they felt that their contribution as a witness was appreciated by court officials, with the greatest proportion (38%) saying they felt 'appreciated to some extent', while one in four said they felt fully appreciated. Only 20% felt unappreciated, though a relatively high proportion of witnesses also indicated that they 'Do not know' in relation to this question (Table 30).

**Table 30: Do you feel that your contribution as a witness is appreciated by the officials you have met as a witness, or do you feel it is not appreciated?**

	Frequency	%
Fully appreciated	113	25
Appreciated to some extent	171	38
Unappreciated	91	20
Do not know	78	17
<b>Total</b>	<b>453</b>	<b>100</b>

Similar to the 63% of witnesses who said they felt appreciated, 60% indicated that they would be 'very' or 'fairly' willing to be a witness again in a criminal trial. However, nearly

50% of witnesses at Court C, and nearly 60% of 'other prosecution witnesses' said they would unwilling to be witnesses again in a criminal trial.

**Table 31: If you were asked to be a witness again in a criminal trial, how willing would you be to take part?**

	Very willing or fairly willing %	Not very willing or not at all willing %	Do not Know %	Total %
<b>Witness type</b>				
Victim/injured party	67	31	2	100
Other prosecution witness	38	58	4	100
Defence witness	63	33	4	100
<b>All respondents</b>	<b>60</b>	<b>36</b>	<b>4</b>	<b>100</b>
<b>Court</b>				
Court A	55	42	3	100
Court B	78	21	1	100
Court C	43	49	8	100
<b>All respondents</b>	<b>60</b>	<b>36</b>	<b>4</b>	<b>100</b>
<b>Sex</b>				
Male	61	36	3	100
Female	60	36	4	100
<b>All respondents</b>	<b>60</b>	<b>36</b>	<b>4</b>	<b>100</b>
<b>Involved in previous court case?</b>				
Yes, been involved in court case before	68	29	3	100
No, not been involved in court case before	53	43	4	100
<b>All respondents</b>	<b>60</b>	<b>36</b>	<b>4</b>	<b>100</b>

#### Discussion

Overall then, while respondents in this survey were evenly split between those who were very or fairly satisfied (48%) and those who were very or fairly dissatisfied (48%) with their experience at court, a relatively high percentage (63%) said that they either felt fully appreciated, or appreciated to some extent. Furthermore 60% of respondents indicated that they would be willing to be a witness again in a criminal trial in future.

Respondents in the Public Service Commission survey were also asked to describe their satisfaction with their overall court experience. Similarly, in the CSVr study 44% indicated that they were very satisfied or satisfied, although 25% indicated that they were dissatisfied or very dissatisfied, while 31% indicated that they were neither satisfied nor dissatisfied (2005:51).

However the PSC study also contained somewhat different findings. Using a scale incorporating responses to questions on satisfaction with the quality of information received, the number of times that their case had been postponed, the quality of waiting areas, interpretation services and court security, the report indicates that 76% of respondents were either somewhat satisfied or satisfied, while 24% were dissatisfied with the services received (2005:47).

By comparison the 2003 National Victims of Crime Survey found that of those, including victims and non-victims, who had attended court over the past three years 'the majority (70%) were happy with the overall service of the prosecutor or state/advocate dealing with the case. A similar percentage (71%) were happy with the magistrate or judge who presided over the case' ([Burton, et al, 2004](#), p. 90).

One way of looking at this range of findings is to distinguish between specific and general measures of satisfaction and dissatisfaction. Where more specific questions are used, (such as questions about satisfaction with the service provided by particular role-players, or in the specific questions which were combined in the scale used by the PSC), quite positive ratings tend to emerge. On the other hand the general questions used in the CSVr and PSC survey on the overall satisfaction of witnesses with the court experience, tend to provide evidence of much lower levels of satisfaction.

In relation to the National Victims of Crime Survey it should also be noted that respondents were often not witnesses, and therefore would not have needed to attend court if they did not wish to. By comparison, the relatively larger number who indicated their dissatisfaction in response to the CSVr survey were indicating their dissatisfaction with the experience overall and not necessarily with specific officials.

As in the CSVr survey, the PSC study also asked witnesses about their willingness to be a witness or pursue a case in court again. Here the percentage of respondents indicating a willingness to appear in court again was somewhat lower than in the CSVr study, with 39% indicating that they would be very or somewhat willing, and 56% indicating that they would be not very willing or not at all willing (2005:52).

The PSC Survey also asked respondents about their confidence that justice is administered fairly and equally and a number of other questions related to satisfaction with the administration of justice. Just under half of respondents (45%) felt positively about the fairness of the justice system, while almost one third (31%) indicated that they felt that justice was not fairly administered (2005: 50).

In addition, the PSC report puts forward a justice system satisfaction scale, based on respondents' level of confidence in the court system and whether their experience at court had increased or decreased their confidence in the justice system. It also examined their

satisfaction with the overall court experience, their perception of whether justice is administered fairly and equally, and their willingness to pursue a case again. Based on this scale, the report concludes that 17% of respondents were satisfied, 33% somewhat satisfied, and 50% dissatisfied with the justice system.

## 9. Results of the Survey Part 5 — Complaints and Recommendations

Near the beginning of the survey, respondents were asked if they had any complaint/s about any aspect of the court process. The 181 respondents (40%) who answered in the affirmative were then asked 'What is this complaint?' (Question 10). The responses to this question were recorded verbatim.

A second open-ended question was addressed to all respondents towards the end of the interview. Here respondents were asked

'What improvements, if any, could you suggest to make the experience of being a witness/victim in a court process better?' (Question 55)

Roughly 280 witnesses provided answers to this question. This open-ended question also appeared to serve as a vehicle for people to articulate their key grievances,<sup>14</sup> rather than posit solutions with only a handful of concrete suggestions being made.

Responses to these two questions therefore followed a similar pattern. Because of the similarities in the pattern of responses provided in these two questions, they are discussed together.

An overview of responses to questions 10 and 55 is reflected in Tables 32 and 33.

**Table 32: Categorisation of responses to questions on complaints (Q10)**

	Frequency	%
<b>Time &amp; inconvenience</b>	97	54
<b>Officials</b>	52	29
<b>Information, communication and assistance</b>	6	3
<b>Intimidation</b>	5	3
<b>Due Process</b>	8	4
<b>Money/transport</b>	7	4
<b>Other/unclear</b>	6	3
<b>Total</b>	<b>181</b>	<b>100</b>

**Table 33: Categorisation of responses to questions on recommendations (Question 55)**

	Frequency	%
<b>Time &amp; inconvenience</b>	156	47
<b>Officials</b>	51	15
<b>Facilities</b>	47	14
<b>Information, communication and assistance</b>	25	8
<b>Intimidation</b>	22	7
<b>Due Process</b>	16	5
<b>Money/transport</b>	4	1
<b>Food</b>	4	1
<b>Other/unclear</b>	8	2
<b>Total</b>	<b>333*</b>	<b>100</b>

\* Some of the 280 respondents who replied to this question gave more than one answer.

*Main issues raised by witnesses*

Overall it is clear that the biggest source of dissatisfaction among respondents is the amount of time they have to spend at court and the inconvenience resulting from this. This was mentioned as an issue by 54% of respondents in relation to Question 10 and by 47% in relation to Question 55.

Issues relating to the way in which respondents were dealt with by officials were the second biggest set of concerns mentioned by 29% of witnesses in relation to Question 10 and by 15% in relation to Question 55. The greatest dissatisfaction appears to be with police, interpreters and magistrates. Dissatisfaction with prosecutors generated only a relatively small number of complaints. Issues to do with 'hearing people out' and concerns regarding discrimination were also raised by respondents.

In response to Question 55 a number of respondents (14%) identified issues to do with the quality of facilities.<sup>15</sup>

Other issues which featured in responses to questions 10 and 55 included complaints or calls for improvements in relation to

- The information, communication and assistance provided to witnesses;
- Intimidation and fear;
- Due process;
- Money and/or transport;
- Food.

These issues are elaborated on in what follows. (Quantitative data from the survey on the

handling of complaints is also discussed in [Section 5](#)).

### *Time, remands and delays*

Respondents to Question 10 often referred to postponements or remands as the main reason for their dissatisfaction. The general issue of time wasted at court, which may refer both to repeated court attendance as a result of remands, and to the amount of time spent attending court, was also a major cause of dissatisfaction. Another cause for complaint was the long delays and the slowness of the entire process including the process of investigation. Related to these were complaints that courts started later than was necessary and of delays caused by magistrates, other officials, or lawyers. Some witnesses specifically mentioned the inconvenience of attending court when they were supposed to be at work, or, in a few cases, attending school.

In regard to recommendations, respondents gave particular emphasis to the need for better time keeping, including the need for courts to start punctually, and for magistrates to be on time. A number of respondents suggested that remands, or the overall duration of cases should be limited, or that the process should be speeded up requiring that officials work more efficiently.

Some suggested that there should be more court rooms, prosecutors, or magistrates, in order to better facilitate the process. Others suggested that there should be no waiting and that one should testify immediately on arriving at court, or that if one was told to come to court one should definitely testify on that day. A number of people also emphasised that witnesses should be informed in advance, or at the very least as early as possible, if cases were going to be remanded. Other specific suggestions from individuals orientated towards the efficiency of the process; the timely appointment of lawyers; shorter lunch-breaks and a special court for remands.

Further data from the survey on issues of time spent at court is discussed in [Section 6](#).

### *Officials*

In Section 5 ([see Table 10](#)) this report indicates that a high percentage of respondents felt that they had been treated politely by officials when they had asked for information. Similar findings were also made in the PSC survey. Nevertheless there were several complaints about officials. Some of these were of a general nature and did not mention specific categories of officials. Respondents to Question 10 who complained directly about specific categories of officials, complained most about police, as well as about magistrates and interpreters (Table 34):

- Complaints regarding police ranged from alleged bribery, corruption and dishonesty, or rude or bad treatment, to concerns that witnesses had not been consulted by them; that all witnesses had not been called; or that a docket had been lost.
- Complaints regarding magistrates related to perceived unfairness and that they did not give witnesses enough time to explain themselves. A few people complained about the audibility of proceedings, with one specifically complaining that this was because the magistrates didn't stop prisoners from making a noise. There was one complaint that a magistrate was racist and biased.



- Some complained that interpretation was inaccurate while others complained that interpreters were rude or slow, or that the prosecutors didn't give them enough time to interpret properly.
- The handful of complaints regarding prosecutors related variously to the prosecutor not listening to the witness, being rude, not giving the witness a chance to read a statement, or to discontinuity due to the prosecutor being replaced during the course of the trial.

**Table 34: Breakdown of complaints on officials (Q10)**

	Frequency	%
• Police	16	9
• Interpreters	12	7
• Magistrates	12	7
• Prosecutors	4	2
• Officials general	8	4
<b>Officials sub total</b>	<b>(52)</b>	<b>(29)</b>
<b>Other complaints (Table 32)</b>	<b>129</b>	<b>71</b>
<b>Total</b>	<b>181</b>	<b>100</b>

Respondents' recommendations relating to officials focused particularly on the police and interpreters as well as on concerns relating to 'hearing people out' and race and gender issues (Table 35):

- In relation to police, recommendations included that police should be polite and have better attitudes and manners and that police corruption should be dealt with.
- In relation to interpreters, recommendations emphasised that they should be properly qualified and interpret properly, while a few respondents referred to the need for interpretation for specific groups (Venda speaking; the deaf);
- Concerns regarding 'hearing people out' related variously to prosecutors, interpreters and magistrates. These included concerns that testifiers should not be rushed and that they should be given time to explain themselves. A few respondents objected to being interrupted or cross-questioned. These are issues that go to the heart of the accusatorial process.
- Recommendations regarding race and gender included general recommendations that there should be no discrimination; that blacks and whites must work together; that there should be race and gender balance at court, or that there should be white and black magistrates in all cases and that there shouldn't be one magistrate dealing with the case.
- Regarding magistrates, recommendations were that they should treat people more politely.
- Regarding prosecutors, recommendations were variously that they should prepare their cases properly, allow victims to drop charges, or stop asking for alleged bribes to dismiss cases.

**Table 35: Breakdown of recommendations on officials (Question 55)**

	Frequency	%
• Police	10	3%
• Interpreters	10	3%
• Magistrates	3	1%
• Prosecutors	4	1%
• Officials general	5	2%
• Lawyers	3	1%
• Hearing people out	9	3%
• Race and gender	7	2%
<b>Officials sub-total</b>	<b>(51)</b>	<b>(16%)</b>
<b>Other recommendations (Table 33)</b>	<b>282</b>	<b>84</b>
<b>Total</b>	<b>333*</b>	<b>100</b>

\* Some of the 280 respondents who replied to this question gave more than one answer.

### *Facilities*

The quality of facilities did not feature as a significant issue in responses to Question 10. However in relation to Question 55, 14 percent of responses included recommendations for improvements in facilities.

- More than half of the recommendations calling for improved facilities suggested that there should be more waiting rooms or areas, or that these should be more comfortable. Additional suggestions were that these areas should be cleaner, or should be heated.
- A number of respondents wanted cleaner, or more toilets, while others said there should be more water taps.

Some of the recommendations regarding intimidation (see below) also brought up the issue of improvements to facilities.

Data from the survey on witness's views regarding facilities are also discussed above in [Section 5](#).

### *Information, communication and assistance*

In addition to complaints relating to the manner in which officials communicated (see above) there were also other complaints that the witness had not been informed that the accused had received bail; had not been provided with an explanation about why the accused had been released or why the case had been withdrawn; and that courtrooms were

hard to find.

General recommendations included requests for better information and specific recommendations for information on:

- where to get information;
- the time that people would have to spend on the case;
- court procedures;
- what to do and where to go; and
- court rulings.

Other recommendations were for a public address system to call people to court; for court attendants or guides or for people to be employed to escort witnesses; for information rooms; and for more signs on where to go.

Further data from the survey on issues of information, communication and assistance, are also discussed in [Section 5](#).

#### ***Intimidation***

As discussed in [Section 7](#) a quarter (27%) of witnesses indicated that they had felt frightened or intimidated due to being a witness. Issues related to fear, intimidation, threats or the fact that the witness did not feel safe, were however only raised by a small percentage of those respondents who indicated that they had complaints (3%).

A slightly larger percentage (7%) of recommendations related to addressing fear and intimidation. Most of these were recommendations for better protection of witnesses. A particular recommendation was for proper and separate waiting rooms for witnesses, (also mentioned in relation to 'facilities' above).

#### ***Due process***

Complaints here related variously to the nature of charges, that the person had been arrested and detained without explanation, that the sentence or fine had been unfair, that the court focused on the accused rather than the witness, and that the system favoured those who are represented. A number of recommendations were made for greater fairness in the way people were treated.

#### ***Money/transport***

Complaints here mostly concerned the costs involved in travelling to court, or that people didn't have the money to do this. This was often related to the number of times they had to come to court. Recommendations were that money should be provided for transport or that transport should be provided.

#### ***Food***

In response to Question 55 a couple of people complained about getting hungry and one complained about food not being allowed in court.

## Discussion

Respondents to the Public Service Commission survey were also asked an open-ended question on areas for improvement. The PSC report groups the 2544 responses<sup>16</sup> received into 25 sub-categories (2005:58). In this discussion the issues identified in these 25 sub-categories have been re-categorised to match the categorisation in the discussion of responses to questions 10 and 55 above.<sup>17</sup> This shows that there is a high degree of similarity between the ranking of issues in each of the reports, though there are some differences.

While the issue of facilities was only the third most frequently mentioned issue by respondents to the CSVr survey, respondents to the PSC survey appear to have seen various issues related to facilities as overall the most important. These included 202 referring to the need for waiting rooms; court maintenance (renovations, cleanliness, lighting, sound) (168); facilities to purchase food and get drinking water (166); access to and cleanliness of public toilets (143); benches (66); facilities for children (34); consultation rooms for privacy (22); and, facilities for disabled people (13).

In the CSVr survey, the issue of remands and time spent at court was overwhelmingly the most important. In the PSC report this issue was relegated to second place, though the overall number of responses (785) was very close to the overall number concerning facilities (814). The sub-category which elicited the greatest number of responses of the 25 listed in the PSC report was 'reduce the number of remands' with 315 respondents identifying this as a priority for improvement. Additional issues mentioned here were: shorten waiting periods – start at time on summons (249 respondents); investigate cases thoroughly to decrease postponements (92); more qualified staff to deal with cases more quickly (78); and build more court rooms so cases dealt with quickly (51).

Concerns relating to officials which were ranked second highest in the CSVr survey may be ranked third according to the responses (277) to the PSC survey. They include: dignity, respect and equal treatment for all people (191); reduce noise and movement of people while court in session (assuming that this reflects a failure of court officials to uphold proper standards in the court rooms) (31); improve interpretation services (31); and, reduce bribery/rotate personnel (24).

Issues which might be grouped together as relating to the provision of information to witnesses, and receipt of information from them, were referred to 268 times. These included suggested improvements relating to: access to information/pamphlets on rights and court process/Information desk (148); clearly marked signs to know where to go (43); an improved complaints process (suggestions boxes, take complaints seriously) (40); and advanced notices to attend court (37). As in the CSVr survey where these issues were ranked fourth, they can be ranked a fourth (though close to 'officials' in 3rd place) in the PSC survey.

As in the CSVr survey, issues of intimidation may also be ranked 5th in the hierarchy of issues raised in the PSC survey, with 246 respondents referring to the need for safety for court users. (Many of the 202 suggestions regarding waiting rooms, listed under facilities above, might also have been motivated by concerns about safety).

As with the CSVN survey, issues of justice and due process, including concerns identified as 'fair justice for all' (68) and concerns relating to the access of suspects to bail and aspects of sentencing (36), may be ranked sixth amongst the concerns of witnesses.

And similarly to the CSVN survey, issues of money and transport were ranked seventh in the PSC survey with 50 respondents referring to 'payment of witness fees/cannot afford transport'.

A couple of respondents to the CSVN survey also mentioned concerns regarding food when asked for their recommendations. While the number is very small it is worthwhile to note 166 respondents to the PSC survey who suggested improvements in facilities to purchase food and get drinking water (these are referred to in the paragraph relating to facilities above). This may also be linked to concerns regarding information provided to witnesses and whether witnesses are informed that they may have to wait a long time at court, and what (including food) they should bring with them. Where witnesses are hungry, perhaps after waiting a long time at court, this may also impact on the quality of their mental functioning, and thus their evidence.

## **10. Conclusions and recommendations**

### *Extending the use of witness surveys*

This survey is based on a concern about the effective use of witness evidence in the criminal justice system. Underpinning this concern is a belief that witnesses should be supported in participating in the criminal justice system, not only because they have needs and concerns, but because this will serve the cause of improving the effectiveness and efficiency of the criminal justice system in its task of bringing offenders to justice.

Witness surveys use witness responses and hence the perceptions of witnesses themselves, as an indicator of how witnesses experience the criminal justice system, and therefore as a means of evaluating how well the criminal justice system is doing in meeting their needs.

Rather than being merely a survey of service recipients, a survey of witnesses may be compared with an assessment of the use of forensic evidence, or other factors relevant to understanding the challenges to police and prosecutors in solving crimes and prosecuting suspected offenders.

Witness surveys are a special class of 'public satisfaction survey'. Surveys of witnesses do not only tell us about government's effectiveness in serving its clients, but are a tool for understanding the obstacles to the criminal justice system in achieving justice by means of crime investigation and prosecution.

The way in which witnesses experience their interactions with the criminal justice system is also an indicator of public trust and willingness to cooperate with the criminal justice system. For instance the view that the process of justice is cumbersome and slow, and not friendly to victims and witnesses, feeds into public impatience and dissatisfaction with the criminal justice system, and the tendency to resolve problems outside the criminal justice system, whether this is through vigilantism, or other means.

The way in which the criminal justice system works with witnesses may also undermine the ability and motivation of witnesses to assist the criminal justice system. For instance, lengthy delays in court cases, or a neglect to provide the witness with a chance to read his or her statement before appearing in court, may have an impact on the ability of the witness to clearly remember the incident in question. This undermines the quality of the evidence the witness is able to provide.

Similarly, lengthy periods of time spent at court, uncomfortable waiting facilities, intimidation, or aggressive cross questioning may undermine the witnesses' motivation to participate in the court process.

The issues that are discussed in this survey point to problems in the criminal justice system likely to impact on both the quality of witness evidence and witness motivation. As indicated, this study is an exploratory one intended to demonstrate the potential usefulness of witness surveys.

The Department of Justice should consider carrying out surveys of this kind on a regular basis, in order to ensure that it is responsive to the concerns and perceptions of witnesses. Comparative data collected from these surveys over time may be used as an indicator of improvements in performance.

While the NPA has implemented a number of surveys of witnesses over the last few years it is preferable that these surveys be used to reflect witness perceptions of all role-players within the criminal justice system, rather than individual components. Survey questionnaires can be constructed to provide specific feedback on satisfaction with each of the different agencies and need not only provide witness views on the overall functioning of the criminal justice, or court system.

In addition to using a standardised set of questions, those implementing such surveys should give special attention to how to elicit the best sample of witnesses. If these surveys are conducted in court houses, interviewers should also take special care to ensure that interviews are conducted out of earshot of other court users so that respondents may answer the questions freely.

The Department may also wish to conduct more targeted surveys such as surveys of child witnesses, and of witnesses of sexual offences, though the ethical and methodological aspects of such surveys may be more complex.

### *Improvements to services*

This report discusses the findings emerging from a small-scale study conducted at three courts in Gauteng, and discusses these findings in relation to those of other surveys which have been conducted, most notably the recent PSC survey of court users.

Partly based on the emphasis given to it by respondents to the PSC survey, it would appear that improving waiting rooms and other court facilities, such as facilities for the disabled; the provision of drinking water; facilities for the purchase of food; and the cleanliness of toilets, should be regarded as a priority for the Department of Justice. Some of those who prioritise the issue of facilities may also be concerned with their own safety. Improving

facilities should also then be seen as directed towards addressing safety concerns.

Alongside this, the issue of remands and time spent at court is also a primary concern for witnesses. Not only is this likely to have a strong impact on witness motivation and morale, but on the quality of witness evidence. Long delays have a negative impact on the quality of witness evidence while being called to court, and spending long hours at court apparently unnecessarily, no doubt has a profound impact in undermining witness morale. As the Public Service Commission report indicates, witnesses not only have to make sacrifices in terms of the financial costs in travelling to and from court, but they also face the problem of negotiating this with their employer or taking leave. Additionally, some may lose income if they are self-employed, or may need to make arrangements in terms of childcare (2005:24).

Further concerns include:

- Ensuring that officials of the court and criminal justice system deal with witnesses in a polite, respectful and helpful way. This includes a range of officials including police, magistrates, interpreters, prosecutors, and other officials working for the court.
- Improving the provision of information to witnesses should also be regarded as a priority. This might involve the production of standardised witness information leaflets but will also require designated, and readily available, personnel at courts.
- The issue of witness intimidation. This involves dealing both with (i) the safety of witnesses who are or may be in danger; and (ii) individuals' perceptions that they are at risk. One type of measure which might help here is a volunteer service to accompany witnesses who are unaccompanied while they are at court.
- Ensuring not only that the justice process functions in a fair way, but that this is made apparent to witnesses.
- A final issue concerns compensation of witnesses for transport or other expenses incurred in attending court.

The recognition that there is further work to do in addressing these problems should not however be seen as in any suggesting that there has not already been an enormous amount of work done to improve the workings of the criminal justice system, and its sensitivity and responsiveness to victims and witnesses.

#### **Notes:**

<sup>1</sup> Other categories of witnesses, such as police officials, as well as expert witnesses, were excluded from this survey.

<sup>2</sup> Where the victim is related to or in some ways involved with or dependent on the perpetrator, sentences might also impose a negative burden on the victim.

<sup>3</sup> See for instance Bruce, Newham and Reddy (1999), [Bruce \(2000\)](#) and [Ntuli and Bruce \(2001\)](#).

<sup>4</sup> A summary of the report has apparently been included in a broad report covering the three

criminal justice departments, which has been presented to the three lead departments in the criminal justice cluster.

<sup>5</sup> In 2004 the NPA also conducted its own 'customer survey'. An MS PowerPoint presentation on the survey indicates that the NPA received responses from 4377 people on five questions. The report indicates that the responses received were overwhelmingly positive with 84% of responses having been favourable, and 11% unfavourable. However without having more detail about the data collection process it is difficult to evaluate the reliability of the findings and these are therefore not discussed in this report.

<sup>6</sup> Face-to-face interviews were conducted with roughly 25% of witnesses, including 'all witnesses aged 17 or under, witnesses to sexual offences, witnesses with learning difficulties and those for whom English was not the first language and who consequently had difficulty in understanding it' ([Angle et al, 2003](#), p. 5).

<sup>7</sup> Of 456 respondents 20 (4%) indicated that the verdict had been given and 4 (1%) that sentence had been given. Eighty-seven (19%) said that the trial had not started while 340 (75%) said that it had.

<sup>8</sup> Thirty two percent of respondents (143) said they had testified on the day of the interview or before that. Sixty eight percent (308) said they had not yet testified.

<sup>9</sup> It is possible that, for unknown reasons, defence witnesses are over-represented in this sample. For instance in the Public Service Commission survey defence witnesses constituted 25%, victims/complainants 51%, and other prosecution witnesses 24% (2005. p. 21).

<sup>10</sup> Unemployment rate is defined as the percentage unemployed of the economically active.

<sup>11</sup> One statistics which may be compared with this is that for the 46 district criminal courts where integrated case flow management centres have been established by the Department of Justice and Constitutional Development. Between July and September 2004 the percentage of cases on the court rolls for less than 60 days increased from 54.8 percent to 56.5% (National Treasury, 2005, 537).

<sup>12</sup> Respondents were allowed to select more than one option.

<sup>13</sup> Note that witnesses who feel frightened or intimidated are not always in danger objectively speaking. They might feel frightened of the accused for instance though the accused has no intention of harming them.

<sup>14</sup> A third open-ended question was also asked, and is discussed in the section dealing with intimidation.

<sup>15</sup> While this was not an issue mentioned in relation to Question 10 it elicited a similar number of responses to issues relating to officials in responses to Question 55.



<sup>16</sup> Many respondents would have given two or three suggestions in relation to this question.

<sup>17</sup> In other words the sub-categories are grouped differently in the PSC report to how they are grouped here.

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