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# Citizen Cooperation with the Criminal Justice System

Durham Urban Observatory, N C

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# DURHAM URBAN OBSERVATORY REPORT

CITIZEN COOPERATION  
WITH THE  
CRIMINAL JUSTICE SYSTEM

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DURHAM URBAN OBSERVATORY

R E P O R T

CITIZEN COOPERATION

WITH THE

CRIMINAL JUSTICE SYSTEM

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May 1976

# ABSTRACT

This volume contains four reports on the quality of the relationship between the police, the criminal courts, and the public in Durham, North Carolina. The first two reports are detailed analyses of two types of serious crime - robbery and burglary. These reports focus on the role of the citizen as supplier of information to the police and the importance of this input in the production of arrests. These two reports also provide a statistical description of the crimes, the suspects, and the victims for robbery and burglary in Durham. The third report evaluates one aspect of the relationship between Durham Superior Court and the public - the costs of serving as a witness in a felony case. The fourth report presents the findings of a survey study of Durham patrol officers which dealt with their experiences as witnesses in Superior Court and their relationships with the prosecutor's office.

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1. Major Findings of the Citizen Cooperation with  
the Criminal Justice System Project

A. Robbery and Burglary in Durham

Note: The robbery report is based on 351 cases from the Durham Police files which were reported during 1972, 1973, and 1974. The burglary report is based on 534 cases from the Durham Police files which were reported during 1973.

Findings:

1. Twenty-five percent of robberies and 42 percent of burglaries occurred on the premises of a commercial enterprise. All of the other burglaries involved private residences. Most of the other robberies occurred on the street.
2. Guns were used in 42 percent of the robberies (86% of commercial robberies, 18% of street robberies). Robbery victims were injured in 26% of all incidents, but most injuries were minor. Injury was much more likely to result from an unarmed or knife robbery than a gun robbery.
3. Average property loss in both residential and nonresidential burglaries was about \$375. Most frequently stolen items were cash, stereos, and TV's. Some property was recovered in 10% of all cases. Property losses in robbery were substantially less than in burglary: 65% of robberies resulted in theft of less than \$100.
4. The vast majority (over 90%) of both robberies and burglaries (for which there was a suspect or a description) were committed by Negroes. The median age of both robbers and burglars was about 20. Sixty-four percent of robberies and about 40% of burglaries were committed by groups of two or more. Youthful offenders were more likely to work in groups than adult offenders.
5. Ten percent of investigations of both robberies and burglaries were eventually dropped because of a lack of cooperation on the part of the victim.
6. Eighteen percent of burglaries and 23% of robberies were cleared by arrest. Many of the burglary clearances resulted from the confession of a suspect arrested for another crime. Of the 10% of burglaries which resulted in a de novo arrest, one-quarter resulted in large part from information provided by the victim or a witness; 20% were "on scene", and the remainder resulted from detective work. Forty

percent of robbery arrests were the direct result of information provided by the victim, and almost all successful robbery arrests involved the victim's help to some degree.

B. Police as witnesses in Durham Superior Court.

Note: Based on a questionnaire given to 150 Durham patrol officers (public safety and all other non-traffic uniformed officers).

Findings:

1. There is little or no witness cooperation problem as such; Durham patrol officers appear in Superior Court when subpoenaed in the vast majority of cases.
2. Due to administrative problems in the way subpoenas are issued and served, officers are all too frequently not notified in advance of crucial court appearance dates.
3. Subpoenaed patrol officers spend a considerable amount of time in court simply waiting to be called to the stand. This wasted time causes dissatisfaction among officers and absorbs a not insubstantial portion of the Police Department's budget for salaries.
4. The quality of police testimony could be improved in some cases through better communication between the D.A.'s office and the officers.

C. Lay Witness Cooperation in Durham Superior Court

Note: Based on interviews with 87 Superior Court witnesses whose cases were disposed of during first half of 1975.

Findings:-

1. A very high proportion of subpoenaed witnesses (over 90%) cooperate with CJS officials by appearing in court to give testimony. An unknown number of witnesses to crimes in effect fail to cooperate by not reporting these crimes, not identifying themselves to the police, etc. The latter type of noncooperation may be related to the high personal costs of acting as a witness in Superior Court.
2. Most witnesses made multiple appearances in court. Over one-third made five or more appearances. Not only did the witnesses find their role very inconveniencing and time consuming, but expensive as well. (E.g., 83% were employed, and many of these lost wages).
3. Fewer than half of those witnesses who appeared in court ever gave testimony.
4. Some witnesses were very angry about their experiences. Thirteen



percent said they would not be willing to participate in future cases as witnesses, and others (20%) indicated that "it would depend on the circumstances."

5. At least one jurisdiction - Alameda County, California - is managing witnesses much more efficiently than Durham.

## 2. Summary

The quality of the relationships between the police, the criminal courts, and the public influences the degree to which any jurisdiction is successful in producing arrests and convictions for a reasonably high proportion of its serious crime. The police depend on citizens to report crimes of theft and violence - it is rare for the police to become cognizant of such criminal acts in the absence of a call from a victim or witness; the police also depend on citizens to cooperate in providing information during criminal investigations, without which few crimes would be solved. The courts depend on citizens to act as witnesses in criminal trials. Finally, the prosecutor's office and the police must cooperate in the preparation of a case and during the trial (at which police officers almost always serve as witnesses). Thus to the extent that the prosecutor, police, and public tend to have cooperative relationships, the criminal justice system will be more effective.

This volume contains four reports which each provide evidence on some aspect of these interrelationships in Durham. The first two are detailed analyses of two types of serious crime - robbery and burglary. These reports focus on the role of the citizen as supplier of information to the police and the importance of this input in the production of arrests. These two reports also provide a statistical description of the crimes, the suspects, and the victims for robbery and burglary in Durham. The third report evaluates one aspect of the relationship between Durham Superior Court and the public - the costs of serving as a witness in a felony case. The measurement of these costs and witnesses' feelings about their experiences in court are based on data generated by a survey study of recent witnesses subpoenaed to appear in Superior Court. The fourth report presents the findings of a survey study of Durham patrol officers which dealt with their experiences as witnesses in Superior Court and their relationships with the prosecutor's office.

An interpretive summary of these reports is presented here, but it does not serve as a substitute for the detailed discussion of methods and findings given in the actual reports.

### The Criminal Justice System and the Public

The successful operation of the criminal justice system depends to a large extent on the voluntary, uncompensated cooperation of the public. Citizens who are victimized by crimes of theft or violence, or who are witnesses to such crimes, possess information which is crucial if the police are to act effectively. By volunteering such information to police, citizens are providing a public good - the public at large presumably benefits when crimes are "solved" and criminals arrested. Although citizens who cooperate with the police are providing a public service, they are not directly rewarded for their help. Indeed, reporting crimes to the police, cooperating with detectives during investigations, and especially appearing as a witness during trials are all time-consuming actions which inconvenience the citizen and may cause him financial loss or even place him in some personal danger. To the extent that victims and witnesses do cooperate willingly,

it may be because they seek retribution or are simply acting out of a sense of duty - in some cases (as in burglary) they may also be motivated by the hope that the police will be able to return their stolen property, or by an insurance company requirement.\* That these motivations are not sufficient in many cases is evidenced by the fact that a large proportion of serious crimes go unreported. Perhaps even more damaging are such noncooperation problems as the "unseeing witness" phenomenon, the frequent decision of victims to request that a police investigation be stopped or not to press charges against a suspect, and the occasional refusal of a witness to comply with a subpoena. By legal definition crimes are committed against the state, yet the state usually depends on the individual victim to help make its case - when he is uncooperative, the state suffers.

#### Citizen Noncooperation in Burglary and Robbery Investigations

For 10 percent of all robberies reported to the Durham Police from 1972-1974, the police investigation was eventually dropped because the victim at some point stopped cooperating. In over half of these cases, the victim refused to sign a warrant or "press charges" against a suspect. Ten percent of burglary investigations in 1973 were also dropped for lack of victim interest or willingness to press charges against a suspect.

It was not possible to measure other types of noncooperation for these two crimes from the data which were available from Durham. Data on nonreporting from other jurisdictions indicates that this is a serious problem at least in large cities, and anecdotal evidence from a number of sources suggests witnesses to crimes often are unwilling to "get involved" even to the point of calling the police.

#### The Cost of Being a Witness in Superior Court

A survey of witnesses who were subpoenaed to testify in Superior Court cases during the first half of 1975 found that most of them were substantially inconvenienced by the process; most had to appear in court more than once, and one-third actually appeared five times or more before their cases were disposed of. These appearances were costly as well as inconvenient - 87% of the witnesses were employed. Over half of these witnesses did not even have the satisfaction of playing a productive role in the case - they were never called to the witness stand. The witnesses' expenses and time were not compensated in any way by the court.

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\* Many valuable tips are given detectives by informants who typically are motivated by personal considerations - e.g., "buying" their way out of a criminal prosecution for crimes they themselves have committed in the past. This study did not deal with the special questions raised by the use of informants to acquire information.

These findings suggest that the citizen who refuses to get involved or to cooperate in a police investigation may have good reason for his reticence. Two mechanisms may be operative here: (1) Those who have served as witnesses once and found the experience costly and unsatisfying may be unwilling to "get involved" should they happen to be witness to another crime. (One third of the witnesses in the sample indicated that they would be unwilling or at least hesitant to act as witnesses again.) This is a particularly important possibility since the kind of people who are involved in one crime are much more likely than the average citizen to become witnesses to others (due to their occupations, place of residence, type of people they associate with, etc.); (2) The experiences of those who do serve as witnesses become known to the public at large, and may serve to deter even those citizens who have had no personal experience with the criminal justice system.

The willingness of citizens to cooperate with the criminal justice authorities is a valuable resource which should be conserved.

#### The Value of Witnesses' Information in Robbery and Burglary Investigations

Because robberies almost always produce an eyewitness (i.e., the victim), robbery investigations typically give a major role to citizens. To the extent that the victim or other witness can give an accurate description of the robber, identify him from a collection of photographs of suspects, identify him in a police lineup, etc., the chances that the investigation will be successful in producing a valid arrest are greatly enhanced. Approximately one-third of the successful investigations in Durham robbery cases, 1972-1974, involved witnesses in such a role. (These cases also involved informants and/or other types of detective work.) In most of the other robbery arrests during this period, citizens played an even more important role: in over half of those robberies which resulted in arrest, victims or bystanders gave police information which was the proximate cause of the arrest. These cases include those in which bystanders summoned police while the robbery was in progress (9% of arrests), those in which the victim or other witness gave police the name, address, or location of the suspect (one-third of arrests), or witness gave the police the tag number or description of the suspect's auto (10% of arrests). Citizens played no role only in those arrests (9% of total) which were on-scene as a result of a patrolman observing a robbery in progress.

Burglary, because it rarely involves an eyewitness, results in a considerably lower de novo arrest rate\* and a lesser role for the victim during the police investigation. Out of more than 500 burglaries committed in 1973 which were

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\*Less than half the de novo arrest rate for robberies. But many burglaries are "cleared by arrest" by the confession of a suspect arrested as the result of an investigation for another crime.

studied in this report, only two resulted in arrest (on scene) because of a witness call, and three due to a witness' description of the suspect's auto. Overall, victims and witnesses appeared to play a crucial role in about 30% of successful investigations (14 out of 50). In most cases, the victim's role is limited to that of providing police with a description of the stolen merchandise.

While eyewitness reports to the police led to burglary arrests in only one percent of all Durham burglaries in 1973, there is some hope that this percentage could be increased if effective measures could be found to reduce the reluctance of people to report suspicious neighborhood incidents to the police. The Durham Police Department's well-advertised change in policy to allow anonymous citizen complaints may be working to achieve this result.

#### Patrol Officers as Witnesses in Durham Superior Court

Since acting as witnesses in trials is part of their job, and since policemen are paid their standard salary for court days, the problems of police-court cooperation are substantially different than the lay witness cooperation problem. It is important that police and the prosecutor's office have a close, efficient working relationship for (among others) these reasons: (1) Unnecessary police appearances in court waste the taxpayers' money and sometimes inconvenience the officers (as when they are subpoenaed to appear in court on the day following a night shift); (2) The incentive and ability of police to prepare effective testimony may be influenced by their access to the prosecutorial staff.

A survey of 150 Durham uniformed officers found that they, like lay witnesses, were subpoenaed to appear in Superior Court on many occasions when their testimony was not needed. A rough estimate suggests that more than a year's salary is wasted each year in payments to officers who are waiting in court to give testimony. Furthermore, respondents to the survey indicated considerable dissatisfaction with this inefficient use of their time and agreed with a suggestion that a more extensive use of a "telephone standby" system would be beneficial. Furthermore, most officers indicated that they wanted better communication with the prosecutor's office regarding felony cases in which they were personally involved - that they wanted a chance to review their testimony before taking the stand and wanted to be kept informed as to any decisions which were being made regarding the disposition of the case.

Better communication and a more efficient management of police witnesses would require that more money be allocated to developing an effective liaison position to coordinate police and courts. The potential savings to be gained from this change might well be sufficient to fund such a position.

### 3. Robbery in Durham, 1972-1974

#### I. Introduction

- A. The FBI Uniform Crime Reports define robbery as: "Stealing or taking anything of value from the person by force or violence or by putting in fear, such as strong-arm robbery, stickups, armed robbery, assault to rob, and attempt to rob."

This definition covers a great diversity of events, ranging from the strong-arm demand for a child's lunch money made by some of his classmates in the school john, up to a bank robbery committed by a gang of shotgun-toting bandits. In between these extremes lie such crimes as muggings and "yokings," purse snatches (when the victim resists), residential robberies, and stickups of cab and bus drivers and shopkeepers. All of these crimes have two elements in common; violence or the threat of violence, and theft.

It has been suggested that the urban public's fear of "crime in the streets" is predominately a fear of being robbed; this suggestion is plausible for a number of reasons. First, the robbery rate in U.S. cities is about equal to the combined rates of murder, aggravated assault, and rape, and has been increasing rapidly in recent years. Second, unlike these other violent crimes robbery almost always involves a sudden, completely unprovoked attack by a stranger. Third, a large proportion of robberies are interracial and involve middle class adult victims, whereas other violent crimes in the city are overwhelmingly intraracial and for the most part involve victims from the lowest socioeconomic stratum--especially teenagers.

Robbery is an all too common event in Durham; reports of bona fide robberies are received by the Durham Police more than twice a week on the average. The reported rate in Durham is about equal to the average rate for U.S. cities with populations in the 50,000 - 100,000 range, but much lower than reported robbery rates for larger cities; cities in the 100,000 - 250,000 category average almost twice as many robberies per capita as Durham, and the largest U.S. cities (1,000,000 +) have an overall robbery rate approximately seven times as high. Few Durham residents would be reassured by these comparisons, however, and a successful effort to reduce the robbery rate would be worth a great deal to the community.

The purpose of this study is to provide the Durham Police and public with a detailed description of robbery in Durham with particular focus on the roles played by police and private citizens in the attempt to solve a robbery once it is reported. Robberies are almost never solved without the cooperation of private citizens (acting as witnesses and

informants), and one promising means of increasing police effectiveness against robbery is to intensify the effort to educate the public and solicit its cooperation in providing useful information to the police. This report helps document the case for such an effort.

Section 2 describes how the data for this report were collected. Section 3 presents a general description of robbery patterns in Durham in 1972, 1973, and 1974. Section 4 analyzes police-citizen interactions in the context of robbery investigations, and characterizes the factors leading to arrests of robbery suspects. The final section presents some conclusions which appear warranted on the basis of this and similar studies of robbery.

## II. The Data

During Spring, 1975, the Durham Police records were culled for all reports of robberies investigated by the police from January 1, 1972 to December 31, 1974.\* A total of 351 complaint sheets on crimes initially classified as robbery were located, most of which had detective reports attached. There were 121 reports from 1972, 124 in 1973, and 106 from 1974. The dropoff in 1974 was apparently due to the fact that not all reports on 1974 robberies had been filed by spring of 1975. Also overlooked in this research were robberies which resulted in homicide or very serious injuries, since these crimes were not classified as robbery by the police.

Detailed information was recorded from the reports of the investigating officer and detective (where available) for each of the 351 robberies. These data are now on computer tape and available from the author for general use.

## III. A Description of Robbery Patterns in Durham, 1972-74

Its new computerized information system gives the Durham Police the capability of constructing detailed descriptions of current robbery patterns in Durham, without the time consuming clerical work which this study was forced to use in gathering data. The analysis presented here serves as a "baseline" for the future analyses of trends in Durham robbery which utilize the new system.

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\*Carol Whittaker, a research assistant to this Durham Urban Observatory project, was solely responsible for this arduous task of data collection. Lt. Pendergrass was extremely helpful in locating files and otherwise facilitating her job as much as possible.

Since the purpose of the analysis below is to characterize robbery rather than robbery reports, 50 cases have been excluded from the data base on the grounds that they were classified on the detective report as "unfounded" (37 cases) or were judged by the author to be inappropriate (usually because the reported crime did not include the elements required to correctly classify it as a robbery). It should also be noted that many robberies are never reported to the police, and are hence not included in the analysis below. This omission is a problem to the extent that reported robberies are unrepresentative of all robberies. Other studies have found that victims who fail to report crimes to the police typically feel that the crimes are "too unimportant" for the police to bother with, or that the police would not be able to do anything if the crime were reported. Furthermore, it has been found that robberies with injury are more likely to be reported than robberies without injury, and that attempted robberies are less likely to be reported than successful robberies.\* These biases should be kept in mind in evaluating the patterns of robbery described here.

#### Timing

There is no pronounced seasonal pattern to robbery in Durham, except an apparent dropoff in the months of February and March (which had only 9% of the robberies).

Robberies are heavily concentrated in the eight hour period from 6 p.m. to 2 a.m.; 60% of all robberies were committed during these hours.

#### Scene of Crime

Most robberies were committed in the street (41%) or in a commercial building (25%). Other locations include private residences and vehicles, each with 12%.

#### Weapon

Forty-three percent of all robberies were unarmed. Forty-two percent involved a gun, and the remainder (15%) involved some other weapon -- in most cases a knife, but a bizarre collection of other weapons were also used (broken bottles, razors, an iron pipe, a pool cue, and a beanshooter!).

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\*See L.E.A.A's Criminal Victimization Surveys in the Nation's Five Largest Cities (USGPO, 1975), pp. 27-30. In Chicago, for example, victims reported 69% of robberies with injury, 57% of robberies without injury, and 27% of attempted robberies.



### Value of Stolen Property

While almost every robbery must be considered a serious crime because of the actual or threatened violence inherent in the act, few robberies involve very much money. Sixty-five percent of all robberies resulted in the theft of less than \$100 in cash or merchandise. It is no surprise, however, that commercial robberies tended to be more lucrative than the average; over half resulted in the theft of \$100 or more. Very few street robberies (18%) were so successful. Residential and vehicle robberies were in between: 27% of vehicle robberies and 46% of residential robberies netted over \$100.

Table 1: Amount Stolen In Durham Robberies, 1972-74

<u>Amount Stolen</u>	<u>Overall</u>	<u>Commercial</u>	<u>Street</u>
None	13%	13%	16%
\$1-19	18	7	30
\$20-49	18	7	23
\$50-99	16	17	14
\$100-199	16	29	9
\$200-499	10	17	5
\$500+	10	12	4
Total	100	100	100

Robbers who chose a more lucrative type of target were relatively likely to use guns; the greatest contrast is between commercial robberies, 86% of which involved guns, and street robberies, 18% of which involved guns. It is also true that within each of the five target categories the likelihood of gun use increased with the amount of loot (see Table 2).

One can speculate that these patterns reflect (1) the fact that older, more professional robbers are more likely to own a gun and to seek out relatively lucrative targets; and (2) that robbers who lack a gun are deterred from robbing more lucrative targets because they tend to be relatively well defended (e.g., store clerks often have access to a gun).

### Assault

Actual force was used in a minority of all robberies, and victims sustained injuries in only 26% of all cases. The likelihood that force would be

Table 2

Robbers' Use of Guns, by Target Category and Amount Stolen,  
Durham 1972-74

Amount Stolen	Commercial	Street	Residence	Vehicle	Other	Total
\$1-99	83% #23	17% #83	25% #16	28% #25	30% #10	27% #157
\$100+	91% #44	36% #22	50% #16	60% #10	69% #16	67% #108
Unsuccessful	60% #10	25% #20	0% #3	0% #2	67% #3	34% #38
Overall	86% #76	18% #125	34% #35	32% #37	55% #29	42% #303

Note: Each cell includes the number (#) of robberies which were included in that category and the percent (%) of those robberies in which the robber(s) used a gun.

used by the robber varied dramatically with the location and type of weapon used. Cross tabulations (not reported here) indicate that force is more likely to be used (and injuries inflicted) in street robbery than in commercial robbery even when one "controls for" the type of weapon used by the robber.

Table 3

Assault and Injury in Durham Robbery, 1972-74

Assault	Overall	Commercial	Street	No Weapon	Knife or other (except gun)	Gun
None	53%	82%	31%	33%	41%	79%
Yes - no injury	20%	7%	30%	33%	20%	7%
Yes - minor injury	24%	11%	36%	34%	32%	12%
Serious injury	2%	1%	3%	1%	7%	2%

This result may stem from (1) The fact that commercial robberies without injury are more likely to be reported than street robberies without injury; and (2) Commercial robberies are less likely to meet with resistance, since the store clerk who is confronted by a robber usually does not stand to lose any of his own money by complying with the robbers' demands.

Of the three weapon categories, guns are potentially the most lethal but in practice were the least likely to inflict injury. Most victims will comply immediately with a robber's demands if he displays a gun, whereas unarmed robbers typically have to use actual force and violence (as in "muggings" and "yokings") to achieve their purpose. The most dangerous robber in practice was one who carried a weapon other than a gun.

#### Number of Robbers

Robbers in Durham, as in other cities, typically work in groups of two or more. Only 36% of robberies were committed by people acting alone; 42% were committed by pairs, and 22% by three or more. On the other hand, victims were almost always (90%) alone when robbed. Groups of robbers were somewhat more likely to take on groups of victims than robbers acting alone.

Robbers acting in groups of three or more were more likely (56%) to be unarmed than robbers acting singly or in pairs (39% of whom were unarmed). This result is partly due to the fact that robberies committed by groups of three or more usually involve young teenagers.

#### Characteristics of Robbers and Victims

Robbery is a crime which primarily involves males: 80% of the victims and 97% of the robbers were males. Most robberies (91%) were committed by Negroes, and victims were also Negroes in a majority of cases (54%).

Table 4			
Race of Victims and Robbers in Durham Robberies, 1972-74			
Race of Robber	Race of Victim		Total
	Negro	Caucasian	
Negro	52%	40%	91%
Caucasian	2%	6%	9%
Total	54%	46%	100%

About half of all robberies involved Negroes as both robbers and victims.

The average robbery victim is much older than the average robber. In Durham, the median age of robbers was 21, whereas 75% of victims were older than 21. Twenty-one percent of victims were more than 50 years old, but only one reported robbery was committed by someone that old. Most robbers (83%) were 25 years old or less.

Table 5

Age of Victims and Robbers in Durham Robberies, 1972-74\*

Percent Distribution

<u>Age</u>	<u>Victims</u>	<u>Robbers</u>
9-15	8%	12%
16-21	16	40
22-25	14	31
26-35	13	15
36-50	27	3
51-65	14	0
66+	7	0
Total	100%	100%
Median	35 years	21 years

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\* These distributions are based on data taken from police complaint sheets and detective reports. No information on victim's age was available for 20% of the robberies. Data on robbers' ages are based in witnesses' estimates, as reported to the police. No such estimates were available in 63% of all robberies, so this distribution is unreliable. Note that in calculating age distributions the unit of account is the robber, not the robbery: if four robbers commit a robbery and age estimates are available for all of them, then all four are entered separately.

Compared with other crimes of violence, it is relatively rare for robbers to be acquainted with their victims; in Durham, only 12% of all robberies involved acquaintances. When classified by scene of the crime, it turns out that only residential robberies involved acquaintances in a substantial proportion of cases (16 of 35, or 46%). Commercial robberies involved acquaintances (ex-employees) in only two cases out of 76.

#### Summary

The typical robbery in Durham, as in other cities, was committed by a group of two or more Negro males against a single male victim either on the street or on the premises of a commercial enterprise. The victim in this typical robbery was uninjured and handed over less than \$100 to the robbers. While in terms of these outcomes the crime does not appear to be particularly serious, it should be remembered that the victim was being threatened with very serious bodily harm during the course of the robbery and was almost certainly very afraid. Furthermore, atypical but not uncommon robberies had much more serious outcomes, including the loss of large amounts of money and serious injury or even death.

These generalizations are all well known to law enforcement officials. The analysis above is useful in that it adds precision and detail to these generalizations and serves as a baseline for future studies which seek to identify trends in Durham robberies.

#### IV. Report, Investigation, Arrest

Civilians play a uniquely important role in the process of investigating robberies--unlike most other crimes of theft, there is almost always a witness (the victim) in robbery cases, and his cooperation is essential in all phases of the criminal justice system's response to robberies. If a robbery is to result in the arrest and conviction of the guilty robbers, then it is almost always necessary for the victim (and possibly other witnesses as well) to (1) report the crime to the police (2) describe the circumstances of the crime and provide a description of the robbers to investigating officers; (3) identify suspects from a lineup, police photo files, etc.; and (4) testify in court.

In each of these phases the victim and/or other witnesses must know the required information and be willing to share it with criminal justice authorities if the case is to be solved; the fact that so few robberies are solved is at least partially the result of failures in the victim's memory or in his willingness to cooperate. It is doubtful that most victims make very reliable witnesses, and it has been shown by other studies that a large percentage of victims do not cooperate with authorities even to the extent of reporting the crime. Improvements in the quality and quantity of information provided by victims would surely produce a corresponding increase in CJS effectiveness against robbery.

The discussion which follows describes the civilians' role in police investigations of robberies in Durham, 1972-74.

Reporting

Out of the 351 robbery reports received by the Durham Police in the 1972-74 period, 320 (91%) were made by the victim, 25 (7%) by other witnesses, and only six (less than 2%) were made by police themselves. Cases where police observe a robbery in progress are clearly flukes, and ordinarily the CJS authorities will never know that a given robbery has occurred unless the victim (or bystander) notifies them. Victimization survey results demonstrate that the authorities are not notified in a high percentage of cases (see Table 7). Victims have little personal incentive to report a robbery and cooperate with CJS officials in the resulting investigation, since (unlike in the case of burglary or auto theft) victims are rarely insured against robbery losses. Furthermore, there are some costs to reporting a robbery, both in terms of time and perhaps also danger (if the robber threatens reprisals); in some situations, the victim may fear that the circumstances of the robbery, if they became known to the police, would make him liable for criminal prosecution. Nine such cases actually were reported; the victims were robbed by gambling companions, illicit drug customers or prostitutes. People who are involved in illegal activities of this sort are vulnerable to robbers precisely because they are very unlikely to report to the police.

Table . 7

Percent of Victimizations Reported to Police, Five Largest U.S. Cities, 1972\*.

Type of Robbery	Chicago	Detroit	L.A.	N.Y.	Phila.
1. Commercial	91%	83%	84%	83%	88%
2. Personal, with injury	69%	75%	64%	50%	64%
3. Personal, without injury	57%	62%	51%	51%	57%
4. Personal, without injury unsuccessful	27%	39%	27%	33%	27%

\*From LEAA Criminal Victimization Surveys in the Nation's Five Largest Cities (USGPO, 1975) pp. 61-62.

The quality of the initial report to the police is an inverse function of the delay in reporting. In only six cases were the police able to make an arrest on the scene following a phoned report from a (civilian) witness or victim. Although victims are ordinarily not able to report the robbery quickly enough to make an on scene arrest possible, bystanders are sometimes able to help in this way.

Obviously a second dimension of the quality of the initial report is its accuracy. Over 10% (37) of robbery reports to the Durham Police were eventually classified as "unfounded"; at least in theory, this designation indicates that the police investigation concluded that no crime had been committed. This situation may arise due to alarms received from commercial establishments or the mistaken impressions of drunks concerning how they lost their money the previous night. In at least twenty cases (not all of them designated officially as "unfounded") the police concluded that the report was not only false but actually called in with the deliberate intention of misleading the police or someone else. In thirteen of these 20 cases, an employee of a commercial enterprise apparently reported a robbery to provide an explanation for the missing cash that they themselves had in fact stolen; in six other cases the false reports were apparently intended to provide alibis for why the supposed victims could not pay debts or support their families. \*

#### Cooperation During Police Investigation

Thirty-four cases (10% of the total) were dropped because the victims refused to cooperate with the police or detectives: in 16 cases, the victim refused to sign a warrant or press charges; in 10 cases the detective was simply unable to contact the victim; and in 7 cases the detective felt that the victim was concealing crucial information about the case.\*\*

In 33 cases (10%), the victim was unable to provide the police investigators with useful information because he was so drunk at the time of the robbery as to be unable to produce a coherent account of the robbery or describe the robbers.\*\*\*

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\*The official police designations of these twenty cases differed: five were designated "unfounded", four were "cleared by arrest," none were "inactive," and two were "exceptionally cleared." Needless to say, the inconsistent use of such clearance designations makes empirical analysis more difficult.

\*\*Again, the clearance designations were used rather cavalierly by police and detectives. Thirteen of these were marked "unfounded", in spite of evidence that these robberies did in fact occur.

\*\*\*The police did not investigate 15 of these cases. Of the remainder, 6 were marked unfounded, 10 were inactive, and 2 were "exceptionally cleared".

Table 8

Failures in Citizen Cooperation with the Police,  
taken from Robbery Reports to Durham Police, 1972-74.

1. Intentionally Falsified Reports by Citizens	20
a. Police suspect robbery report is intended to provide an alibi for employee theft	13
b. Other	7
2. Victim refuses to cooperate with police	34
a. Victim cannot be located	10
b. Detective suspects victim of concealing crucial information	5
c. Victim refuses to sign warrant or press charges	19
3. Victim too drunk to provide useful information	33
4. Designated "Unfounded" (other than the above)	15
5. Total, 1-4	102 (29% of total reports)

In most cases, however, the investigating officers and/or detectives were able to obtain some information from victims and/or other witnesses. In almost every case they obtained information on the number of robbers and their races and sex. The proportion of cases in which other physical attributes of the robbers were provided by witnesses is given in Figure 9.

Table 9

Percentage of 351 Durham Robbery Reports 1972-74, in Which  
Witnesses Described Specific Physical Attributes of Robbers

Age	42%
Hair	28%
Clothing	51%
Height	50%
Weight	46%



In the 78 cases (22% of total) in which the robbers were known to be driving an auto, a license number was given in 25 cases and some description of the auto in 68 cases. In 14% of all cases the victim or some other witness was able to give the police the name (or part of a name) for at least one of the robbers involved.

#### Factors Leading to Arrest

Data on arrests must be interpreted carefully. While it is tempting to view a case which is cleared by arrest as a police department "success", and a case in which there is no arrest as a "failure", there are several reasons why this is too simplistic a view: (1) Many arrests are based on weak or faulty evidence (one study found that 21% of armed robbery defendants in Durham were "not pressed" during the years 1970-74 - presumably in most instances because the district attorney's office felt the case was weak) and (2) In some instances cases are cleared by the confession of a suspect picked up in the context of an unrelated investigation; such confessions rarely result in any charges being brought.

Given these caveats, however, arrest data are still useful, if not exact, indicators of successful police work. This section analyzes the circumstances which were conducive to producing arrests in Durham robberies during the sample period.

#### Arrest Frequency

Excluding the 50 robbery reports which were unfounded (based on either the detective's judgment or the author's), 23% of all reported robberies in Durham, 1972-74, were cleared by the arrest of at least one suspect. Of the 12% of all robberies in which the victim was acquainted with the robber, the clearance rate (unsurprisingly) was much higher - 44% resulted in arrest. In a number of other such cases the police were forestalled from making an arrest only by the victim's unwillingness to press charges. Eighty-eight percent of all robberies involved strangers - the clearance-by-arrest rate for such cases was 20%.

The arrest rate varied to some extent by location of the crime, as depicted in Table 10.

Table 10

Arrest Rates for Valid Robberies Reported to the Durham Police, 1972-74.

Other	41%
Residence	26%
Commercial	25%
Street	18%
Vehicle	16%
Overall	23%

Citizen and Police Roles in Successful Investigations

The victim and/or bystanders made the major contribution to the solution of the crime in about 40% of all robbery cases which were cleared by arrest, and made some contribution towards almost every arrest. (See Table 11). In most of the 20 cases which were solved through a detective investigation for example, eyewitness descriptions and identification of suspects from photo collections served as major clues.

Table 11

First arrests in Durham Robbery cases, 1972-1974, classified by the Most Important Factor Leading to the Arrest \*

1. Citizen makes a major contribution:	
Victim gives names of suspects	14
Witness gives names of suspects	3
Cab driver victim gives suspect's address	2
Victim sees suspect later, notifies police	1
Witness gives auto tag number	2
Witness calls police on related incident involving suspect	<u>3</u>
Total	25
2. Other cases:	
Arrest on scene: After citizen's report	6
P.O. sees suspicious incident	6
P.O. stops auto which fits victim's description of it	5
Detective work (talking to informants, showing the victim photos of possible suspects, etc.)	<u>20</u>
Total	37
3. Unknown	4
4. Confession of suspect after arrest for another crime	<u>6</u>
Overall total	72

\* In many of these cases more than one suspect was eventually arrested. This table reports the factors which led to the first arrest only.

#### 4. Burglary in Durham, 1973

##### I. Introduction

Burglary is an offense in which illegal entrance into a structure is made or attempted in order to commit a felony or theft. This category includes a wide range of incidents from minor juvenile escapades to very serious cases which involve professional thieves and safecrackers. In the public's mind, the most fearsome possibility is that of a burglar entering an occupied house at night--up until recently, this was a capital offense in North Carolina.

The costs which burglary inflicts on society include not only the substantial property losses sustained by burglary victims each year, but also the expense of city dwellers' efforts to protect against burglary--the latter include locks and bars, alarm systems, guards, watchdogs, and weapons purchased for self-protection. Residents of neighborhoods which suffer from an increasing burglary rate may sustain a loss in property values, and some may feel compelled to move to other locations.

In 1972, the Uniform Crime Reports reported 1256 burglaries in Durham, which suggests that Durham's reported burglary rate is about average for U.S. cities with populations in the 50,000 - 100,000 range (and 30% lower than burglary rates in larger cities). With an average of about four burglaries occurring per day, there is no question that burglary is a serious problem in Durham.

Unlike robbery, burglary rarely involves an eyewitness. Nevertheless, citizens can and must play a substantial role in solving and preventing burglaries if the problem is to be brought under control. People can watch for signs of suspicious activity in the neighborhood and report these to the police; individuals can engrave their valuable possessions with their social security numbers to facilitate recovery of stolen property and the arrest of those who are in illicit possession of stolen property; households and commercial enterprises can protect their premises with locks and other devices; and in a surprising number of cases, victims or neighbors are able to suggest the names of suspects to detectives.

This report gives a detailed description of burglary in Durham and an analysis of how burglaries are typically solved and stolen property recovered. Section II describes the data on which the statistics are based. Section III describes patterns of burglary in Durham, including an analysis of who the victims are and how much they lose in a typical burglary. Section IV analyzes the police investigative process and the factors which tend to produce an arrest, with emphasis on the role of the citizen in this process.

## II. The Data

During Spring, 1975, the Durham Police records were culled for reports of burglaries, "breakins," and "B & E's" occurring in 1973. Eventually 534 such reports were coded, a number less than half of the number reported to the police during that year. Over three-quarters of the reports which were selected in the sample were for crimes occurring in the first half of the year. (The selection process simply involved taking burglary reports for 1973 in the order in which they appeared in Police Department files, continuing in this fashion until an adequate sample had been obtained.)

Detailed information was recorded from the reports of the investigating officer and detective (where available) for each of the 534 burglaries. These data are now on computer tapes and available from the author for general use.

## III. A Description of Burglary Patterns in Durham, 1973

### 1. Scene of the Crime

A majority of burglaries in Durham (58%) involve private residences; these residential burglaries are divided about evenly between private homes and apartments or duplexes. About half of nonresidential burglaries were reported by retail stores (gas stations, food markets, restaurants, and other retail outlets). Table 1 reports the details.

### 2. Time of Day

Since most burglaries (93.5% of our sample) are only discovered after the fact by the observation of missing property and/or damage to the structure, it is not possible to know the precise time at which burglaries occur. Victims were able to report useful inferences or guesses to detectives concerning the timing of the burglary in almost three-quarters of the sample cases; of these, almost half thought the burglary had occurred between 11 p.m. and 6 a.m., 32% reported daytime burglaries (6 a.m. to 6 p.m.), and 19% reported evening burglaries (6 p.m. to 11 p.m.). It comes as no surprise that a much smaller fraction of residential burglaries occurred at night than was true for nonresidential burglaries: burglars attempt to avoid occupied structures (see Table 2).

Table 1

Percentage Distribution of Burglaries in  
Durham, 1973, by Scene of Crime

	<u>Percent of Total</u>	
1. Residential Building	58%	
Single Unit		28.4%
Multi-unit Residence, Apartment		29.6
2. Retail Commercial Building	19.6	
Gas Station		5.6
Food Market		5.1
Restaurant or Bar		2.2
Retail Store		6.7
3. Other Nonresidential Building	22.1	
Small Business		8.0
Church		1.9
Public Building		5.1
Other		7.1
4. TOTAL	100.0%	
		100.0%
		(N=534)

Table 2

Percentage Distribution of Burglaries in  
Durham, 1973, by Time of Day

	<u>Residence</u>	<u>Nonresidence</u>	<u>Total</u>
Daytime (6 am-6 pm)	48.5%	12.1%	32.1%
Evening (6 pm-11 pm)	24.5	12.0	18.9
Night (11 pm-6 am)	27.0	75.9	48.9
Total	100.0%	100.0%	100.0%
	(N=204)	(N= 166)	(N=370)

The distribution of burglaries across days of the week shows a disproportionate number occurring on weekends for both residential and nonresidential burglaries.

### 3. Method of Entry

In practically all Durham burglaries, entry occurred through a first floor door or window at a time when the building was unoccupied (there were only five cases in which the building was occupied -- less than 1% of the total). Windows and doors were about equally popular as a means of entry.

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Table 3

Percentage Distribution of Durham Burglaries, 1973,  
by Means of Entry

1. Forced Locked Door	40%
2. Forced Locked Window	36
3. Unlocked Door	5
4. Unlocked Window	4
5. Other	6
6. Missing	9
Total	100%
	(N=534)

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### 4. Property Losses

Most burglaries are motivated by theft, and in 456 of the burglaries in the sample, some property loss was reported. The items most frequently stolen are reported in Table 4. One item deserves particular attention: 8% of burglaries are reported to result in the theft of guns, suggesting that well over 100 guns are stolen per year in Durham in this fashion (since there are over 1300 burglaries/year in Durham, and some burglaries result in the theft of more than one gun). I suspect that this is a prime source of supply in the black market for guns.

The estimated monetary value of burglary losses is reported in Table 5. The median loss for burglaries involving theft was less than \$200; one-third had losses valued at less than \$100, and 8% lost more than \$1000. It should be noted that these value estimates are typically made by the victim, and are doubtless inaccurate in many cases and perhaps biased upward when the victim is covered by burglary insurance.

Table 4

Percentage of Durham Burglaries, 1973,  
In Which Certain Items Were Reported Stolen

<u>Item</u>	<u>Number of Burglaries</u>	<u>Percentage of Total*</u>
Cash	123	27%
Stereo, radio	122	27
TV	110	24
Food	42	9
Jewelry, watches	37	8
Guns	37	8
Clothes	29	6
Liquor, drugs	21	5
Cigarettes	20	4
Office machines	19	4
Tools	18	4
Checks, credit cards	16	4
Camera	13	3
Appliances	10	2
Other	80	18

\*The total in this case is 456, the number of burglaries in which some loss was reported.

Table 5

Percentage Distribution of Durham Burglaries, 1973, by Value  
of Property Lost Due to Theft

<u>Value of Property Loss</u>	<u>Overall</u>	<u>Residential</u>	<u>Nonresidential</u>
\$1 - 19	11.4%	9.1%	14.5%
20 - 49	11.6	10.0	14.0
50 - 99	11.2	10.8	11.7
100 - 199	17.8	17.0	18.4
200 - 499	28.5	31.1	25.1
500 - 999	11.4	13.3	8.9
1000 - 1999	4.0	5.4	2.2
2000 +	3.6	2.5	5.0
Total with some loss	100.0%	100.0%	100.0%
Average property loss	\$377	\$377	\$376

Note: Tabulation excludes 29 unfounded cases and cases where value of loss was unknown or zero (17% of all cases). Victim losses due to property damage are not included in this tabulation.

Rather surprisingly, nonresidential burglaries typically result in smaller property losses than residential crimes; while in 59% of non-residential crimes, thefts were valued at less than \$200, this was true of only 47% of residential thefts. The only exception to this pattern is that a disproportionately high percentage of the largest thefts (\$2000 +) occurred in nonresidential buildings. The mean value of property stolen was the same for residential and nonresidential burglaries.

While it would be interesting to relate the size of property loss in residential burglaries to the tenant's income, the latter data were not available. The incidence of residential burglary losses by victim's race can be calculated, however, and the results are presented in Table 6. Blacks were more likely to be victimized by burglary than whites in Durham, but the value of property losses average somewhat higher for whites than blacks.

Table 6

Percentage Distribution of Durham Residential Burglaries,  
by Race of Tenant and Value of Property Lost Due to Theft

<u>Value of Property Lost</u>	<u>Race of Tenant</u>	
	<u>Black</u>	<u>White or Other</u>
\$1 - 99	33%	27%
100 - 199	18	16
200 - 999	43	46
1000 +	5	12
TOTAL	100%	100%
Average property loss	\$359	\$400
Note: Unfounded burglaries are excluded from this tabulation. 54% of all residential burglaries with theft involved black victims.		

##### 5. Recovering Stolen Property

The gross property losses reported above should be modified to take into account the fact that occasionally some of the stolen merchandise or cash is recovered and returned to the owner. There was some property recovered in about 10% of the residential burglaries and 13% of the nonresidential burglaries: the value of property recoveries summed to about 6% of the



gross value of residential thefts and 26% of the gross value of nonresidential thefts.

Property was recovered under a variety of circumstances. Some property was recovered in 33 of the 88 cases cleared by arrest (38% of such cases). In most other cases, property was recovered through the victim's own efforts. (see Table 7)

#### 6. Demographic Characteristics of Burglary Suspects

Since there was an actual witness to the burglary who was able to provide police with a description of the burglar in only 35 cases, completely reliable information on the demographic characteristics of burglars in Durham is impossible to obtain. Besides witness descriptions, such information can be obtained from data on characteristics of arrestees (88 cases), tips from informers, and the accusations of the victim. Taking all sources together, suspects were arrested, named and/or described in a total of 176 cases. It should be noted that in several cases the same suspect (or group of suspects) was apparently responsible for a whole series of burglaries; the 176 cases do not represent 176 distinct individuals or groups of suspects.

Given these caveats about data on suspects, the following observations must be interpreted with considerable caution:

1. For those cases in which suspects were named, it appears that 40% were committed by groups of two or more. While this fraction is smaller than the corresponding number for robberies, it is still surprisingly high.
2. In the median case in which suspects were described or arrested, the suspect (or oldest of a group of suspects) was about 20 years old.
3. It appears to be rare for burglars over the age of 21 to work in groups.
4. Burglary suspects were Negroes in all but 7% of cases in which there were suspects, and males in all but 17% of such cases.
5. Suspects were related or acquainted to victims in about 40% of all such cases. This figure is almost certainly a substantial exaggeration of the true percentage of burglaries involving acquaintances, since such cases are relatively easy to solve. If we were to assume that all cases which involved acquaintances were solved (in the sense that a suspect was named), then the resulting estimate of the percentage of burglaries involving acquaintances would fall

Table 7

Percentage Distribution of Burglaries in Which  
Some Property was Recovered

Circumstances Leading to Recovery	#	%
1. Recovered by victim's own efforts, or returned voluntarily by thief	15	26
2. Thief arrested with goods, or informer's tip about location of goods leads to arrest and recovery	12	21
3. On scene arrest and recovery	8	14
4. Found in pawnshop	7	12
5. Other arrests which yield recovery of property	10	18
6. Other and unknown	5	9
TOTAL	57	100.0%

Table 8

Prior Acquaintance Between Suspects and  
Victims in Durham Burglaries, 1973

	<u># cases</u>
1. Suspects named	175
Stranger	107
Relative	12
Acquaintance	34
Neighbor	13
Ex-employee	9
2. (# cases involving suspects who are acquainted with victim)/ (# cases where suspect is named)=	68/175 = .40
3. (# cases involving suspects who are acquainted with victim)/ (# cases in sample) =	68/504 = .13
4. (# residential cases involving suspects who are acquainted with victim)/ (# residential cases in sample) =	55/285 = .19

to about 13%. I believe that 13% is closer to the true percentage. Finally, since most burglaries which involve acquaintances are residential burglaries, I would estimate that at least 20% of residential burglaries involved acquaintances.

#### IV. Report, Investigation, and Arrest

While police investigation in robberies tends to focus on exploiting the victim's memory of the robber's appearance (e.g., by showing the victim pictures of known troublemakers that fit the robber's description and/or using the lineup to secure an eyewitness identification), the victim's role in burglary investigations tends to be less important. A good description of the stolen merchandise - especially identifying numbers engraved on it - is useful to the detective; in cases which involve neighborhood kids or acquaintances the victim or his neighbors may also be able to give good suggestions as to names of suspects. In most cases, however, the citizens' role in preventing burglary is limited to protecting his premises and helping his neighbors keep a wary eye out for suspicious activity in the neighborhood.

#### The Report

Most burglaries (85%) which were reported to the police were called in by the victim or an employee after discovering evidence of a breakin and/or a theft. Over 8% of reports were made by police, and 4% by a neighbor.

Some burglaries are no doubt never reported in Durham. The Criminal Victimization Surveys of the five largest U.S. cities found that slightly more than half of household burglaries were reported to the police in these cities (about the same reporting rate as in personal robbery); commercial burglaries were reported in about three-quarters of all cases, a rate which is actually lower than the reporting rate for commercial robberies. "As with personal victimizations, the most frequently given reasons for not reporting household (and commercial) crimes to the police were a belief that, because of insufficient proof, nothing could have been accomplished by so doing, coupled with an opinion that the crime was not too important."\* If Durham can be assumed to be similar in these respects to very large cities, then it is clear that the reported burglary rate in Durham is a substantial understatement of the two burglary rates. However, it should be noted that Durham has made a special effort to encourage citizens to report crimes. The decentra-

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\*L.E.A.A. Criminal Victimization Surveys in the Nation's Five Largest Cities (U.S.G.P.O., Washington, D.C.) April 1975, p. 36.

lization of the police force which was part of the Public Safety Program introduced in 1971 had the effect of improving personal contacts between police and citizens, and there is some evidence that this increased reporting rates.\*\*

Of those burglaries in my sample, about 6% were unfounded, usually due to an honest error on the part of the "victim."

#### Investigation

Detectives investigated 88% of burglary reports in Durham in the 1973 sample. Detectives interviewed the victim in almost all cases, and went on to interview neighbors and others in about half of all investigations. Besides a property loss report (which in 9% of all burglaries included identification of merchandise serial numbers), these interviews yielded eyewitness accounts of the burglary in 8% of all cases and the names of suspects in 18% of all cases (usually from the victim himself). The frequency of these and other investigative activities are given in Table 9.

Typically victim cooperation is only a problem in burglary investigations in cases in which the victim and burglar are acquainted or related to each other. The statistics in Table 10 suggest that it is not uncommon for an investigation to stop short of arrest because the victim refuses to press charges or the cooperate with the detective in providing the names of suspects.

It should be noted that in some of these cases it is not clear that an arrest would have accomplished anything -- indeed, the victim's decision to handle the case himself saves the state the costs of arrest and criminal prosecution. "Noncooperation" may then be a misleading term.

Cases such as those discussed above were usually marked "exceptionally cleared." Other uses of this clearance include those in which the burglar was an estranged spouse of the victim (6 cases), the victim was a known pusher or otherwise suspect (6 cases), or the detective did not believe that a burglary occurred but decided not to mark the case unfounded (5 cases).

#### Arrest

Police effectiveness is often measured by the proportion of cases which

\*\*In 1974 Durham introduced a Crime Stop program which allows citizens to report crimes anonymously. This program, and the publicity which went with it, should further increase reporting rates.

Table 9

Frequency of Various Investigative Activities by  
Detectives in Durham Robbery Cases, 1973

<u>Activity</u>	<u>#</u>	<u>% of All Investigations</u>	
1. Submit Report	467	100.0%	
2. Conduct Interviews	447	96	
One Interview Only	200		43
Two or More Interviews	230		49
Unknown Number	17		4
3. Attempt to Take Finger- prints	120	26	
4. Check Pawnshops	73	16	
5. Check With Informers	62	13	
6. Other	61	13	

Table 10

Frequency of Noncooperation in Durham Burglary Cases, 1973

	<u>#</u>	<u>% +</u>
1. Victim refuses to press charges or to cooperate with detective		
a. Stolen merchandise is returned	16	3.2
b. Burglar was boyfriend or relative	14	2.8
c. Other (e.g., victim says he wants to handle the case on his own)	21	4.2
d. Total*	48	9.6%
2. Unable to contact victim	9	1.8
3. Total	57	11.4

\*Categories a. and b. have 3 cases in common.

+The denominator in these percentages is 504 (the number of all burglaries in the sample which were not unfounded).

are cleared by arrest. This is a particularly difficult measure to interpret in the case of burglary, for the following reasons: (1) many cases are "solved" without an arrest (see the discussion of exceptional clearances above); (2) an arrest may not result in conviction, in some cases because of inadequate detective work; (3) many cases marked "cleared by arrest" are "solved" simply by the confession of a suspect arrested for another crime -- such confessions typically do not result in conviction on additional charges, although they are useful for police department record keeping.

Of the 90 cases cleared by arrest, 40 resulted from the confession of a suspect who had already been arrested for another breakin, or (in three cases) some other crime. The sources of information which led to the first arrest in the remaining 50 cases are displayed in Table 11.

Of these 50 cases, 29 were nonresidential and 21 were residential.

#### Conclusion

Burglaries are very hard to solve. Of the 500-some cases included in this sample, ~~only 10%~~ resulted directly in an arrest. They are hard to solve partly because victims and witnesses can only provide useful information to detectives in a small fraction of the cases in which the burglary was committed by a stranger to the victim, and most serious burglaries appear to be of this sort. Of the over 500 cases in the sample, 2 were solved as a result of a witness to the burglary calling the police quickly enough to make an on-scene arrest possible; 3 were solved as a result of a witness' description of the burglar's auto. In a few other cases, the victim's ability to produce serial numbers for stolen merchandise contributed to the detective's ability to make an arrest.

These numbers might be improved somewhat in the future through Operation Identification and "neighborhood watch" programs. Such programs may also serve to directly deter burglars. But it would appear that the main role of the citizen will remain the traditional one of protecting his premises against burglary.

Table 11

Sources of Information Leading to  
Arrest in Durham Burglary Cases, 1973

	<u>#</u>	<u>%</u>
1. On Scene Arrest	10	20
Police Observe Breakin	7	14
Witness Call	2	4
Police Respond to Alarm	1	2
2. Informer's Tip	12	24
3. Traced Through Suspect's Use of or Attempt to Dispose of Stolen Property	13	26
Credit Cards, Checks	4	8
Pawnshop Trace	3	6
Illegal Use of Stolen Gun	2	4
Other	4	8
4. Information From Victim or Witness	12	24
Named by Victim	8	16
Witness Description of Burglar's Car	3	6
Other	1	2
5. Other	3	6
6. Total	50	100%

## 5. Durham Witness Survey

### I. Introduction

Criminal justice system officials have registered increasing concern about the role of the civilian witness in the criminal justice process. Noting the monetary costs and other inconveniences borne by witnesses who are subpoenaed to testify in criminal cases, critics have suggested that these costs\* might deter many victims or bystander witnesses from cooperating with criminal justice officials. This noncooperation might take a number of forms. First, victims may decide not to report crimes to the police. Second, bystander witnesses may fail to notify police of crimes in progress, or fail to go to police officials with information pertinent to crimes already committed. Finally, even witnesses who have been identified by criminal justice authorities may fail to cooperate either through refusal to talk to criminal justice authorities or to respond to subpoenas. Since witness information or testimony is essential to obtaining convictions in many cases, such noncooperation would serve to undermine the effectiveness of criminal sanctions.

It is very difficult (even conceptually) to measure the magnitude of the noncooperation problem. Some anecdotal evidence is available (as in the dramatic case of Kitty Genovese, who was attacked repeatedly and eventually killed in New York City while 42 witnesses watched from their apartments without doing anything to help). The recent criminal victimization surveys have served to document the fact that a large amount of serious crime is never reported to the police; in addition, several surveys of subpoenaed witnesses have reported that some fraction of them failed to comply with the subpoena (see below). But there are no systematic survey studies of the "unseeing witness" problem, and little has been done on witness or victim cooperation during the police investigation of a criminal case.\*\*

Instead of trying to measure the magnitude of these problems directly, this study takes a different tact; through a survey of recent civilian witnesses subpoenaed to testify in Durham Superior Court, we have attempted to measure the costs of "getting involved" for the typical witness and to consider several ways of reducing these costs. Our approach reflects two assumptions:

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\* In this paper we generally use the term "cost" to refer to all sacrifices, monetary or other, made by the witness.

\*\* See the reports on burglary and robbery in this volume for further discussion of this point.



(1) The noncooperation problem is substantial enough to be a matter of some concern in Durham (as well as other cities); and (2) Reducing the costs of citizen cooperation would in the long run increase the amount of cooperation - citizens who had been involved in one criminal case would be more likely to do it again if their experience in the first case had been satisfactory, and the perceptions of the public at large might also change.

Even if one does not accept these assumptions, it may still be thought desirable to reduce the costs to witnesses simply because it is unfair to impose a great deal of inconvenience on witnesses, especially if it is not necessary.

The primary goal of the Durham Witness Survey has been to carefully document the financial costs and other inconveniences experienced by civilian witnesses in the Durham County Courts. In addition, the survey attempted to provide an adequate portrait of the typical witness, and to measure the witnesses' own evaluations of their contacts with the police and prosecutor's office during the course of the investigation and trial process. Finally, the survey elicited the witnesses' own suggestions for improving the witness experience.

The major findings of the survey can be simply summarized:

- 1) Over 90% of those interviewed (all of whom had been subpoenaed) cooperated with criminal justice officials by appearing in court.
- 2) For most witnesses, this cooperation was quite costly in terms of time and effort. Two-thirds of the witnesses made three or more court appearances.
- 3) For many witnesses, cooperation was financially costly as well. One-third of our respondents reported losses of income resulting from court appearances, etc., with the average loss for these witnesses amounting to \$67.
- 4) Despite the substantial cooperation and personal sacrifices on the part of witnesses, fewer than one-half of those who appeared in court ever were asked to testify.
- 5) Only two-thirds of the witnesses expressed an unqualified willingness to serve as witnesses in future cases.

Comparing these results with those of a similar study\* conducted in Alameda County, California, we found that the costs borne by Durham County witnesses are much greater than those for their Alameda County counterparts. We then argue that the very substantial gap between Alameda County and Durham County

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\*Witness and Victim Survey, Alameda County, California, July 1975.

is primarily attributable to the fact that Alameda County "manages" its witnesses much more efficiently, relying upon extensive use of a telephone standby system in which witnesses are called to the courthouse only when it is known that their testimony will be needed. In Durham, by contrast, telephone standby is used relatively rarely for civilian witnesses.

To remedy the situation in Durham County, we propose two simple reforms. First, funds should be provided to create a full time "witness manager" whose duties would include running a telephone standby alert system. Second, we recommend that, at the very minimum, sufficient funds be allocated to compensate witnesses for earnings lost due to their involvement in the investigation and trial process.

## II. Study Design

The respondent pool. We collected the names of the witnesses from Superior Court Case files located in the Durham County Courthouse. To be eligible for an interview, a potential respondent had to have been a witness in a Superior Court case that was disposed of during the January 1 to July 14, 1975 period. In addition, he had to have appeared as lay witness because the goals of the survey precluded consideration of those witnesses, such as police officers and medical personnel, who made routine visits to the courts in an official capacity.

It should be noted that the Superior Court adjudicates only those cases in which the defendant is charged with a felony, or in which he has been convicted of a misdemeanor by the District and then appeals to the Superior Court. In both cases, a Grand Jury legitimizes the validity of the case by issuing a true bill of indictment. Thus, the prerequisite that a potential respondent appear in Superior Court made it likely that any witness chosen for an interview would have been involved in a case sufficiently serious to confront him with many of the demands normally associated with the role of the witness in criminal justice procedures (e.g. more than one court appearance, several conversations with the District Attorney, or appearance at a police line-up.)

However, to decrease further the likelihood that the interviewers would poll a witness with virtually no contact with the courts, an effort was made to approach only those witnesses who had been involved in trials regarding some of the more serious personal and property crimes. The rationale for the decision was based on the observation that witnesses associated with cases involving the minor felonies or appealed misdemeanors were much less likely to have participated as fully in the criminal justice proceedings as those involved in the more serious felony cases. Thus, the names of those witnesses who appeared in trials encompassing murder, assault, and involuntary manslaughter charges as well as burglary, armed robbery, housebreaking, larceny and receiving (MLR), forgery and uttering, storebreaking larceny and receiving (SLR), auto larceny, horsetheft, and larceny were retained on the interviewer's list. In contrast, most of the names of those witnesses associated with minor forgery, conspiracy, and minor larceny cases were deleted.

In addition, special provisions were made to bypass all witnesses who participated in cases involving drug and sex-related charges. All too often for the survey's purposes, an official witness was the only witness to appear in either the hard drug or minor marijuana cases. With respect to sex-related cases, it was believed that the nature of the crime was too personal for those involved to be included in the interviewing procedures.

Method of selection. Since it seemed most advantageous to select respondents with the most recent court appearances, witnesses for those cases that were terminated at or about the time of the beginning of the interviewing process were contacted first. As the interviewers began polling the respondents during the first week of June, 1975, they first chose those witnesses involved in cases that were disposed of during the month of May and then proceeded backward in time through the month of April, then through March, and so on. However, every two weeks during the 7 week interviewing period,

new names were obtained from Superior Court files for cases disposed of during the most recent two week period for which files were available. (There was a time lag of about one week with the Superior Court filing procedures.) These new names were placed at the top of the list. Consequently, although the allotted time period for eligible cases spanned the first six and a half months of 1975, the interviewers actually attempted to reach most of those witnesses associated with cases closed during the January 28 to July 14 interval only. That they did not contact all eligible witnesses of the designated period was primarily a result of time and funding limitations.

Interviewing process. Two interviewers, working separately from June 7 to July 31, 1975, polled a total of 87 respondents. A letter of introduction was first sent to each witness at the address noted on the Superior Court Case file. Then, the interviewer attempted to reach the respondent at his home during the latter afternoon and early evening hours. When necessary, arrangements were made to interview the witness at his business location during the work day. If neither option was available, the interviewer tried to contact the respondent over the telephone to conduct the interview. Nine of the total 87 interviews were completed via the phone.

If at all possible, the interviewer tried to conduct the interview privately with the respondent so as to minimize external interruptions. Of course, this could not always be achieved. Rarely, however, did third parties appear to exert a significant influence on a respondent's answers. The average time for each full length interview was between 25 and 30 minutes.

With regard to the interview format, the interviewer used a standard questionnaire of 62 questions. Each witness responded to 50 forced choice questions. The remaining twelve questions were the open-ended type which the interviewer used to encourage the respondent to vent his opinions at length on answers that needed further explication.

Content of the interview.\* The overriding purpose of the interview was to ascertain the costs of witness participation and to assess witness reactions to their involvement with the local criminal justice system. As such, it was necessary to begin the interview by identifying the respondent's perceptions of both his role and the various particulars of the case. The witness was asked about the nature of the crime, where it occurred, who reported it, as well as whether or not he was the victim and whether or not he knew the defendant.

The next section obtained concrete data about the extent of the witness's contact with the various local criminal justice institutions during the case. Here the interviewer queried the respondent about the number of times he talked with the police and the District Attorney's Office, whether or not he went to court to testify and if so, how many times he both went to court and testified. The respondent was also asked about the particulars of

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\*Copies of the questionnaire are available for distribution to interested researchers.

both his first and last appearance in court, including whether or not he testified and if not, why not, as well as his waiting time.

The interviewer proceeded to assess some of the various minor personal costs sustained by the witness because of his participation in the case. He queried the respondent about his mode of transportation to and from court and, where appropriate, the number of times he took a bus, taxi, or car to court, the length of time for each trip, and the total cost. He also asked the witness about babysitting costs.

The next section of the interview gave the respondent an opportunity to evaluate both his contact with and the performance of the local criminal justice institutions. After relating the number of times he was subpoenaed, the respondent indicated whether or not he was afraid to become involved in the case and if so, why. He then described the treatment he received from the police and the District Attorney and indicated whether or not he would be willing to participate in the future. For each of these three inquiries, he had the option of going into greater detail by explaining why he felt as he did.

The interviewer then ascertained the more major personal losses incurred by the respondent as a result of participation with the courts. He first obtained data about the witness's employment status at the time of the interview by asking who he worked for, the number of hours he worked per week, and his weekly wage. He proceeded to ask identical questions about the respondent's employment at the time of the case. If the respondent was working at the time, the interviewer asked if he missed work as a result of the case, what caused him to miss work, and the number of hours he missed. If he was working for someone else, the interviewer asked whether or not he was paid for all the hours he missed and if not, how many hours he lost, as well as the employer's reactions to his missing work. If the witness was working for himself, he was asked if he had to close his business because of a court appearance and if so how much money his business lost. Finally, if the respondent was a manager of a commercial establishment that was the scene of the crime, the interviewer queried if he paid any employee witnesses who were subpoenaed to court and whether or not he thought it paid to cooperate with the police and courts in prosecuting criminals.

The next section probed any previous involvement the respondent might have had with the courts, the date of such involvement, and in what capacity he appeared. It also sought the respondents opinions on two issues, the general problem of crime in America and the more immediate question of what kinds of improvements should be made to encourage witness participation in the local criminal justice system.

The interviewer concluded the questioning with standard demographic questions such as the length of the respondent's residence in Durham County, his age, amount of education, marital status, and number of children living at home. He then made a note of any reflections the respondent had about the case which the interview failed to illuminate.

Interview statistics. The two interviewers attempted to reach 138 witnesses and, as noted previously, completed 87 for a completion rate of 63% (see

Table 1). The completion rate along race and sex lines offers rather interesting comparisons. Fifty-seven of 80 whites were successfully contacted, yielding a 71% rate, while 30 of 58 or 52% of the blacks were reached. With regard to sexual differentiation, 51 of 84 (or 61%) of the males were reached while 36 of 54 (or 67%) of the females were contacted.

Of the 51 uncompleted interviews, 15 witnesses refused to interview, 18 could not be located, 3 had health problems which precluded the interview, 11 never received a subpoena and/or had no recall of the case and 4 people's names were mistakenly recorded by the Superior Court clerks as witnesses.

TABLE 1.

Interview Outcomes and Explanations for Non-Completions

A. Outcomes

	Total	Black	White	Male	Female
Completed	87 <sup>a</sup> (63.0) <sup>b</sup>	30 (51.7)	57 (71.3)	51 (60.7)	36 (66.7)
Not completed	51 (37.0)	28 (48.3)	23 (28.8)	33 (39.3)	18 (33.3)
Total	138	58	80	84	54

<sup>a</sup> Frequency

<sup>b</sup> Percent of column total

B. Reasons for Non-completions

Reason	Frequency	Percent
Refusal	15	29.4
Couldn't be located	18	35.3
Health Problem	3	5.9
Never got subpoena/no recall	11	21.6
Name mistakenly recorded	4	7.8
Total	51	100.2 <sup>c</sup>

<sup>c</sup> Sum exceeds 100% due to rounding.

### III. Data Analysis

The major results of our survey are summarized in 16 tables. With so many tables, it is easy to become overwhelmed with information. To assist the reader, we group the tables into three classes, then verbally summarize the major findings for each class. Depending upon the reader's interests, he may then wish to carefully examine some subset of our tables.

To briefly preview the discussion of our findings, we begin with a summary of the major characteristics of our witnesses and the cases in which they were involved. Next we describe the objective characteristics of the witnesses' experiences in terms of number of appearances in court, waiting time, etc. Finally, we discuss the witnesses' reactions to their experiences and their evaluations of the police and prosecutor's office.

Given the nature of our data, and the small sample size, this data summary presents only simple frequency distributions and cross tabulations. After some deliberation, we have decided to include "significance test"<sup>\*</sup> results in all tables involving comparisons of groups. In most applications of  $\chi^2$  tests, the investigator's goal is to make inferences about relationships between variables based on data collected from a random sample of members of the larger population of interest. In the context of this study, the relevant population consists of all those persons who might have been witnesses. "Chance" intervenes to determine who actually becomes a victim or witness. Thus, even though we attempted to interview every person who received a subpoena, these persons themselves were selected by a random process. As a consequence, inferential procedures seem appropriate.

Finally, given our small sample size, we employ a .10 significance criterion.<sup>\*\*</sup> With but a few exceptions, we will not discuss relationships which fail to meet this criterion.

#### Selected Characteristics of Witnesses and Cases.

Witness characteristics. It might be argued that inconveniences to witnesses, while regrettable, should cause little alarm because most witnesses are unemployed and have nothing better to do with their time. This is not the case in Durham. Of the 87 witnesses interviewed, 72 (or 83%) were employed at the

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<sup>\*</sup>To those unfamiliar with inferential statistics, the goal of the type of tests used here is to decide whether an observed relationship is sufficiently strong, given the number of observations, to reject the hypothesis that it could have arisen by chance alone.

<sup>\*\*</sup>For the non-statistical reader, significance at the .10 level implies that there is a 10% or smaller chance that a relationship as strong or stronger than that observed in our sample data could have arisen if, in fact, there were no relation at all in the total population of potential witnesses.



time of the interview. Given that 36 of the witnesses were women, this overall employment rate is strikingly high.

Tables 2 and 3 summarize these and other important characteristics of our witness sample. Most of our 87 witnesses were white\* (66%), male (59%), married (60%), and had children living with them (55%). The average witness was 37 years old and had lived in Durham for 24 years.

Not only were most of our witnesses employed, most had a good education, with 59% having graduated from high school, and 14% from college. A substantial proportion (18%), however, had eight years or less of formal education.

In terms of occupation, most of our respondents (56%) were white collar workers with "managers, officials, and proprietors" being the most common (30%) occupational category\*\*, followed by "clerical workers" (13%). With regard to wages, 59% earned in excess of \$100/week, and 23% earned more than \$200/week.

Finally, almost two-thirds of our respondents had some previous experience with the criminal justice system (see Table 4A), with 28% having previously served as witnesses, and 21% having been defendants in prior cases. While we lack data from a general sample of Durham residents, this rate of prior involvement seems unusually high. We might conjecture that witnesses are drawn from a segment of the population which has an unusually high probability of being exposed to (or involved in) criminal activity.

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\* Note, because of the poorer response rate for blacks, they are under-represented in our sample.

\*\* Occupational classification was based on the U.S. Bureau of the Census' "Socio-economic Indexes of Detailed Occupation."

TABLE 2.

Demographic Characteristics of Durham Witnesses

	Frequency	% of Total	Mean	Median
<u>Race (N=87)</u>				
White	57	65.5	-	-
Black	30	34.5	-	-
<u>Sex (N=87)</u>				
Male	51	58.6	-	-
Female	36	41.4	-	-
<u>Employment Status (N=87)</u>				
Working	72	82.8	-	-
Nonworking	15	17.2	-	-
<u>Age (N=87)</u>	-	-	37.5	33.3
<u>Residence (N=87)</u>				
City	58	68.9	-	-
County	29	31.1	-	-
<u>Length of Residence For Those in City (N=58)</u>	-	-	24.2	24.7
<u>Marital Status (N=87)</u>				
Married	52	59.8	-	-
Single	14	16.1	-	-
Separated	10	11.5	-	-
Divorced	6	6.9	-	-
Widowed	5	5.7	-	-
<u>Household Composition (N=87)</u>				
Children	48	55.1	-	-
No children	39	45.9	-	-
<u>Average Number of Children for Households With Children (N=48)</u>	-	-	2.0	1.7

TABLE 3.

Socio-economic Characteristics of Durham Witnesses

(A) Education (N=87)		
Years	Frequency	%
0-8	16	18.4
9-11	20	23.0
12	27	31.0
13-15	12	13.8
16 +	12	13.8

(B) Weekly Wages		
Range	Frequency	%
\$0-25	4	4.6
\$26-50	0	0
\$51-75	3	3.4
\$76-100	8	9.2
\$101-150	19	21.8
\$151-200	12	13.8
\$201-300	13	14.9
\$300 +	7	8.0
Not ascertained	6	5.7
Not working	15	17.2

(C) Occupation (N=87)		
Class	Frequency	%
Professional, technical	6	6.9
Farmers, Farm managers	1	1.1
Managers, officials, proprietors	26	29.9
Clerical	11	12.6
Sales	6	6.9
Craftsman, kindred	7	8.0
Operatives	9	10.3
Service Workers	4	4.6
Laborers	1	1.1
Not ascertained	1	1.1
Not working	15	17.2

TABLE 4.

## A. Nature of Witness Involvements

Present Case (N=87)		Past Cases (N=87)					
Victim	Non-victim	None	Juror	Witness	Defendant	Multiple Roles	Other
39 (44.8%)	48 (55.2%)	30 (34.5%)	10 (11.5%)	24 (27.6%)	18 (20.7%)	4 (4.6%)	1 (1.1%)

## B. Witness' Relations to the Victim and Accused in Present Case (N=87)

Relation to:	Self	Family Member	Friend	Neighbor	Acquaintance	Stranger	Employee	Multiple Relations	Other
Victim	39 (44.8%)	8 (9.2%)	5 (5.7%)	3 (3.4%)	4 (4.6%)	4 (4.6%)	17 (19.5%)	-	7 (8.0%)
Accused	-	1 (1.1%)	1 (1.1%)	5 (5.7%)	9 (10.3%)	58 (66.7%)	0 (0)	4 (4.6%)	9 (10.3%)

## C. Nature of Case in Which Witness Was Involved (N=87)

Burglary (Breaking & Entering)	Armed Robbery	Other Robbery	Assault	Murder	Larceny ≥ \$200.00	Other
30 (34.5%)	26 (29.9%)	5 (5.7%)	7 (8.0%)	12 (13.8%)	4 (4.6%)	3 (3.4%)

### Nature of the case and the witness' role in it

The reasons for the respondents' involvement are illustrated in Table 4. With regard to the particular case about which we interviewed them, slightly more than half (55%) of the respondents were eyewitnesses while the remaining portion (45%) indicated that they were the victims of their case.\* As to the types of cases investigated, one-fifth of our sample participated in cases adjudicating major personal felonies such as murder or assault. The remaining four-fifths were involved in cases dealing with major economic (money producing) crimes, of which burglary (35%) and armed robbery (30%) yielded the highest incident rates. While the witness knew the victim in all but 5% of the cases, only about 20% of the total sample had had previous contact with the defendant in their case.

### Witness Experiences with the Criminal Justice System

Types of witness involvement with the criminal justice system. All of our respondents received subpoenas to testify; this was one of the criteria for inclusion in the sample. Of the 87 witnesses in our study, virtually all (91%) made one or more court appearances. An even higher proportion (97%) had some contact with the police in conjunction with the case. A much smaller proportion (58%) reported some form of contact with the prosecutor's office. Finally, only 40% actually gave testimony in court. Here we have our first evidence concerning the efficiency of the courts. While a vast majority of those subpoenaed complied with the subpoena, fewer than half of those persons who went to court ever gave testimony. (See Table 5.)

In Table 6A we compare rates of testimony for first and last appearances in court. Only those respondents who appeared more than once in court were included in the "last appearance" data. These data reveal that only 20% gave testimony at their first appearance. Moreover, of the 67 witnesses who made more than one court appearance, only 30% gave testimony at their last appearance.

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\*We should like to emphasize that a third distinction can legitimately be made among witnesses; that is, those witnesses who originally were charged with the crime, but who agreed to turn state's evidence either to avoid prosecution or to obtain a less severe sentence. Yet to ascertain who among the 48 members of the eyewitness group had been co-defendants turned state's evidence presented severe reliability problems, given the current record-keeping procedures of the District Attorney's office and the Superior Court filing clerks. However, it seemed likely that our particular sample had only a marginal proportion of such witnesses because of the following considerations. (1) Durham County's status as a small town-rural area increased the likelihood that peer pressure would prevent a defendant from turning against his former accomplices. A large urban area, on the other hand, would better facilitate a state's evidence witness separation from his former co-defendant after his testimony, thus minimizing the danger of reprisal. (2) Our interviewers were unlikely to have completed an interview with such a witness because he would be serving a jail sentence or else would have departed from the Durham area.

TABLE 5.

Types of Witness Contact with Criminal  
Justice Institutions - Present Case

Type of Contact	Frequency	Average Number of Contacts			
		For those who had this contact		For all witnesses	
		Mean	Median	Mean	Median
Contact with police	84 (96.6%)	2.9	2.2	2.8	2.2
Contact with D.A.'s office	50 (57.5%)	2.8	1.4	1.6	.7
Subpoenaed to testify	87 (100%)	3.3	2.6	3.3	2.6
Appeared at court	79 (90.8%)	4.1	3.4	3.7	3.2
Testified in court	35 (40.2%)	1.3	1.2	.6	.3

TABLE 6.

## Relationships between Giving Testimony and Selected Witness Characteristics

A.

Court Appearance	Testified	Did not Testify
First (N=79)	16 (20.3) <sup>a</sup>	63 (79.7)
Last <sup>b</sup> (N=67)	20 (29.9)	47 (70.1)

	Total	Victim	Non-victim	Black	White	Male	Female	Working	Not working
Testified	35 (44.3) <sup>c</sup>	20 (52.6)	15 (36.6)	14 (46.7)	21 (42.9)	18 (39.1)	17 (51.5)	28 (43.8)	7 (46.7)
Did not testify	44 (55.7)	18 (47.4)	26 (63.4)	16 (53.3)	28 (57.1)	28 (60.9)	16 (48.5)	36 (56.3)	8 (53.3)
Total	79 <sup>d</sup>	38	41	30	49	46	33	64	15
Chi square <sup>a</sup>		1.46		.01		.74522		.007	
Significance <sup>a</sup>		.23		.92		.39		.93	

<sup>a</sup>Percent of raw total.<sup>b</sup>Only those witnesses making two or more appearances included here.<sup>c</sup>Percent of column total.<sup>d</sup>Only those witnesses making at least one appearance included here.

In Table 6B we examine possible correlates of giving testimony. These data provide no evidence of discrimination on the basis of race, sex, or labor force status. All witnesses apparently experienced the same probability of a "wasted appearance".

While there is some indication that victims were more likely to give testimony than non-victims, this difference does not even approach statistical significance. But because victim testimony is likely to be of more value than non-victim testimony, we are inclined to believe that some real difference exists here.

In the final analysis of this section, we attempt to determine why witnesses who went to court did not give testimony. Because the data displayed in Table 7 are based on the witnesses' own explanations of why they did not testify, they should be viewed with some caution. Nevertheless, the results are so strong that a small amount of witness misperception would not matter. For first appearances, continuances accounted for 57% of the cases. But for last appearances, 40% of the non-testimony resulted from cases being closed, and only 28% from continuances.\* These results come as no surprise to anyone familiar with court room proceedings, but they have important implications for reducing the costs borne by witnesses.

Waiting time and number of court appearances. Despite the relatively low proportion of witnesses who ultimately gave testimony, 68% of the witnesses were required to make three or more appearances, and 35% to make five or more appearances, with the average witness making 4.1 appearances (see Tables 8A and 8B). To estimate the total waiting time for each witness, we averaged together the number of hours the witness spent in court on his first and last appearances, then multiplied by the total number of appearances.\*\* For the 79 witnesses who made at least one appearance, the average total waiting time was 14.2 hours.

Turning to comparisons between different types of witnesses, blacks made significantly fewer appearances than whites. Also, victims made fewer appearances than nonvictims, and those who testified made more appearances than those who did not, but neither of these differences is statistically significant. The same general pattern of results was observed for total hours lost, but none of these comparisons even approaches statistical significance.

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\* Because data on first and last appearances do not constitute independent observations, a chi-square test is not formally justified. Assuming independence, the test statistic is significant at the .01 level.

\*\* The averaging of the hours waited during first and last appearances seems justifiable in light of the fact that the average waiting time for first and last appearances was virtually identical. This suggests that waiting time is constant (on the average) over appearances. Of course, if the witness made either one or two appearances, no averaging was required.



TABLE 7.  
Reasons Why Witnesses Who Appeared  
In Court Did Not Give Testimony

Reason	First Appearance <sup>a</sup> (N=63)		Last Appearance <sup>b</sup> (N=47)	
	Frequency	%	Frequency	%
Case continued	36	57.1	13	27.7
Case closed	5	7.9	19	40.4
Testimony not needed	10	15.9	7	14.9
Don't know	6	9.5	5	10.6
Other	6	9.5	3	6.4

<sup>a</sup>Only those witnesses who made at least one appearance are included here.

<sup>b</sup>Only those witnesses who made two or more appearances are included here.

TABLE 8

Number of Court Appearances and Total Hours Lost Due to Court Appearances

A.

		Total (n=74)	Victim (n=38)	Nonvictim (n=41)	Black (n=30)	White (n=49)	Male (n=46)	Female (n=33)	Testified (n=35)	Did not Testify (n=44)
Number of Appearances	Mean	4.1	3.58	4.56	3.37	4.53	4.00	4.21	4.63	3.66
	t <sup>a</sup>	-	-1.54		-2.02*		-.305		1.49	
Total Hours Lost	Mean	14.2	8.45	12.55	9.12	11.55	9.21	12.85	13.56	10.40
	t	-	-1.28		-.85		-1.00		.95	

<sup>a</sup>Two-tailed t-test for difference between means. (Need  $t = 1.67$  for .10 significance)

\*Significant at .05 level.

B.

Times Appeared in Court	Total	Victim	Non-victim	Black	White	Male	Female	Testified	Did not Testify
1-2	25 (31.6)	15 (39.5)	10 (24.4)	10 (33.3)	15 (30.6)	13 (28.3)	12 (36.4)	8 (22.9)	17 (38.6)
3-4	26 (32.9)	10 (26.3)	16 (39)	13 (43.3)	13 (26.5)	16 (34.8)	10 (30.3)	13 (37.1)	13 (29.5)
5-20	28 (35.4)	13 (34.2)	15 (36.6)	7 (23.3)	21 (42.9)	17 (37)	11 (33.3)	14 (40)	14 (31.8)
Total	79	38	41	30	49	46	33	35	44
Chi-Square	-	2.42		3.64		.59		2.24	
Significance	-	.30		.16		.75		.33	

Hours of work and wages lost due to court appearances. A substantial majority (68%) of our respondents reported that their participation as witnesses caused them to miss work (Table 9), with those who missed work losing an average of almost 2 and a half working days (18.8 hours). Court related activities were by far the most commonly reported reason for missing work (see Table 9B).

Of the 46 witnesses who worked for someone else and missed work, almost half lost wages as a consequence (Table 10). To estimate total wages lost for a witness, we multiplied the number of hours for which the witness was not compensated by his average hourly wage rate. For the 22 witnesses, employed by others, who reported losing wages, the median total wages lost was \$34.37 and the mean \$67.60. Given the relatively modest wage level of most witnesses, losses of this magnitude may be viewed as relatively severe.

The remaining 14 witnesses who missed work were self-employed (Table 10B). Five of these 14 reported revenue losses resulting from temporarily closing their business. For these five self-employed witnesses, the median estimated loss was \$20 and the mean \$230. With such a small number of respondents, these averages for self-employed witnesses must be viewed with caution.

#### Witness Reactions to their Experiences with the Criminal Justice System.

Fear of involvement. Fear of retaliation from the defendant or harassment from authorities constitutes one obvious deterrent to witness cooperation. Twenty-one of our 87 respondents reported being afraid (Table 11). Cross-tabulations between fear of involvement and witness characteristics reveals that women were three times as likely to be afraid as men, and blacks twice as likely as whites. Both of these associations are statistically significant. In addition, non-victims were twice as likely as victims to report fear of involvement, though this association is not quite significant at the .10 level.

Evaluations of the police and prosecutor. Almost three-quarters of our respondents (73%) gave the police an overall positive evaluation (Table 12). Moreover, this level of positive endorsement was virtually the same for victims and non-victims, blacks and whites, males and females, and testifiers and non-testifiers.

The prosecutor's office was generally less favorably evaluated. Here, only 54% of our respondents gave overall positive ratings (Table 13). Not surprisingly, those who testified were more likely to give positive evaluations than those who did not (69% to 48%). In addition, blacks gave many more positive ratings than whites (74% to 44%). Both of these results are statistically significant.

Future willingness to participate as a witness. Two-thirds of our respondents indicated that they would be willing to participate as witnesses in future cases (Table 14). The fact that 13% said that they would not and that another 20% indicated that it would depend upon the circumstances of the case must, however, be viewed as disturbing.

TABLE 9.

Hours of Work Lost Due to Court Appearances

A.

	Missed Work	Did not Miss work	Not employed
Frequency	59	13	15
Percent	(67.8)	(14.9)	(17.2)
Mean hours missed	18.8	-	-
Median hours missed	10.0	-	-

B.

Cause of missed working	Frequency <sup>a</sup>	Percent <sup>b</sup>
Giving testimony	25	28.7
Talking to police	11	12.6
Talking to D.A.'s office	11	12.6
Waiting in court	57	65.5
Other	9	10.3

<sup>a</sup> Number of witnesses citing cause. A given witness may miss work for multiple reasons.

<sup>b</sup> Percent of total sample (N=87) citing cause.

TABLE 10.

Wages Lost Due to Court Appearances

(A) Witnesses Working for Someone Else (N=46)

	Frequency	Percent	Total wages lost	
			Mean	Median
Witness Paid for Hours Lost	21	45.7	0	0
Witness Not Paid for Hours Lost	22	47.8	\$67.60	\$34.37
Other	3	3.4	-	-

(B) Self-employed Witnesses (N=14)

	Frequency	Percent	Total Loss to Business	
			Mean	Median
Business continued to operate	9	64.3	0	0
Forced to close business (temporarily)	5	35.7	\$230	\$20

TABLE 11.

Relationships Between Fear of Involvement and  
Selected Witness Characteristics

	Total	Victim	Non-victim	Black	White	Male	Female	Testified	Did not testify
Afraid	21 <sup>a</sup> (24) <sup>b</sup>	6 (15.4)	15 (31.3)	11 (36.7)	10 (17.5)	7 (13.9)	14 (38.9)	6 (17.1)	13 (29.5)
Not afraid	66 (76)	33 (84.6)	33 (68.8)	19 (63.3)	17 (82.5)	44 (86.3)	22 (61.1)	29 (82.9)	31 (70.5)
Total	87	39	48	30	57	51	36	35	44
Chi square		2.16		2.95		5.99		1.03	
Significance		.14		.09		.01		.31	

<sup>a</sup> Frequency<sup>b</sup> Column percentage

TABLE 12.

Relationships Between Police Evaluation and Selected  
Witness Characteristics

Evaluation	Total	Victim	Non-victim	Black	White	Male	Female	Testified	Did not testify
Positive	63 <sup>a</sup> (73.3) <sup>b</sup>	28 (71.8)	35 (74.5)	21 (70)	42 (75)	35 (70)	28 (77.8)	25 (71.4)	31 (72.1)
Negative	15 (17.4)	7 (17.9)	8 (17)	5 (16.7)	10 (17.9)	9 (18)	6 (16.7)	8 (22.9)	6 (14)
Other	8 (9.3)	4 (10.3)	4 (8.5)	4 (13.3)	4 (7.1)	6 (12)	2 (5.6)	2 (5.7)	6 (14)
Total	86 <sup>d</sup>	39	47	30	56	50	36	35 <sup>e</sup>	43 <sup>e</sup>
Chi-square		.10		.89		1.13		2.13	
Significance		.95		.64		.57		.34	

<sup>a</sup> Frequency<sup>b</sup> Column percentage<sup>c</sup> Excluding those who never appeared in court.<sup>d</sup> One respondent declined to evaluate the police.<sup>e</sup> Total equals 78, one less than the total number to appear in court. One witness who did not testify and had no contact with police declined to give a police evaluation.

TABLE 13.

Relationships Between D.A. Evaluations and  
Selected Witness Characteristics

	Total	Victim	Non-victim	Black	White	Male	Female	Testified	Did not testify <sup>c</sup>
Positive	46 <sup>a</sup> (54.1) <sup>b</sup>	22 (56.4)	24 (52.2)	22 (73.7)	24 (43.6)	26 (52)	20 (57.1)	21 (68.6)	21 (47.7)
Negative	19 (22.4)	8 (20.5)	11 (23.9)	2 (6.7)	17 (30.9)	14 (28)	5 (14.3)	9 (25.7)	9 (20.5)
Other	9 (10.6)	4 (10.3)	5 (10.9)	2 (6.7)	7 (12.7)	3 (6)	6 (17.1)	2 (5.7)	7 (15.9)
Don't know	11 (12.9)	5 (12.8)	6 (13.0)	4 (13.3)	7 (12.7)	7 (14)	4 (11.4)	3 (9)	7 (15.9)
Total	85	39	46	30	55	50	35	35	44
Chi square		.19		8.95		4.35		9.07	
Significance		.98		.03		.23		.03	

<sup>a</sup> Frequency<sup>b</sup> Column percent<sup>c</sup> Excluding those who never appeared in court



TABLE 14.

Relationships Between Future Willingness to Participate and  
Selected Witness Characteristics

	Total	Victim	Nonvictim	Black	White	Male	Female	Testified <sup>c</sup>	Did not testify <sup>c</sup>
Willing	59 <sup>a</sup> (67.8) <sup>b</sup>	23 (59)	36 (75)	19 (63.3)	40 (70.2)	33 (64.7)	26 (72.7)	23 (65.7)	29 (65.9)
Unwilling	11 (12.6)	6 (15.4)	5 (10.4)	6 (20)	5 (8.8)	6 (11.8)	5 (13.9)	5 (14.3)	6 (13.6)
Depends on situation	17 (19.5)	10 (25.6)	7 (14.6)	5 (16.7)	12 (21.1)	12 (23.5)	5 (13.9)	7 (20)	9 (20.5)
Total	87	39	48	30	57	51	36	35	44
Chi square		2.58		2.29		1.25		.005	
Significance		.28		.32		.53		.996	

<sup>a</sup> Frequency

<sup>b</sup> Column percentage

<sup>c</sup> Excluding those who did not appear in court.

We next attempted to determine whether willingness to participate was related to any characteristics of the witnesses themselves or their experiences with the court. As Table 14 reveals, willingness to participate was not significantly related to race or sex. More surprising, it was not related to whether a person was a victim or whether he gave testimony. After a fairly extensive series of analyses, we found only one indication that experiences with the court may influence willingness to participate (Table 15). Among those persons who did not testify, victims were significantly less likely to be willing to participate than non-victims (50% to 77%). This result is at least consistent with the hypothesis that victims are more likely to be frustrated by the inefficiencies of the court procedure. We speculate (though we lack data to demonstrate) that victims were particularly likely to reject the legal process when they felt that "justice had not been done" in their case.

TABLE 15.

Relationship Between Future Willingness to Participate  
and Victim vs. Non-victim Controlling for Whether or  
Not the Witness Testified in Court

	Testified		Did not testify <sup>c</sup>	
	Victim	Non-victim	Victim	Non-victim
Willing	13 <sup>a</sup> (65) <sup>b</sup>	10 (66.7)	9 (50)	20 (76.9)
Unwilling	1 (5)	4 (26.7)	5 (27.8)	1 (3.8)
Depends on situation	6 (30)	1 (6.7)	4 (22.2)	5 (19.2)
Total	20	15	18	26
Chi square	5.15		5.68	
Significance	.07		.06	

<sup>a</sup> Frequency

<sup>b</sup> Column percentage

<sup>c</sup> Excluding those who never appeared in Court

#### IV. Comparison with Results from Alameda County Witness Survey

To help place the Durham Witness Cooperation Project in perspective, it is useful to compare and contrast some of our major findings with those obtained in similar studies. For the sake of brevity, we have singled out one of several recent projects, the Victim and Witness Survey of Alameda County, California; whose focus with regard to the investigation of witness cooperation is in many respects similar to ours. Both studies emphasize the costs of witness participation in criminal justice procedures and the reactions of witnesses to their involvement in the courts. A central objective of both is to assess those deficient conditions in local criminal justice institutions, which when rectified, will augment voluntary witness cooperation. As such, a comparison will provide yet more background from which police recommendations will be made.

The Alameda County survey attempted to contact a total of 796 witnesses and reached 515 for a completion rate of 65%. Similarly, our study attempted to survey 138 witnesses and interviewed 87 for a 63% completion rate. All witnesses in both studies were involved in felony cases and as such were likely to have experienced many of the demands normally associated with the role of the witness in the respective local criminal justice systems. Despite the similar overall completion rates, refusals constituted a higher percentage of non-completions in Durham County (29%) than in Alameda County (8%).

All 87 witnesses in our survey were officially requested via subpoena to appear in court. In contrast, only 65% of the Alameda County survey respondents were notified via subpoenas for their first court appearances. Not surprisingly, a higher proportion of respondents made court appearances in the Durham survey (91%) than in the Alameda survey (81%). Moreover, of those who did appear in court, Durham witnesses were much more likely than Alameda witnesses to make three or more court appearances (68% vs 11%). Finally, considering only those witnesses who made court appearances, only 44% of the Durham witnesses testified as compared to 81% of the Alameda witnesses.

Turning to financial costs, 22% of the Alameda witnesses lost income as compared to 33% of the Durham witnesses. This difference is partially attributable to the higher proportion of Durham witnesses who made court appearances. Also, the Durham figure includes losses by those operating their own business; it is not clear that such losses were recorded in the Alameda survey.

Durham witnesses apparently experienced less fear of involvement than did their Alameda County counterparts. Unfortunately, different wordings in the two questionnaires make precise comparisons impossible. In Alameda County, 25% gave responses coded as definite fear of involvement, and another 40% gave qualified answers. In Durham, where a simple yes-no question was used, only 24% of the respondents said they experienced fear.

Finally, Durham respondents were apparently more likely to give either high or low (as opposed to neutral) evaluations of the prosecutor's office, though

differences in question wording make comparisons tenuous.\* In Durham, 53% gave positive ratings and 22% negative ratings; in Alameda County, the corresponding figures were 34% and 7%.

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\* In the Durham survey, 17% of the respondents were classified as "other"; in Alameda County, all respondents were classified as positive, negative, or indifferent.

## V. Discussion and Recommendations

The major findings of our Durham study may be summarized quite simply.

- 1) A very high proportion of witnesses (91%) cooperated with criminal justice system officials by appearing in court to give testimony.
- 2) For most witnesses, this cooperation was quite costly in terms of time and effort. Two-thirds made three or more court appearances.
- 3) One-third of the witnesses cooperating with criminal justice officials suffered a loss of income, with the average loss (\$67) being quite large relative to the worker's weekly pay.
- 4) Despite the cooperation and personal sacrifices of the witnesses, fewer than half (44%) of those who appeared in court ever gave testimony.
- 5) Only two-thirds of the witnesses indicated an unqualified willingness to participate as witnesses in future cases.

Clearly, witnesses are not used efficiently by the Durham County Courts. The contrast with Alameda County, where over 80% of those who appeared in court gave testimony, is striking. This Alameda County figure suggests that through efficient witness management procedures it is possible (1) to call very few witnesses whose testimony will not be used, and (2) to schedule trial proceedings in a fashion which holds witness waiting time and appearances at relatively low levels.

The Durham County Courts are inefficient on both counts. (The one positive fact in this regard is that we found no evidence of discrimination on the basis of race, sex, or employment status.) Moreover, the relatively low evaluations of the prosecutor's office (as compared to the police) suggests that our respondents were upset by the financial losses and other inconveniences which they suffered.

A few anecdotes, obtained from respondents in our survey, may serve to dramatize the frustrations and inconveniences experienced by witnesses in the Durham County Courts. In one case a respondent received a subpoena to serve as a witness in a case where he knew nothing about the crime and had had no prior relationship with any of the trial participants. Over a five day period the witness made 10 roundtrips to the Courthouse before an aide in the prosecutor's office recognized the error and sent the respondent home with an apology. While the respondent claimed to bear no ill feelings toward the prosecutor's office, the fact remains that he spent five days in Court for virtually no reason other than bureaucratic error.

Another respondent spent nine days at the Courthouse without ever giving testimony. While this witness was under subpoena, he came willingly to court because he had strong feelings about the disposition of the case. Because the witness was self-employed, he was forced to close his business for almost two full working weeks, losing an estimated \$1000 to \$1200. This witness was particularly bitter, not only because of the lost income, but also because he was angry about the final disposition of the case whose outcome he wished to influence by giving testimony. His concluding comment

was that, at the very least, the courts should absorb the financial costs borne by witnesses because "it should not cost to be a witness."

A third witness complained that on three separate occasions he responded to subpoenas only to sit in court for five or six hours before being informed that the case had been continued. As a consequence this witness lost approximately half a week's pay. In each case he had to approach the District Attorneys to determine the cause of the delay. They did not approach him. In the witness' opinion, the cause of the delay in all three cases was simply that the prosecutors had not gotten their facts straight. This witness also complained that in each case he received his subpoena on the evening before he was to testify, thus making it difficult for him to inform his employer that he would be missing work.

What can be done to reduce the costs borne by witnesses? We begin by considering the suggestions of the witnesses themselves. (See Table 16.) The largest proportion of responses involved court efficiency; 47% of our respondents asked for better organization of the court process and another 23% for swifter disposition of cases.\* A second class of suggestions dealt with treatment of witnesses themselves; 33% asked for greater consideration of witness needs, 25% for better consultation between witnesses and the prosecutor, 18% for witness pay, and 12% for better protection of witnesses. Finally, 14% asked for harsher penalties for criminals.

While the witnesses' suggestions (as coded) are relatively vague, most appear feasible, assuming that sufficient resources are devoted to witness management. The new North Carolina Criminal Procedure Act should, in principle reduce some of the inefficiencies. As noted earlier, very few witnesses gave testimony during their first court appearance. The elimination of witnesses at the first hearing before a judge should be helpful in this regard. Nevertheless, our study also indicates that a large majority of those witnesses who made multiple appearances did not give testimony.

What can be done to reduce this problem? The Alameda County report is quite informative in this regard. In Alameda, witnesses under subpoena are routinely placed on telephone standby alert, being asked to come to court only when their testimony is needed.\*\* Although we cannot prove it, we suspect that this telephone standby alert system accounts for most of the difference in the efficiency with which Alameda and Durham counties utilize witnesses.

Thus, we recommend that the Durham County prosecutor's office employ a full-time "witness manager" whose duties would include:

- (1) Scheduling witnesses and managing a telephone standby alert system.
- (2) Briefing civilian witnesses on their role in the trial process.

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\* Each witness could make multiple suggestions.

\*\* Witness and Victim Survey, Alameda County, California, July, 1975.

TABLE 16.

Witness Suggestions for Improving Court Procedures

	# Giving Suggestion <sup>a</sup>	% Giving Suggestion <sup>a</sup>
Pay witnesses	10	18.4
Harsher penalties for criminals	12	13.8
Better witness protection	10	11.5
More consultation with witnesses	22	25.3
Swifter disposition of cases	20	23.0
More consideration of witness needs	29	33.3
Better organization of court process	41	47.1
Other	35	40.2
None	14	16.1

<sup>a</sup> Each witness could make multiple suggestions.



- (3) Determining which witnesses need police protection.
- (4) Informing both police and lay witnesses about the final disposition of their cases.

The major obstacle to the simple bureaucratic reform suggested above is that the prosecutor's office is already undermanned and overworked. Until the legislature allocates resources to facilitate witness management, the problems documented above are likely to persist.

The same is true in the area of witness compensation. State law currently provides for a witness fee of \$5/appearance. But the prosecutor's office does not inform witnesses of their right to this fee.

Given this rather gloomy state of affairs, we are slightly encouraged by the fact that in spite of the inconveniences described above, two-thirds of our respondents indicated that they would be willing to participate in future cases. If true, society gains at the expense of those witnesses who choose to cooperate. In view of the fact that almost half of the witnesses were also victims of crimes, it seems unfair to ask them to bear the additional burden of a court process which is necessarily inefficient due to a lack of sufficient funds.

Nevertheless, taken at face value, our results suggest that the costs of serving as a witness will not deter a large number of ex-witnesses from cooperating in the future.\* We are not sure, however, that our results should be believed. We wonder if witnesses who have experienced the frustration of going to court several times only to be told that their testimony is not needed will really be willing to cooperate in the future. In particular will they volunteer their services to the courts? Or report crimes to the police? And how many of their friends, having heard their stories, will decide that cooperation is not worth the cost? These are empirical questions. Perhaps citizen values on preserving public order are sufficiently strong to overcome the perceived costs of cooperation. But the costs of serving as a witness are high, and we would be surprised if a comprehensive study of citizen cooperation did not reveal that a substantial proportion of victims and witnesses withhold information from criminal justice officials simply to avoid becoming entangled in the trial process itself. If so, the financial costs of more efficient witness management would be a small price to pay to assure a higher rate of citizen cooperation. But even if the costs borne by witnesses do not substantially deter cooperation with the criminal justice system, considerations of equity alone suggest that the costs of making the criminal justice system work should be borne by society as a whole, not just by victims and witnesses.

To achieve the goal of reducing costs to witnesses, two very simple reforms are required:

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\* Only for victims is inefficiency (i.e. not giving testimony) associated with lower willingness to participate.

- (1) At the very minimum, sufficient funds should be provided to compensate witnesses for lost earnings.
- (2) Funds should be provided for a "witness manager" in the prosecutor's office.

If these reforms are adopted, we would also suggest that small telephone surveys of ex-witnesses be conducted to determine whether the reforms were having the desired effects. The feedback provided by such surveys would help assure that the proposed reforms were in fact reducing the costs of serving as a witness in Durham County.

## 6. Police as Witnesses in Durham Superior Court: Problems of Coordination

### I. Introduction

An efficient, mutually satisfactory working relationship between the police and the District Attorney's Office is important if criminal defendants are to be successfully prosecuted. Besides conducting the post-arrest investigation of a case, uniformed officers and detectives serve as important state witnesses in preliminary hearings and, if the case goes so far, in trials. The quality of police testimony may have a major bearing on the outcome of a case.

This report focuses on the role of patrol officers\* as witnesses in Durham Superior Court. The major findings presented below are that

1. There is little or no witness cooperation problem as such; Durham patrol officers appear in Superior Court when subpoenaed in the vast majority of cases;
2. Due to administrative problems in the way subpoenas are issued and served, officers are all too frequently not notified in advance of crucial court appearance dates;
3. Subpoenaed patrol officers spend a considerable amount of time in court simply waiting to be called to the stand. This wasted time causes dissatisfaction among officers and absorbs a not insubstantial portion of the Police Department's budget for salaries.
4. The quality of police testimony leaves much to be desired in some cases, due to inadequate investigative reports and failures in communication between the D.A.'s office and the officers.

Thus while there is not a cooperation problem with police as witnesses there is a coordination problem which has many of the same consequences for the work of the Superior Court. This problem does not appear insurmountable; in fact, it appears that a substantial improvement could be achieved by hiring additional personnel who would pay for themselves by economizing on police officers' time in Superior Court.

This study is based on interviews with members of the District Attorney's Office, detectives, and patrol officers, as well as Ms. Wilson's personal observations as an intern in the D.A.'s office during the summer, 1975. In addition, data on the experiences and attitudes of patrol officers were collected from a questionnaire distributed to all uniformed officers in the Durham Police Department. We would like to thank Anthony

\* The term "patrol officer" is used throughout this report to mean "public safety and all other non-traffic uniformed officers". Detectives are excluded from this designation.

Brannon, District Attorney of Durham County, and Reece Trimmer, Leg 1 Advisor to the Durham Police Department, for their cooperation and valuable assistance throughout the various phases of this study.

## II. An Overview of the Witness Coordination Problem

The state's witness coordination problem is primarily the problem of ensuring the presence of the appropriate witnesses in court when and only when they are needed. This is a difficult problem indeed given that (1) the procedure by which witnesses are subpoenaed for Superior Criminal Court is not entirely reliable; (2) notifying witnesses of changes in the court calendar, and other important communications between witnesses and the District Attorney's office, require a commitment of staff time which is often not available from the already harried staff of the Court; and, perhaps most important; (3) precisely when (if ever) a case will actually be tried cannot be predicted in advance in most instances.

While these problems apply to all types of witnesses, they will be discussed here only as they apply to patrol officers.

### Subpoenas

The Sheriff's Department is responsible for serving subpoenas. In order to save time, its usual practice is for deputies to deliver subpoenas for patrol officers to the desk sergeant in the Police Department, who then transmits them to the appropriate officers. This procedure tends to be unreliable, and results often in officers' receiving their subpoenas late - usually on the same day they are to appear in court - and occasionally officers do not receive subpoenas until after their scheduled court appearance. Since subpoena return slips under this practice simply read "delivered to police department", it cannot be readily determined whether an officer has received his subpoena or not. Furthermore, if the deputy does not serve the subpoena directly on the officer - either in person or by phone - the officer is not legally bound to appear in court. Should he fail to appear under such circumstances, there would be no legal recourse against him.

### Scheduling Court Appearances

Every two weeks the District Attorney constructs the Superior Criminal Court calendar of cases to be heard during the following weeks. Subpoenas for witnesses are issued in accordance with the D.A.'s calendaring decisions. If the status of a case changes between the time a subpoena is issued and the court appearance date specified on the subpoena, it may be necessary to notify the witness of this change. Due to staff shortages in the D.A.'s office, police witnesses are not always notified of such changes, and at times, subpoenaed officers appear at the Courthouse only to discover (perhaps after waiting several hours) that their case was disposed of the previous week or that the case has been postponed until some later date.

If the case is still scheduled for the date stated on the subpoena, witnesses are required to appear in Court at 9:30 a.m. of that day. Calendar call begins at 10:00, at which time defense Counsel for each

of the scheduled cases state whether they are ready for trial, and if not, move for a continuance. Most cases are continued a number of times before coming to trial, and it is relatively rare for the D.A. to know in advance whether the case will be continued or not at calendar call. Officers and other witnesses who have answered their subpoenas have simply wasted their time under such circumstances.

Finally, if the case is not continued during calendar call, there is nevertheless a good chance that it will not be heard on that day. The D.A. calendars more cases for each court day than could be disposed of under ordinary conditions, simply because of the necessity of avoiding calendar "breakdowns". A number of cases then get continued most days because there is no time to hear them; such cases are automatically continued for the following day. For such cases witnesses may wait the entire day at Court and never be called. Even if their case is heard that day, it may not be until late in the day.

These scheduling and coordination problems result in witnesses appearing unnecessarily in court, witnesses having to come back to court repeatedly for the same case, and, above all, an enormous amount of waiting time during which witnesses are serving no function and are unable to go about their normal business. Inevitably, witnesses find these events aggravating. In the case of police officers as witnesses, the lost time is paid for by the City; off-duty police witnesses are compensated for time in court at their normal hourly wage, and on-duty police witnesses are of course taken away from their normal duties.

One potential solution to the scheduling problem for some witnesses (including officers) is to place them on "telephone standby" rather than require their appearance in court on the morning of the day for which they are subpoenaed. Witnesses who so request, and who can be expected to appear in court within one-half hour of being called by the D.A.'s office, are usually allowed to ignore a subpoena as long as they agree to remain near a phone on the day their case is scheduled. Experienced Superior Court witnesses, such as detectives, know enough to request a telephone standby arrangement, and the D.A.'s office usually agrees. Patrol officers, who are subpoenaed relatively rarely, usually do not request such an arrangement. More will be said about the possibilities and problems with telephone standby in the concluding section of this report.

#### Other Coordination Problems

The other major coordination problem between police witnesses and the D.A.'s office involves the communication of information concerning the case itself. For patrol officers, the relevant aspects of this problem are that (1) they do not always have a chance to talk to the D.A. before going on the witness stand, and (2) they are not informed or consulted about the disposition of the case. These problems weaken the officer's testimony and cause considerable dissatisfaction among some officers.

### III. Survey Findings

In addition to interviews with detectives and a few patrol officers, information regarding the police witness coordination problem was gathered through a written survey questionnaire which was distributed to the 150 Durham patrol officers during fall, 1975. The questionnaire was designed to elicit information on patrol officers' experiences as witnesses in Superior Court, and in addition to elicit their subjective impressions of these experiences and their prescriptions for improving the situation. One hundred five officers (70% of the total) filled out the questionnaire and returned it. It will be assumed that nonrespondents are not systematically different in relevant respects from respondents.

The respondents presumably based their answers on their personal experiences and their conversations with other officers. Most officers had been on the force for a considerable length of time (73% had been members for over two years, and 30% for more than five years), and had had some personal experience as witnesses in Superior Court.

#### Objective Questions (Table 1)

The median officer was subpoenaed for Superior Court only twice during the period May-October, 1975, and 29% were not subpoenaed at all during this period. A few officers, on the other hand, were subpoenaed frequently (more than ten times for 6% of the sample). The patrol officers' experience contrasts sharply with that of detectives, who appeared in Superior Court an average of 35 times during these six months.\*

Patrol officers' responses indicated a high degree of cooperation with Superior Court--only 17% reported that they had ever failed to appear when subpoenaed because they thought they would have to wait if they arrived on time. Of this 17%, most were among the top 15% in number of years experience on the force.

The fact is, however, that officers who were subpoenaed did spend a considerable amount of time waiting in court. Over half had waited more than three hours the last time they had appeared in court and testified. Furthermore, for 80% of all their court appearances during May-October 1975, officers were never called to the stand. Each of these unproductive appearances entailed a considerable amount of wasted time--either an entire day (if the case was not continued until the end of the day), or, more often, an hour or more in the morning for cases which were continued at calendar call. I believe that a conservative estimate for the average amount of time spent waiting during unproductive court appearances is two hours. (Unfortunately, information provided by the questionnaire did not allow a direct estimate of this average.) Given all these considerations, I estimate that the 105 respondents spent a total of 837 hours waiting in court during the six month period in question; 227 hours waiting on days when they actually did eventually take the witness stand, and 610 total hours waiting on the 305 occasions when they appeared but were not needed. If the 105 respondents' experiences were typical of the entire force of 150 officers during this period, then the total amount of unproductive time spent by patrol officers waiting in Superior Court was about 1200 hours. My conclusion can be stated this way: The total amount of salary money paid patrol officers to wait around in Durham Superior

\*This estimate is based on my interviews with detectives.

TABLE I.

Experiences of Durham Patrol Officers as Witnesses in Superior Court :  
Court Appearances and Waiting Times\*

A.

Number of Times Subpoenaed	<u>Percentage Distribution</u>		Number of times testified	<u>Percentage Distribution</u>
	Past 3 months (Aug-Oct '75)	Past 6 months (May-Oct '75)		Past 6 months (May-Oct '75)
0	45	29	0	69
1	21	16	1	18
2	10	16	2	8
3-5	14	18	3-5	3
6-10	8	15	6-10	2
11-20	2	4		
21-30	0	2		

  

N=105	N=105	N=105
Average = 1.8	Average = 3.1	Average = .62
times	times	times
Median = 1.0	Median = 2.0	Median = 0 times
times	times	

1/5 times testified per times summoned

B.

Waiting Times Until Testify (in hours)	<u>Percentage Distribution</u>	
	<u>Last Time</u> Actually Testified	<u>Longest Time Ever</u> Waited Before Testimony
less than 1 hour	1%	2%
1-1.99	30	5
2-2.99	14	9
3-3.99	9	7
4-4.99	21	19
5 or more	13	19
more than one day	12	39

  

N=70	N=80
Median = 3.5 hours	Median = 5.5 hours
(35 did not answer	(25 did not answer
or had never	or had never
testified)	testified)

\* Source: Durham Patrol Officers' responses to the questionnaire in Appendix B. Seventy percent of all patrol officers answered a questionnaire.

TABLE I, continued

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C.

Tenure with Durnam Police Department ( in months)	Percentage Distribution
0-12	12%
13-24	15
25-42	16
43-60	27
61-120	20
121-250	5
250 +	5
Total	100%

N=105

Average = 69.1 months (5.8 years)

Median = 48 months



Court during May-October, 1975 exceeded the salary of one full time patrol officer. If the only method available for eliminating this wasted time were to hire an additional staff member for the District Attorney's office (e.g., to coordinate telephone standby operations) it would be worth it.

Subjective Questions (Table 2)

While wasted time in court imposes a seemingly unnecessary financial burden on the city, it also acts as an irritant to patrol officers. Eighty-three percent said that waiting in court was a severe problem when they were off duty, and 42% thought it was a severe problem even while they were on duty. In an open ended question, most respondents mentioned wasted time or an inefficient court system as the most serious problems with their contacts with Superior Court. Representative comments of this ilk include the following:

"The lengthy wait to discover the case will not be tried at all that day."

"The off duty time element. I have spent a whole day on my off-duty time sitting in court waiting to testify."

"Having to spend all day sitting around in court after having been up all night on the 12-8 am shift, after which the case is usually continued or not called at all."

"Seems like every time an officer is subpoenaed to court it is after his night shift and when he comes to court he usually sits there all day and is not needed."

"Officers should not be forced to sit in court all day waiting for a case to be called when he could be on telephone standby. This is no problem when the officer is on duty."

"Being subpoenaed to court and finding out the case has been disposed of without your knowledge at a time prior to your being subpoenaed."

"Too many cases set for the same day--and all concerned with court know that it's impossible to even try half the cases set for said date."

"Not being subpoenaed until the last minute."

"Being summoned again after the case has already been tried."

"Going over and over for the same case, as much as four or five different times."

Other officers stressed their concern about the lack of communication between the District Attorney's Office and police witnesses:

"Not being able to discuss the case with the D.A. Also, waiting half the morning to testify and then not doing so."

"Very seldom are we briefed or asked about the case until just before trial. Also sometimes we are never told about the outcome of cases we have in Superior Court if we do not testify."

TABLE II.

Experiences of Durham Patrol Officers as Witnesses in Superior Court:  
Impressions and Opinions\*

A. Is having to wait in court to testify a problem for police officers?

		<u>Percentage Distribution of Responses</u>	
		<u>When On Duty</u>	<u>When Off Duty</u>
(No Problem)	1	28%	7%
	2	8	2
	3	21	9
	4	15	18
(Very Severe Problem)	5	27	65
		N=99	N=102

B. The worst problem for patrol officers in Superior Court.

- 48% : WASTING TIME; waiting and not testifying, especially when off duty or after midnight shift.
- 28% : INEFFICIENT COURT SYSTEM; overloaded court docket, repeated continuances, insufficient advance notice.
- 26% : NEVER CONSULTED OR INFORMED ABOUT STATUS OF CASE (continuances, plea bargaining, nol prosses).
- 14% : NEGATIVE CONTACTS with COURT PERSONNEL and defense lawyers.

Note: Some responses are counted in more than one category.

C. One major change desired: (open-ended)

- 46% : Change THE SYSTEM BY WHICH CASES ARE SCHEDULED (fewer cases per day, schedule only Not Guilty pleas, etc.)
- 42% : Change THE SYSTEM BY WHICH OFFICERS ARE NOTIFIED TO BE IN COURT (telephone standby).
- 12% : Improve QUALITY and QUANTITY of CONTACT, COOPERATION, and COMMUNICATION between police and D.A.'s office.

\*Source: Durham Patrol Officers' responses to the questionnaire in Appendix B. Seventy percent of all patrol officers answered a questionnaire.

TABLE II, continued

D. Opinions on whether or not police cooperation is a problem:

Percentage Distribution	
(No Problem) 1	43%
2	27
3	25
4	2
(Very Severe Problem) 5	10
N=98	

E. Importance of knowing case disposition:

Percentage Distribution	
(Not Important) 1	8%
2	4
3	11
4	14
(Extremely Important) 5	62
N=97	

"Plea bargaining done without consulting the officer involved."

"The biggest problem is the cases being continued without the officer's consent. Maybe the court feels the officer should have no say in this matter, but the time the officer had to testify could be when he has worked the midnight shift and there is no way he can be sharp and give his best testimony."

In response to another question on the questionnaire, 76% indicated that knowing the disposition of a case was important to them--a further indication of the concern of patrol officers in maintaining communication with the D.A.

Some respondents indicated a generalized sense of frustration with the court and their role in Superior Court cases:

"No one knows what they are going to do with the case. Lawyers for the defendant run the court and tell the court what they will do."

"The way we are treated is almost like we are the criminals."

"The waiting, and the judges seem to let the defense lawyers get by with verbally abusing officers."

"Solicitors feel like they are better than officers and are doing the officers a favor by talking to them."

"Most officers I have talked to feel they are being abused by the court system. They show up in court time after time for the same case, but it is not tried. After awhile they feel, Hell, it will be continued again so why should I hurry to get there on time. The officer has no say as to when it will be continued. I know it is the officer's duty to see a case through the court system, but I think the officer should be considered more than the criminal being tried. Hell, the officer has constitutional rights also."

When asked to state one major change they would like to see implemented, almost half the respondents indicated that the system by which cases are scheduled should be changed:

"A schedule of trial dates without any continuances. Continuances and other motions should be handled before a schedule [calendar] and subpoenas are issued."

"To make sure the case is ready to be tried the first time it is on the docket."

"I realize the caseload in Superior Court is tremendous but there should be some criteria for continuing cases. Cases should not be continued just for the sake of continuing. Most cases I feel are continued just to stall for time. If a case is continued for two times it should be tried then. This I feel is the reason for the backlog of cases at this time. New cases are still being created."

Forty-two percent suggested changing the system by which officers are notified to appear in court:

"Witnesses should not be called to court unless it is definite that the case will be tried on that date."

"Allow a witness to be on telephone standby rather than waste a day waiting for a case to be called."

"Get everyone there at once and get the trial over with."

"Have lawyers notify the solicitor of pleas and motions so it can be determined beforehand if the case will be tried and notify the officer just in that case."

In response to another question, most respondents ( %) favored the expansion of a telephone standby system and saw no particular problem with such a system.

#### IV. Conclusions

The survey results confirm Ms. Wilson's impressions from her summer internship and the rather extensive interviews she conducted with detectives, officers, and court officials. Under the arrangements then in effect for subpoenaing and coordinating patrol officers' appearances as witnesses in Superior Court, a substantial amount of their time and the city's public safety budget was being wasted. In most cases for which an officer appeared in court in response to a subpoena, he was not needed that day: in the relatively few cases in which he was called on to testify, he had to wait several hours before being called to the stand. While patrol officers are typically only subpoenaed a few times a year to appear in Superior Court, many of them find their experiences on these occasions frustrating or irritating; particularly if they are subpoenaed to appear during off duty hours.

Besides the wasted time and many needless trips to Court, patrol officers object to the lack of communication with the District Attorney's office: they want subpoenas to be served several days before the appearance date; they want to consult with the D.A. before testifying; some want a say in when cases are scheduled (to avoid court appearances on days following midnight shift work); and they want to be informed of the disposition of cases in which they were personally involved.

Patrol officers believe that potential remedies for these problems include a greater use of the telephone standby system, and better communications with the D.A.'s office.



**END**