



Witness considerations

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This revised advice has been produced and approved by the NABIS and the National Criminal Use of Firearms Group. It has been approved by NCOCC and VPP portfolio lead. The operational implementation of all guidance and strategy will require operational choices to be made at local level in order to achieve the appropriate police response and this document should be used in conjunction with other existing Authorised Professional Practice (APP) produced by the College of Policing. It will be updated and re-published as necessary.

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1. Witness considerations

Key points

- **Witnesses of gun crime may be more hesitant in coming forward to provide evidence than witness of other criminality.**
- **It is important to manage witness expectations from the outset. Promises for things such as anonymity or protected persons status should not be made.**
- **Where it is believed that a witness (or other person) is at risk of harm, immediate safeguarding and protection from threat to life measures should be undertaken.**
- **House-to-house enquires offer an opportunity for witnesses to speak with the police without being seen to have solicited the contact themselves.**
- **Investigation anonymity orders allow a witness to use a pseudonym (subject to other conditions being met) during an investigation into murder or manslaughter where death resulted through the use of a knife or firearm.**

1.1. General

The type of offenders, and in some cases the type of victims, involved in gun crime can leave some witnesses hesitant or reluctant to provide the police with their account and/or be identified as a person who has helped the police. This may be because of a genuine fear for their safety given their proximity to those involved, or it may simply be as a result of an individual's or a community's perception of risk.

In any shooting incident, witnesses are likely to fall into the [significant witness category](#), ie, they have or claim to have witnessed, visually or otherwise, an indictable offence, part of such an offence or events closely connected with it (including any incriminating comments made by the suspected offender either before or after the offence) and/or they have a particular relationship to the victim or have a central position in an investigation into an indictable offence.

A police officer who has witnessed murder, manslaughter, road death, serious physical assault, sexual assault, kidnap, robberies in which firearms are involved or any criminal attempts or conspiracies in relation to these offences should also be considered a significant witness. Refer to APP [Working with victims and witnesses](#) for more detail.

The CPS has published guidance on [witness protection and anonymity](#) which states: 'The openness of judicial proceedings is a fundamental principle enshrined in Article 6(1) of the European Convention on Human Rights (the right to a fair trial). This underpins the requirement for a prosecution witness to be identifiable not only to the defendant, but also to the open court. It supports the ability of the defendant to present his case and to test the prosecution case by cross-examination of prosecution witnesses. In some cases it may also encourage other witnesses to come forward.'

Therefore, in the interests of justice, police investigating gun crime should handle witnesses with sensitivity and care so they feel empowered to provide evidence. It is important to manage witness expectations properly from the outset, with no promises or guarantees of things such as anonymity or [protected person](#) status. Equally, due regard must be given to their safety and their family's safety, in particular their right to life prescribed by Article 2 ECHR, irrespective of their intention to be a witness.

Where witnesses have been identified and the investigating officer has grounds to believe that, owing to them having witnessed an incident, irrespective of their desire to provide a statement of evidence, they are at serious risk of harm, immediate safeguarding measures should be undertaken. This includes any other persons who might also be at risk by association or proximity.

In cases where a witness's life is believed to be in danger, then the investigator must consider the [ACPO \(2013\) National Threats to Life Guidelines](#). They should also consider early dialogue with their regional protected persons unit within the regional organised crime unit (ROCU).

SIOs should consider as many methods as possible to draw witnesses out in a way which makes them feel comfortable and safe to provide evidence or intelligence. Such methods might include conducting visible house-to-house enquiries in the whole street in which a suspected witness lives, giving potential witnesses the opportunity to speak to the police without it looking unusual. Other methods include leaflet drops with witness appeals supported by the Crimestoppers phone number.

SIOs might wish to consider high-profile public appeals such as the BBC's Crimewatch. Such approaches do generate a significant number of calls from the public and can help further an investigation by drawing out witnesses and providing corroboration to hypotheses already being investigated. They can, however, also generate a large amount of well-intentioned but misleading information/intelligence, all of which will need to be examined for subsequent disclosure purposes.

In relation to firearms-related criminality, it is likely to have taken great courage for an anonymous informant to get in touch. It is in the interests of building and maintaining community confidence that such information is developed and acted upon promptly where possible. Where information has been acted upon, it is useful to distribute leaflets in the area letting communities know the outcome and encouraging others to come forward in the future.

1.2. Investigation anonymity orders

Encouraging potential witnesses to come forward and provide a statement with a view to giving evidence at trial is widely acknowledged to be one of the most difficult aspects of successfully prosecuting crimes of murder/manslaughter, particularly where guns or knives have been used.

Investigation anonymity orders (IAOs) can be used during an investigation of a gang-related death caused by a gun or knife when potential witnesses are actively being sought. These orders are designed to reassure witnesses who have fears for their safety that their identity will be protected during and after the investigation.

For further information see APP [Witness anonymity](#).

5.2.7. Trial – application for a witness anonymity order

Witnesses who have been granted an IAO will not automatically be granted anonymity at trial. If the matter proceeds to trial then a witness anonymity order must be applied for to protect the witness during and after the trial.

[Sections 86–97](#) of the Coroners and Justice Act 2009 make provisions for witness anonymity orders which came into force on 1 January 2010.

Guidance on [witness anonymity orders](#) is provided by the CPS and by the DPP's [Guidance on Witness Anonymity](#).

It is important to note that if an application for trial anonymity is refused, the witness cannot be called to give evidence until the IAO has been discharged.

5.2.8. Sanction for contravening an order

[Section 76\(10\)](#) of the Coroners and Justice Act 2009 creates an offence of disclosing any information which could lead to the identification of the person specified in an IAO.

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