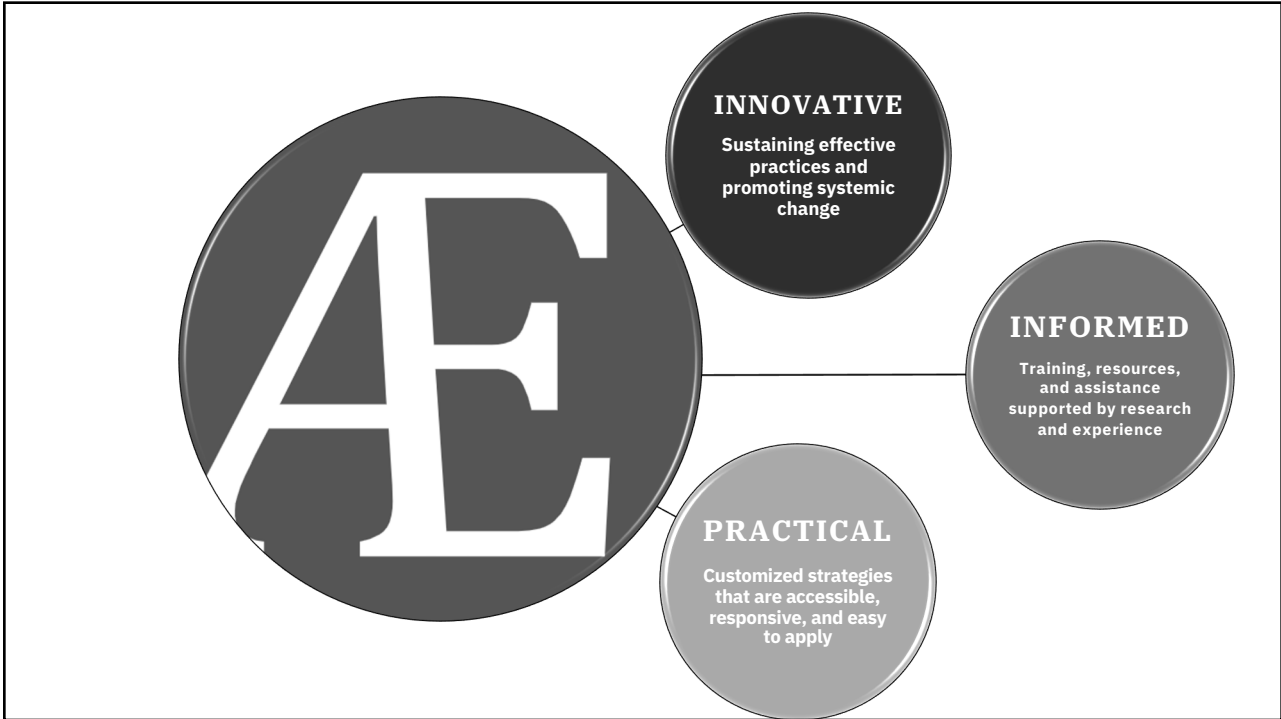


1



2

FOLLOW AEQUITAS @



[@AEquitasResourc](https://twitter.com/AEquitasResourc)



[@aequitas_resource](https://www.instagram.com/aequitas_resource)



www.aequitasresource.org

3

Support

This project was supported by Grant No. 2017-TA-AX-K043 awarded by the U.S. Department of Justice, Bureau of Justice Assistance. The opinions, findings, conclusions, and recommendations expressed in this presentation are those of the author(s) and do not necessarily reflect the views of OVW.



4

ADDRESSING WITNESS INTIMIDATION AND ENCOURAGING WITNESS COOPERATION

Kristine Hamann
Executive Director
Prosecutors' Center for Excellence

May 8, 2020



5

5

WHAT IS WITNESS
INTIMIDATION?

6

6

CONTINUUM OF
CONSEQUENCES

- Don't know the witness exists
- Refuses to cooperate
- Complies with subpoena but refuses to testify
- Testifies falsely
- Recantations
- **Injury or death of witness**

7

7

WORK EVERY
ANGLE

- Victim/witness advocates
- Investigation of intimidation
- Legal strategies
- Courts
- Community

8

8

BASIC PRINCIPLES

- Coordination from crime scene to post-trial
- Trauma informed
- Cultural awareness
- Call on every case
- Don't make the victims/witnesses do the work

9

9



IMPACT OF PANDEMIC

10

10

INITIAL MEETING
11

11

<h2>RISK ASSESSMENT</h2> <ul style="list-style-type: none">• Violent crime cases, gang activity or organized crime<ul style="list-style-type: none">• In the same/different gang• Family in the gang• Domestic Violence• Other factors<ul style="list-style-type: none">• In the same neighborhood• Friends/family in common• Can be in any case
12

12

INITIAL MEETING Victim/Witness Advocate

- Contact information
- Means of communication
- Social services needed
- Safe use of social media
- Safety plan
- Identify "danger zones"

13

13

INVESTIGATOR

- Safety planning
- Relocation
- Threats

14

14

INITIAL MEETING

Prosecutor

- Learn what they need
- Contact information
- Stay in touch

15

15

CASE MANAGEMENT SYSTEM

- Track witnesses
- Contact information
- Risks
- Requests for relocation

16

16

RELOCATION

- Who qualifies?
- Consider relocation early in the case
- Create protocols
- Temporary relocation
- Permanent relocation
 - Moving expenses
 - Rental costs
 - Storage
 - Family issues

17

17

VIGOROUS EARLY INVESTIGATION

- Jail/Prison
 - Calls
 - Visitor logs
 - Cell searches
- Phone records
- Informants
- Surveillance
- Social media
- YouTube

18

18

VIGOROUS PROSECUTION

- Specially assigned prosecutor/vertical prosecution
- Bring witness intimidation charges – possibly consolidate with main case
- Use of the grand jury
 - Secrecy
 - No defendant

19

19

ARREST TO ARRAIGNMENT

20

20

BAIL AND BOND

- Initial charging document without witness's name
- High bail – let the judge know the concerns
- Order of protection

21

21

PRELIMINARY HEARINGS

22

22

DISCOVERY

23

23

PROTECTIVE ORDERS

- Redaction:
 - Witness pedigree
 - Search warrant affidavit
 - Police paperwork
 - Photographs and videos (body worn cameras)
- Delay discovery
- Limit defendant's access to discovery

24

24

DEFENSE DISCOVERY

25

25

BRADY AND GIGLIO

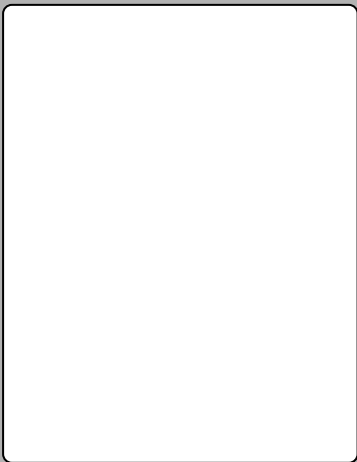
- Exculpatory information
- Inconsistent statements
- ***Benefits to witness***

26

26

HEARINGS AND TRIAL
27

27

	<h2>ENGAGING JUDGES</h2> <hr/> <ul style="list-style-type: none">• Pennsylvania Bench Book<ul style="list-style-type: none">• 2007 - Forum on witness intimidation• 2009 - Bench Book suggested• 2011 - Bench Book published• 2013 - Updated• 2014 - Updated• 2018 – Updated
---	---

28

INTRODUCTION

“Justice requires a search for truth in an environment that respects the rights of all parties to the system. Truth cannot be spoken in fear. Witness intimidation strikes at the very heart of our system of criminal justice, crippling our ability to function fairly, decently and with integrity. It cannot be tolerated. *Judges stand as guardians of the courthouse: the place where wrongs will be redressed without fear or recrimination. It is the responsibility of the court to create an environment in which truth can be spoken.* This bench book is designed to be a

29

29

CREATE A PROCESS WITH THE COURTS

30

30

Motions *in
Limine*

- Evidence:
 - Prior acts of intimidation
 - Forfeiture by wrongdoing
 - Admissibility of witness's fear of testifying
 - Anonymous witness
- Controlling the courtroom
- Closing Courtroom

31

31

COURTHOUSE AND COURTROOM SECURITY

32

32

COURTROOM SECURITY

- Special court staff
- Screening at the door
 - Names and ID of spectators
 - Cell phones
- Prosecutor staff in courtroom
- Announcements in court

33

33

ENVIRONMENTAL DESIGN

- Courthouse
- Prosecutor's Office

34

34

COURTHOUSE SECURITY

- Safe waiting areas
- Surveillance cameras
- Separating families
- Safe entry and exit

- **Press** – make sure they don't reveal a witness

35

35

WITNESS PREPARATION

- Getting to and from the courtroom
- Safety outside the courtroom
- Familiarity with the courtroom

36

36

NEW APPROACHES
37

37

<p>NEW EXPERTISE</p> <hr/> <ul style="list-style-type: none">• Office legal expert• Train legal and support staff• Witness Intimidation Investigator
38

38

CULTURAL COMPETENCE

- Implicit bias
- Understanding your victim and witness

39

39

COMMUNITY

- Meet with community groups and religious institutions
- Communications strategy
- Host a witness intimidation forum
- Mothers In Charge

40

40

COORDINATION

- Courts
- Police
- Hospitals
- Social services
- Community groups

41

41

DO A SURVEY

42

42

The image is a screenshot of a website for the Prosecutors' Center for Excellence. At the top left is the organization's logo, which consists of a circular emblem with a scale of justice in the center, surrounded by the text "PROSECUTORS' CENTER FOR EXCELLENCE". To the right of the logo is a navigation menu with the following items: "HOME", "SERVICES ▾", "ISSUES ▾", "EVENTS ▾", and "CONTACT US". The main content area features a background image of several coronavirus particles. Overlaid on this image is a dark grey box containing the text "COVID-19 RESOURCES FOR PROSECUTORS" in a bold, white, sans-serif font. Below this title is a smaller line of text: "Prosecutors can click here to subscribe to PCE Articles of Interest including Virus Editions". To the right of this text is a button with the text "View Resources >". Below the screenshot, the organization's name "Prosecutors' Center for Excellence" is written in a large, black, serif font, followed by the website address "www.pceinc.org". To the right of this information, the contact details for Kristine Hamann are listed: "Kristine Hamann", "Executive Director", "khamann@pceinc.org", and "917-885-9065".