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SEE NO EVIL, SPEAK NO EVIL

Why don't witnesses come forward? Often, for a very good reason



“These rats deserve to die, right or wrong? . . . My war is with the rats. I'm a hunt every last one bitch that I can, and kill 'em.”

Extract from wiretap of Philadelphia drug lord [Kaboni Savage](#), charged in 2009 with ordering seven murders.

“If you see something, you better look the other way...Don't tell nothing unless you can take care of yourself, because the city don't have nothing in place to help you.”

Philadelphia resident [Barbara Clowden](#) commenting on the murder of her sixteen-year old son only days before he was to testify against the man who tried to burn down their home.

By Julius (Jay) Wachtel. According to the [Philadelphia Inquirer](#) thirteen witnesses or relatives of witnesses have been murdered in the city of brotherly love since 2001. Philadelphia does have a [witness assistance program](#), currently funded at about \$1 million per year. But despite the danger – Ms. Clowden's son, Eric Hayes, was gunned down far from their old neighborhood – help is limited to paying for a motel room and living expenses, and that only for four months. Beneficiaries must sign a 13-page form that requires them to stay away from their former neighborhoods and avoid those they left behind. That's not unusual. Because relocated witnesses tend to return to their old haunts, no less an authority than the [U.S. Department of Justice](#) recommended that cities with witness protection programs draft detailed contracts to forestall liability.

Witness intimidation is a major national concern. According to a 2006 study it figured in nearly a third of Minneapolis murders and half of its violent crime. It's supposedly why Trenton's citizens are reluctant to help police, and why Boston's cops cleared less than four in ten homicides. None of this should prove surprising. Nearly two decades ago about one-third of Bronx County (NY) criminal court witnesses reported they had been threatened; of the remaining two-thirds, a majority said they feared reprisal.

What can be done to discourage intimidation? The Justice Department has recommended several strategies, including admonishing defendants to stay away from witnesses, keeping dangerous persons in jail until trial, strengthening penalties for making threats, and vigorously prosecuting those who do. Of course, none of these approaches is fail-safe. In-custody defendants can get friends to do their bidding. Prosecuting intimidators after the fact doesn't solve the original problem. Doing so also requires – you guessed it – a willing witness.

Spending more money protecting witnesses would help. Still, with 14,180 murders and 1,382,012 violent crimes in 2008, relocating everyone is impossible. What's more, few persons are eager to upend their lives for the sake of putting someone in jail. Those who do are prone to break the rules, occasionally with lethal consequences. Consider the case of 23-year old Chante Wright. Placed under protection of US Marshals after witnessing a homicide in Philadelphia, she was shot and killed only hours after returning home to visit her ailing mother.

If getting witnesses to cooperate is difficult, what about compelling them to testify under penalty of law? DOJ discourages the practice, warning that it can “backfire” and lead those who might eventually cooperate to “forget.” On the other hand, your blogger knows from experience that once such witnesses take the stand they usually tell the truth. Those who prevaricate can be impeached, and particularly if they've made inconsistent verbal or written statements in the past. Indeed, misbehaving witnesses have often influenced jurors to convict.

That, in fact, has been the experience in Philadelphia. A defense lawyer and former D.A. praised its prosecutors, saying that they're “among the best in the country in trying recantation cases. They've raised it to an art form.” Detectives try to “lock in” witnesses by getting detailed statements early on. And should witnesses clam up or change their minds, officers are more than happy to take the stand and read what they were told, “line by line.” Prosecutors have even ordered the arrest of material witnesses to guarantee their availability come trial. To prevent intimidation court records must be signed out with photo ID, and D.A.'s often ask that defense lawyers be prohibited from giving clients copies of police reports (reproducing and distributing official documents on the street is a common intimidation technique.)

Over a defense objection, a scared female witness was even allowed to take the stand while draped in a burka.

Whether one asks or compels witnesses to testify, it's impossible to avoid the underlying moral dilemma. How can we balance their safety against the imperatives of fighting crime? In July 2005 two assailants shot and killed Philadelphia resident [Lamar Canada](#) over a gambling debt. An eyewitness, Johnta Gravitt, voluntarily identified one of the shooters as Dominick Peoples. Gravitt's statement was supported by Martin Thomas. A friend of Peoples, he told police that the suspect buried the guns used in the shooting in his backyard (they were dug up.) It was an open-and-shut case, at least until ten days after the 2006 preliminary hearing, when Gravitt was gunned down. Someone then posted a copy of Thomas' statement on a local restaurant wall. It bore the ominous inscription, "Don't stand next to this man. You might get shot." Thomas stopped cooperating. Forced to appear at Peoples' trial two years later, he recanted everything.

Peoples was convicted of killing Canada. Gravitt's murder remains unsolved. As of this writing, Thomas hasn't been harmed.