

# WELCOME

## 14<sup>th</sup> National Best Practices Meeting



**January 27, 2020**

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### PROSECUTORS' CENTER FOR EXCELLENCE

Agenda.....Pages 2-3

Dinner Details..... Page 4

Speaker Bios.....Pages 5-13

Related Materials.....Pages 14-25

CLE Credit Instructions.....Page 26

Signed CLE Credit Form.....Page 27

14th National Meeting Survey.....Pages 28-29

# PROSECUTORS' CENTER FOR EXCELLENCE



## 14<sup>th</sup> National Best Practices Meeting

January 27, 2020 - 8:30 am to 4:30 pm

Hyatt Regency, 400 New Jersey Avenue, Washington DC

Meeting Room Location: Capitol Room A and B, located on lower level of the hotel

## AGENDA

(Business Attire)

**8:30 am to 9:00 am**—Introductions

**9:00 am to 9:15 am**—Update on Prosecutors' Center for Excellence

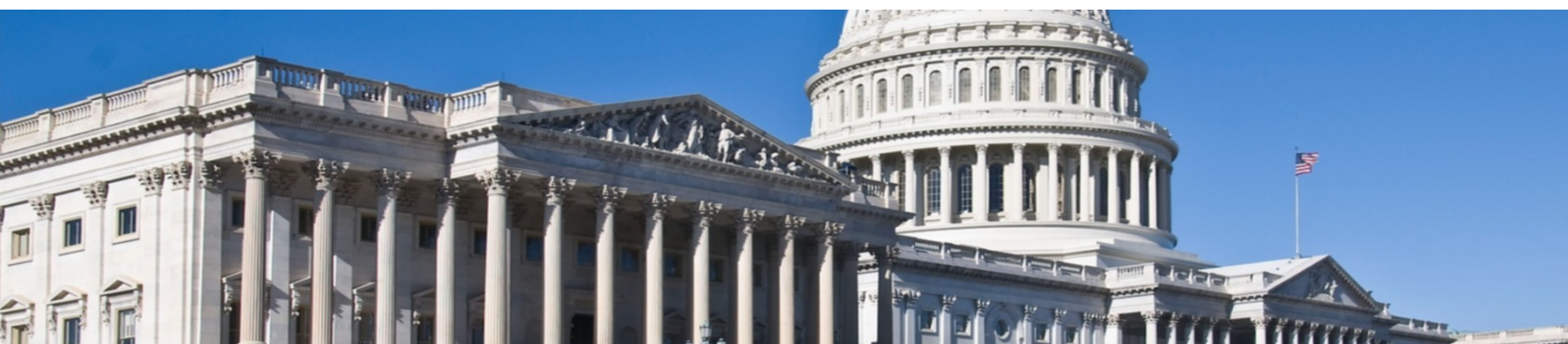
**9:15 am to 9:45 am**—Research on the Overlap Between Erroneous Convictions and Failed Prosecutions

**Jon Gould, Foundation Professor of Criminal Justice and Law and Director of the School of Criminology and Criminal Justice at Arizona State University**

**9:45 am to 10:15 am**—Funding Opportunities for Prosecutors from the Department of Justice and Bureau of Justice Assistance

**Cornelia Sigworth, Associate Deputy Director, Bureau of Justice Assistance; Tammy Brown, Senior Policy Advisor, Bureau of Justice Assistance.**

**10:15 am to 10:30 am**—Group Photo



**10:30 am to 11:00 am**—Current Litigation Involving Ballistics Evidence

**AUSA Mike Ambrosino, United States Attorney's Office for the District of Columbia**

**11:00 am to 11:45 am**—The Impact of Fines and Fees: The Shelby County District Attorney General's Approach to Unlicensed Driving Cases

**Deputy District Attorney Raymond Lepone, Shelby County District Attorney General's Office, Tennessee**

**11:45 am to 1:00 pm**—Break Out Groups to Discuss Alternative Approaches to Low Level Offenses

**1:00 pm to 2:15 pm**—Lunch on your own

**2:15 pm to 3:15 pm**—How Prosecutors Can Address Witness Cooperation and Witness Intimidation

**Kristine Hamann, Prosecutors' Center for Excellence**

**John Wilkinson, Aequis**

**3:15 pm to 4:15 pm**—Prosecutors as Leaders - You Cannot Grow If You Do Not Change

**Director Peg Dorer and Deputy Director Kimberly Overton Spahos, North Carolina Conference of District Attorneys**

**4:15 pm to 4:30 pm**—Wrap Up

Action Items: What will you take home from the meeting?

Evaluation Survey (CLE credit)

***Next meeting: Denver, Colorado July 17, 2020***

**6:30 pm**— Dinner at The Alibi Restaurant (details on next page)



***THE ROOM AND REFRESHMENTS ARE  
GENEROUSLY PROVIDED BY THE NDAA***

# Best Practices Group Dinner

Monday, January 27, 2020

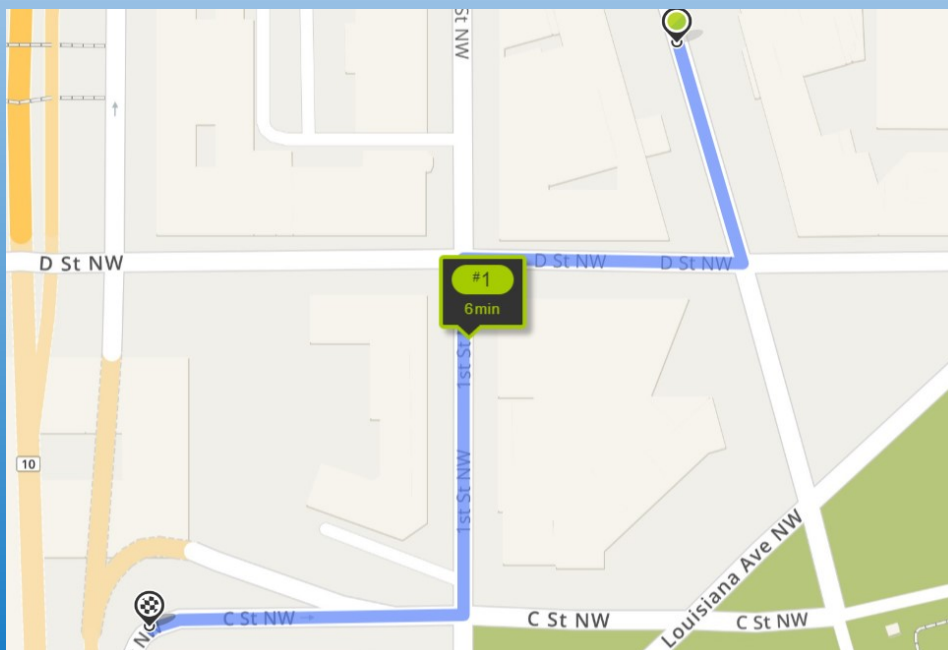
Dinner will be at 6:30 (separate checks)

## The Alibi Restaurant

Address: 237 2<sup>nd</sup> Street NW, Washington DC.  
(*casual dress*)



Walking Directions from Hyatt Regency to The Alibi Restaurant—Approximately 6 minutes



- Turn **right** onto D St.  
----- Then 0.07 miles -----
- Turn **left** onto 1st St.  
----- Then 0.08 miles -----
- Turn **right** onto C St.  
----- Then 0.07 miles -----
- Turn **left** onto 2nd St.  
----- Then 0.00 miles -----
- 📍 The Alibi, 237 2ND ST NW is on the **left**.

Kristine Hamann

Prosecutors' Center for Excellence

Executive Director

Kristine Hamann is the Executive Director and founder of Prosecutors' Center for Excellence (PCE). PCE provides consulting and research services for prosecutors and supports statewide prosecutor-led Best Practices Committees. The Best Practices Committees are devoted to proactively improving the criminal justice system and assessing emerging issues. Ms. Hamann is a consultant for prosecutors of all sizes across the country on a variety of topics including full-office assessments, investigating violent crime, conviction integrity, discovery, body worn cameras, ethics and enhancing community trust. Many of these engagements are paid through federal grants. Ms. Hamann regularly presents at national and statewide prosecutor meetings on issues including the evolving role of the prosecutor, ethics, witness intimidation, eye witness identification procedures and conviction integrity units.

From July 2013 to January 2016, Kristine Hamann was a Visiting Fellow at the Department of Justice/Bureau of Justice Assistance. She is the chair of the New York State Best Practices Committee for prosecutors and she is a co-chair of the National District Attorneys Association's Best Practices Committee. She is an Adjunct Professor at Georgetown Law School. She is a member of the ABA Criminal Justice Council and is on the ABA Criminal Justice Journal Editorial Board. She was an Independent Counsel to the Conviction Integrity Unit of the United States Attorney's Office for the District of Columbia.

From 2008 to 2013, Ms. Hamann was the Executive Assistant District Attorney for the Special Narcotics Prosecutor for the City of the New York. The office conducts international, national and local drug trafficking investigations and prosecutions which impact New York City.

From 2007 to 2008, Ms. Hamann was the New York State Inspector General. The Inspector General is charged with investigating and preventing fraud, waste and abuse in New York State government.

From 1998 to 2007, Ms. Hamann served as the Executive Assistant District Attorney to D.A. Robert M. Morgenthau in the Manhattan District Attorney's Office in New York City. Prior to 1998, Ms. Hamann held several other positions in the Manhattan District Attorney's Office, including Deputy Chief of the Trial Division in charge of the Criminal Court, Director of Training, and Deputy Bureau Chief of the Career Criminal Bureau. After law school she was an associate at Simpson Thacher and Bartlett in New York City.

She has received various awards including the Ethics and Accountability Award (City & State NY, 2018); Outstanding Prosecutor of the Year (NY State Bar Association, 2013), Prosecutor of the Year for Executive Leadership (NY District Attorneys Association, 2010), Excellence in Government Award (Albany Law School, 2008), Public Service Award (NY County Bar Association, 2005) and New York County District Attorney's Office Prosecutor of the Year (2001).

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Jon Gould

Arizona State University

Foundation Professor of Criminal Justice and Law and Director of the School of Criminology and Criminal Justice

As of January 2020, Jon Gould is Foundation Professor of Criminal Justice and Law and Director of the School of Criminology and Criminal Justice at Arizona State University, a top-five program in the United States. Previously, he was Professor of Public Affairs and Law and inaugural director of the Washington Institute for Public Affairs Research at American University. An author of four books and more than fifty articles on issues of justice policy and reform, he has also served as a Senior Policy Advisor in the U.S. Department of Justice, Director of the Law and Social Sciences Program at the National Science Foundation, and U.S. Supreme Court Fellow.

Jon Gould joined the faculty of the School of Criminology and Criminal Justice in January of 2020 as a Foundation Professor and Director of the School. Prior to coming to ASU, he was inaugural director of the Washington Institute for Public Affairs Research and chair of the Department of Justice, Law and Criminology at American University. He served as the principal investigator for the Preventing Wrongful Convictions Project, a multi-year research initiative funded by the National Institute of Justice. Most recently, Gould was appointed and served as a Senior Policy Advisor in the U.S. Department of Justice during the Obama Administration and was director of the Law and Social Sciences Program at the National Science Foundation.

Professor Gould is an internationally known expert on justice policy, social change, and government reform. An author of four books and over 50 articles, he has written on such diverse subjects as erroneous convictions, indigent defense, prosecutorial innovation, police behavior, hate speech, sexual harassment, and international human rights, among others. His first book, *Speak No Evil: The Triumph of Hate Speech Regulation*, was a co-winner of the 2006 Herbert Jacob award for the best book in law and society. His second book, *The Innocence Commission: Preventing Wrongful Convictions and Restoring the Criminal Justice System*, was named an Outstanding Academic Title by the American Library Association. Professor Gould has won awards for his teaching and service as well and is a regular contributor to *The Hill* newspaper.

Professor Gould's research has been supported by more than \$3.2 million in external funding and has been cited in multiple court pleadings and judicial decisions. He has received grants from the National Institute of Justice and the National Science Foundation and has been supported by several private foundations, state and local governments, and government of Canada. He is regularly called upon to serve as a consultant to governments and non-governmental organizations alike, both domestically and abroad.

Prior to joining American University, Professor Gould was associate professor and director of the Center for Justice, Law and Society at George Mason. He has practiced law with the Washington, D.C. office of Mayer, Brown and Platt; helped to direct programming for the International Human Rights Law Institute; and worked on the national staffs of two presidential campaigns.

Professor Gould is a fellow of the American Bar Foundation and is a former U.S. Supreme Court Fellow. He has served on multiple non-profit boards and is a trustee of the Law and Society Association. In 2015, U.S. Chief Justice John Roberts appointed him as reporter for a committee of the federal courts evaluating the operation of the Criminal Justice Act. Professor Gould received the Administration of Justice Award from the U.S. Supreme Court Fellows Association in 2017.



Cornelia Sigworth  
Associate Deputy Director  
Bureau of Justice Assistance

Cornelia Sigworth currently serves as the Associate Deputy Director with the US Department of Justice's Bureau of Justice Assistance, a post she has held since July 2014. In this capacity, Ms. Sigworth directs BJA's law enforcement team including its partnerships with local, state, and national policymakers and their efforts to combat violent crime, enhance prosecution practices, and improve business processes. Ms. Sigworth previously served in a variety of capacities within BJA including most recently as the Senior Advisor and Chief of Staff to the Deputy Director for Policy and Director of the Violence Reduction Network. Ms. Sigworth began her career with The Department at the National Institute of Justice, where she managed national research, evaluation, and program development.

Ms. Sigworth holds a B.S. in Criminology from Northern Arizona University and a M.S. in Justice, Law, and Society from American University. She is a graduate of the Department of Justice's Leadership Excellence and Achievement Program and the Harvard Kennedy School Senior Executive Fellows Program. She currently serves on the Advisory Boards for the FBI National Academy /National Executive Institute; and Harvard's Leadership for a Networked World - Public Safety. Among other honors, she is a recipient of the US Department of Justice's Assistant Attorney General's Award for Distinguished Service and Northern Arizona University's Criminology Alumni of the Year Award.



Tammy Brown

Senior Policy Advisor

Bureau of Justice Assistance

Tammy Brown brings 20 years of experience in the criminal justice system to the Bureau of Justice Assistance (BJA) as a Senior Policy Advisor. She oversees several projects related to law enforcement and prosecution including the Crime Gun Intelligence Centers, The National Center for Improving Investigations, Developing Best Practices in Prosecution and Improving Homicide Clearance Rates.

Before coming to BJA she served as the Chief of External Affairs for the Baltimore City State's Attorney's Office, where she was responsible for Community Affairs, Victim Services, Prevention Programming, Communication, Grants, Legislation and Policy for the office. In that capacity she served as the frontline to the community and spearheads initiatives to help reform the criminal justice system.

Prior she served as Governor Martin O'Malley's Executive Director for the Governor's Office of Crime Control and Prevention, where she advised the Governor on criminal justice issues and oversaw the administration of over \$100 million in federal and state grant funds. She was also responsible for the coordination and collaboration with public safety agencies at the local, state and federal levels to develop and implement effective strategies and tactics that have led to historic lows in violent crime in Maryland. In this position she lead criminal justice reform in the areas of pretrial, gun laws, death penalty, re-entry, human trafficking, domestic violence, diversion and juvenile justice.

She also served as Staff of the Maryland Department of Juvenile Services (DJS). While at DJS, Tammy was instrumental in case management reforms including the implementation of the Violence Prevention Initiative. Prior to her Chief of Staff role, Tammy served as Director of Communications, where she spearheaded increased levels of information sharing with law enforcement. She helped pass legislation to allow juvenile information to be shared with system counterparts in the District of Columbia.



AUSA Mike Ambrosino

United States Attorney's Office for the District of Columbia

Michael T. Ambrosino is the first person to serve as Special Counsel for DNA and Forensics at the U.S. Attorney's Office for the District of Columbia. For 10 years, he has been responsible for overseeing the use of forensic evidence by D.C. prosecutors. In addition to implementing Office-wide protocols, Mr. Ambrosino has briefed and argued a number of forensic hearings of first impression. He has also overseen a number of Office-wide forensic reviews, including the hair and fiber review, errors in DNA interpretation at the D.C. Department of Forensic Sciences (DFS), and errors in firearms and toolmark identification analysis at DFS.

Prior to serving as Special Counsel, Mr. Ambrosino spent three years arguing appeals in the D.C. Circuit and the D.C. Court of Appeals. Before that, Mr. Ambrosino spent nearly a decade trying homicide cases, during which he handled numerous matters of first impression, including the admissibility of DNA and the first "cold-hit" DNA case. During this time, he also handled a number of cases involving complex mental health issues.



Raymond Lepone

Deputy District Attorney

Shelby County District Attorney General's Office, Tennessee

Raymond J. Lepone is currently the Deputy District Attorney General for the Shelby County, Tennessee District Attorney General's Office. He began his career as an Assistant District Attorney in 2000 and handled cases at every level of the criminal justice system including General Sessions Criminal Court, Juvenile Court and Criminal Court. He has been assigned to the Domestic Violence Prosecution Unit, Criminal Court and the Gang & Narcotics Prosecution Unit. From 2004 through 2016, he prosecuted homicide cases including several high profile cases and cases involving the Death Penalty as well as numerous gang-related violent crimes. In 2010, he became the Chief Prosecutor of the District Attorney's Multi-Agency Gang Unit Prosecution Team and held that position until 2016 when he left to accept an appointment as a Magistrate Judge in the Juvenile Court of Memphis and Shelby County, Tennessee. In February of 2018, Mr. Lepone left the bench in juvenile court to accept his current position as Deputy District Attorney General. In addition to his seventeen years of service as an Assistant District Attorney and two years as a Magistrate Judge, he has two years of experience as a private practice attorney in the area of civil litigation. He received his law degree from the Cecil C. Humphreys School of Law at the University of Memphis in 1999 after completing his undergraduate studies with honors at Kennesaw State University in Georgia.

John Wilkinson

Attorney Advisor

AEquitas

As an Attorney Advisor with AEquitas, John presents on trial strategy, legal analysis and policy, and ethical issues related to violence against women at the local, state, national and international level. He conducts research; develops training materials, resources, and publications; and provides case consultation and technical assistance for prosecutors and allied professionals. John has presented extensively on the investigation and prosecution of domestic violence, sexual violence, stalking and human trafficking both in the United States and abroad. John's international work includes developing and implementing trainings for police, prosecutors, judges and allied professionals in national and international conferences in Cameroon, South Africa, Fiji, France, Brazil, and Egypt.

Prior to working with AEquitas, John was the Program Manager for the Gun Violence Prosecution Program, Homeland Security Program and Southwest Border Crime Program of the National District Attorneys Association (NDAA) where he traveled extensively throughout the United States presenting on gun and gang violence and homeland security issues. He also regularly collaborated with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Department of Homeland Security (DHS) and International Association of Chiefs of Police (IACP) to bring data-driven best practices to criminal justice professionals. Under his direction, the Homeland Security Program created a unique counter-terrorism training program for prosecutors and probation/parole officers. Additionally, his Southwest Border Crime Program created a curriculum for prosecutors and allied professionals covering all aspects of the Drug Cartel Business Model and focusing on human trafficking, human smuggling, drug and gun trafficking, home invasions and kidnappings and undocumented alien victim/witness issues.

From 1998 through 2005, John served as an Assistant Commonwealth's Attorney in Fredericksburg, VA prosecuting cases involving intimate partner violence and sexual assault, including cases of campus sexual assaults and domestic violence homicide. He also served on the Fredericksburg Area Sexual Assault Response Team and prosecuted child sexual and physical abuse and neglect cases and infant homicides. He assisted in the development of the Mary Washington Hospital Sexual Assault Nurse Examiner (SANE) Program. Additionally, John completed Virginia's Top Gun Investigation and Prosecution of Drug Cases course and prosecuted numerous drug and firearms related offenses. He was a regular lecturer at the Rappahannock Regional Criminal Justice Academy and spoke at the Virginia Association of Commonwealth's Attorneys. From 1994 to 1998, John served as an Assistant Public Defender in Fredericksburg, VA representing indigent clients in matters ranging from first-degree murder to summary offenses. In 1997 he was presented the Phillip M. Sadler Award for excellence in public defense. From 1991 to 1994, John worked at the Offices of William E. Gardner in Fairfax, VA primarily engaged in criminal defense and civil litigation.

John received his undergraduate degree from Virginia Tech and his law degree from the College of William and Mary Law School and is an active member of the Virginia Bar.



Peg Dorer

Director

North Carolina Conference of District Attorneys

Peg Dorer is a native North Carolinian and a graduate of the University of North Carolina at Chapel Hill, with a B.A. in English and Psychology. She graduated from the Meredith College Paralegal Program in 1983. Her past experience includes legislative assistant for Champion International, membership coordinator for the North Carolina Foundation for Research and Economic Education and vice president for a marketing research / public relations firm. Peg has been the Director of the North Carolina Conference of District Attorneys since January 1992. She is a longstanding member of the National Association of Prosecutor Coordinators, serving as President from 2001 until 2002. In August, 2004, the *News and Observer* named Peg “*Tarheel of the Week*” for her extensive work on new discovery laws. She served as a board member of the North Carolina Victim’s Assistance Network from 2001 to 2011 and on the National District Attorneys Association Executive Committee in 2016-2017. She resides in Apex, is married to Steve Dorer and has two adult children, Nicholas and Winifred.



Kimberly Overton Spahos

Deputy Director

North Carolina Conference of District Attorneys

A prosecutor, trainer, teacher, speaker and facilitator, Kimberly Overton Spahos currently serves with the North Carolina Conference of District Attorneys as the Chief Resource Prosecutor where she provides technical assistance, education and training to prosecutors, law enforcement and other criminal justice and allied professionals. Before coming to the Conference of District Attorneys in 2003 as North Carolina's first Traffic Safety Resource Prosecutor, Kimberly served as an Assistant District Attorney in Halifax County, NC working in both district and superior court. As an Assistant District Attorney and currently as a Special Prosecutor, Kimberly has handled all types of cases ranging from traffic tickets to homicide.

During her tenure as North Carolina's Traffic Safety Resource Prosecutor, Kimberly developed a collaborative model program. Authoring several prosecution manuals, law enforcement resource materials and quick reference guides, Kimberly gained national acclaim for the Traffic Safety Resource Prosecutor program yielding her recognition from various organizations and a two year prosecution fellowship with the National Association of Prosecutor Coordinators and the National Highway Traffic Safety Administration.

Kimberly has served as faculty for thousands of courses sponsored by numerous criminal justice organizations. Lecturing in more than 40 states and 2 countries, she has been instrumental in the creation of an "out of the box" approach to curriculum development and course production. As guest lecturer at Wake Forest and North Carolina Central law schools and adjunct professor for a Prosecution Advocacy course at the Norman Adrian Wiggins School of Law at Campbell University, Kimberly understands the need to promote a grassroots, ground level approach to criminal justice issues and solutions. As a regular keynote speaker and visiting lecturer at Police Training Academies, Community Colleges, Technical Institutes and Universities throughout the country, she frequently educates students and community organizations regarding criminal justice matters. More recently, Kimberly has been focusing on leadership development curriculum and courses.

Kimberly currently serves on the the Professionalism Committee for the Wake County Bar Association, the Standards Committee for American Bar Association, the Executive Board for the National District Attorneys Association, as and chair of the National Association of Prosecutor Coordinators Highway Safety Committee and Advisory Committee of NC MADD. Previously she served on the North Carolina Bar Association Board of Governors and as chair of the Criminal Justice Section, the board of the North Carolina Victim Assistance Network, as chair for the Ethics Committee of the International Association of Chemical Testing, a member of the North Carolina Joint Legislative Taskforce on Fraud Against Older Adults and on the Discovery Taskforce for the American Bar Association. She also served her community as a past Executive Board member with the Woman's Missionary Union of NC.



### RESOURCES

This handout may be downloaded, printed, and distributed at your local office. Please input the resources and services available in your jurisdiction. You may use Adobe Acrobat to directly edit the PDF or create a sticker listing your resources to mark the handout. If you have any questions, contact AEquitas at 202-558-0040

*This brochure was created by AEquitas in conjunction with the Baltimore City State's Attorney's Office as part of the Combatting Witness Intimidation initiative, Grant No. 2016-DP-BX-K014 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Department of Justice's Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the SMART Office. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.*

# WHAT DO I NEED TO KNOW ABOUT WITNESS INTIMIDATION?





# WITNESS INTIMIDATION

## WHAT IS WITNESS INTIMIDATION?

Anything done to stop you from reporting a crime or from coming to court

## CAN IT HAPPEN TO ME?

Intimidation can happen to anyone, but it's more likely to happen if the crime involves:

- Domestic, sexual, or dating violence; stalking; or child abuse
- Someone you know, an acquaintance, or a former intimate partner
- A gang, a gun, or drugs

## EXAMPLES OF INTIMIDATION:

- Threatening to hurt you or your loved ones
- Threatening to share embarrassing secrets
- Spreading rumors
- Threatening to take away money or promises to give money, gifts, or favors
- Threatening deportation
- Filing false charges against you or a loved one
- Defendant's supporters showing up in large numbers to court
- Bullying you or posting images of you on social media
- Following you or a loved one around
- Vandalizing property
- Apologizing and promising to change
- Threatening phone calls or hang ups
- Retaliating for reporting a crime or going to court

## WHAT SHOULD I DO IF I AM INTIMIDATED?

- Call 911
- Call your detective
- Call Victim/Witness Services at the prosecutor's office
- Call your prosecutor

### IMPORTANT TIP:

Be sure to save any emails, text messages, voicemail messages, or other evidence of intimidation.

Remember, we can't stop it if we don't know about it.

## WHAT CAN VICTIM/WITNESS SERVICES DO TO HELP ME?

The following services are available:

- Accompanying you to court
- Assisting older individuals, persons with disabilities, and out-of-state victims and witnesses with transportation
- Assistance with parking at a designated parking garage
- Safety planning
- Reporting intimidation
- Temporary and permanent relocation for victims and witnesses who meet certain criteria
- Referral to other services, including: family grief counseling, shelters, job counseling, alcohol/drug rehabilitation, domestic violence programs, and immigration services

# **Field Guide to Witness Intimidation:**

## **A Reference for Identification**

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January 2018



Witness intimidation affecting the criminal justice system can take many forms and arise in many contexts. Its presence and effects are not always self-evident, either to professionals working in the system or to the witnesses themselves. While overt threats may be easily recognized and categorized, other forms of intimidation may be subtle or disguised, or too easily overlooked in the course of responding to what has been identified as the primary criminal offense. The term witness includes victims of crime and anyone who is in a position to make a report or to testify about a crime.

This *Field Guide to Witness Intimidation* is intended to be a convenient reference to assist professionals in identifying acts of witness intimidation that may affect their work with victims and witnesses vulnerable to such pressures. For more comprehensive information, as well as suggestions and promising practices for preventing and responding to intimidation, readers are referred to the resources listed at the end of this document.

**For purposes of the present document, and the [Combatting Witness Intimidation \(CWI\)](#)<sup>1</sup> project, witness intimidation is defined as:**

Anything done with the intention or purpose of preventing or altering a witness's testimony or report to law enforcement, or to retaliate against a witness for such testimony or report. In addition to overt threats (including threats of any kind of harm to the victim or another), violence, or other harm, it includes implied threats, as well as emotional manipulation. It may be a specific act in connection with a specific criminal event, or it may amount to creation or exploitation of a setting that will discourage reports and testimony in connection with any future criminal activity (e.g., a community climate of fear that will discourage "snitching," or an ongoing course of violent conduct in the household to discourage a victim of intimate partner violence from seeking the aid of law enforcement).

<sup>1</sup> *Combatting Witness Intimidation to Improve Victim and Witness Cooperation, Law Enforcement Investigation & Prosecution*, AEQUITAS, <http://www.aequitasresource.org/Combatting-Witness-Intimidation-to-Improve-Victim-and-Witness-Cooperation-Law-Enforcement-Investigation-and-Prosecution.cfm> (last visited Feb. 22, 2018).

## What (Types of Crimes)

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Intimidation can occur in virtually any type of crime, though it most commonly occurs in cases where the offender is in a position to readily exert ongoing pressure on the witness. Witnesses in cases involving gang crime (or closely related gun-violence or drug crimes) are likely either to be members of a community dominated by one or more criminal organizations or to be, themselves, gang members (whether of the same or of a rival group). Victim-witnesses in domestic violence or human trafficking cases are likely to continue to be tied to the offender legally/socially, economically, or because they have children in common. Additionally, human trafficking victims may feel bound to their trafficker through the criminal activity they are compelled to engage in. Among the crimes where intimidation features prominently are:

- Gang crime
- Gun crime
- Drug crime
- Domestic violence
- Human trafficking
- Sexual violence
- Stalking
- Child abuse
- Elder abuse
- Hate crime
- Other (white-collar crime, racketeering, environmental crime, etc.)

## How

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Intimidation may be explicit or implied; it may be conducted in plain view (as when the goal is to intimidate not only a single witness, but to also send a message to other would-be witnesses) or hidden behind closed doors. It may be so subtle that only the intended target recognizes the meaning of a threatening word or gesture. In domestic violence or human trafficking, where victim-witnesses are subjected to intimidation and manipulation on a more-or-less constant basis, they may have difficulty recognizing such acts for what they are. Among the ways offenders may intimidate or manipulate witnesses are:

- Harm or threats of harm (express/implied)
  - Physical (e.g., assaults or threats to assault)
  - Emotional/psychological (e.g., threats to disclose personally embarrassing information)
  - Economic (e.g., threats to leave the witness penniless in a divorce)
  - Immigration-related (e.g., threats to report the victim to ICE)
  - Abusive legal tactics (e.g., filing false charges; meritless motion practice)
  - Show of force/solidarity with offender at court proceedings (e.g., gang members show up in force; police officer offender's supporters show up in uniform)
  - Social media (e.g., bullying; posting images of witness in court or disseminating protected discoverable materials online)
- Stalking (e.g., driving by witness's home; tracking witness)
- Vandalism (e.g., keying car; burning down house)
- Graffiti (e.g., spray-painted gang messages)
- Symbolic acts (e.g., mailing a dead rodent to the witness)
- Cultural/religious pressure (e.g., encouraging others to shun witness; cultural humiliation)
- Emotional manipulation
  - Promises (e.g., to change, to marry, to stop drinking, to seek counseling)
  - Apologies
  - Threats of self-harm/suicide

## Who

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Although most intimidation is committed by the offender against the witness directly, indirect intimidation is common. In an effort to avoid consequences, offenders may enlist family, friends, or allies/associates to engage in intimidation. Sometimes the witness's own family will exert pressure on the witness—particularly in domestic violence cases, where the offender may be manipulating the family in an effort to appear blameless or to make the victim appear to be unstable. When crimes occur in insular communities (e.g., religious or ethnic communities, schools, law enforcement, the military), leaders or authority figures may pressure witnesses not to put the community in a bad light. In cases of gang/gun/drug violence, particularly in communities where there is distrust of law enforcement or where witnesses are treated as “snitches,” there may be community pressure on witnesses not to cooperate with law enforcement. The targets of intimidation are not limited to the witnesses themselves; many witnesses are more fearful of harm coming to someone they care about more than they are about their own safety. Thus, intimidation may threaten the witness's family, friends, pets, or others.

- Intimidators
  - Offenders
  - Allies of offenders
  - Family members of offenders
  - Family members of witness
  - Cultural authority figures
  - Institutional authority figures
  - Community
- Targets
  - Witness
  - Witness's family
  - Witness's friends
  - Others (witness's attorney, employer, pets, etc.)

## Where

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Intimidation can occur anywhere the witness can be found or can be contacted. While most intimidation takes place outside the immediate control of law enforcement, it also occurs in police stations and courthouses, particularly when witnesses must use public/common waiting areas and facilities. It is also known to happen in the courtroom itself, while the witness is testifying in court. Offenders may accompany victims to the emergency room and stand by to ensure that the victim is unable to provide truthful information to medical professionals. The use of online communication and social media by intimidators is a growing concern.

- Crime scene (including institutional settings such as schools, prisons, military)
- Witness's home/school/workplace
- Locations frequented by witness
  - Child's school/day care
  - Gym
- Police station
- Hospital
- Courthouse
- Larger community
- Phone
- Internet (e.g., email, social media)

## When

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Criminals who engage in repetitive offenses such as domestic violence or gang activity often work to create a pervasive sense of fear in witnesses to discourage them from coming forward. During or immediately after the crime, offenders may threaten witnesses not to say anything. Intimidation may escalate during the pretrial period, and the longer the wait before trial, the more time the intimidator has to pressure the witness. Witnesses may be pressured during the trial itself, as they are accosted on the way to court, while waiting to testify, or while on the stand. After a trial, witnesses may be subject to retaliation or may be intimidated in an effort to secure a recantation of trial testimony.

- Prior to crime
- During crime
- During medical treatment
- Pretrial
- During trial
- Post-trial (e.g., retaliation or seeking recantation)

## Why

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Witness intimidation is always an effort to avoid consequences for criminal activity. The aim may be to dissuade a specific witness or witnesses from reporting or testifying; to pressure a witness to recant or alter a previous report, statement, or testimony; or to punish a witness for reporting or testifying. There is often a larger aim, however; intimidators may make a show of what will happen to a witness who cooperates with law enforcement for the purpose of making an impression on other would-be witnesses and discouraging them, as well.

- Particular witness
  - Prevent report/testimony
  - Alter report/testimony
  - Retaliate for report/testimony
- Other potential witnesses
  - As an example to others

## **An Additional Consideration: Incidental Institutional Intimidation**

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The criminal justice system itself is intimidating to most victims and witnesses, particularly those who are especially vulnerable as a result of crime-related trauma, those who live in communities where there is distrust of law enforcement, or those who are otherwise marginalized (including, e.g., immigrants, incarcerated witnesses, and the elderly). Police, prosecutors, and allied professionals can diminish the incidence and effects of this type of institutional intimidation by being especially mindful in their interactions with victims and witnesses.

Helpful practices include:

- Interviewing witnesses in private, out of view of those who might use their cooperation with law enforcement against them.
- Taking care to house, hold, or transport incarcerated witnesses separately from the offenders against whom they are to testify (or allies of the offenders).
- Providing safe and secure transportation to, and waiting areas in, police stations and courthouses.
- Providing access to advocacy and other services, as well as available shelters or public housing resources for temporary relocation where necessary.
- Offering information about U-Visas and T-Visas where appropriate to undocumented witnesses.
- Avoiding the suggestion that children might be removed if the witness refuses to participate in the investigation and prosecution.

## Resources

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- **Witness Intimidation: Meeting the Challenge:**<sup>2</sup> Discussion of the various manifestations of witness intimidation that affects the ability of witnesses to safely and truthfully report and testify about criminal offenses, as well as the ability of police and prosecutors to investigate and prosecute the offenders.
- **The Prosecutors' Resource on Witness Intimidation:**<sup>3</sup> Strategies for effective prosecution of cases where witness intimidation is, or may be, a factor. It is intended both as a checklist of actions that can increase the likelihood of successful prosecution and as a reference to assist the prosecutor in handling typical problems and legal issues that arise in prosecuting cases involving intimidation. The Resource further provides guidance for prosecution practices that will enhance the safety of victims and witnesses.
- **Improving Witness Safety and Preventing Witness Intimidation in the Justice System: Benchmarks for Progress:**<sup>4</sup> Broad-based resource for safeguarding witness safety in three parts including: an overview of witness intimidation; tools for identifying solution and integrating victim and witness safety into criminal justice systems; and implementing change with processes for witness safety assessment and response improvement. In this resource, criminal justice leaders will find a step-by-step guide to assessment and diagnosis, action planning, and monitoring and sustaining change.

***For case consultation, training opportunities, and additional resources, please contact AEQUITAS at [info@aequitasresource.org](mailto:info@aequitasresource.org) or at (202) 558-0040.***

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<sup>2</sup> Teresa M. Garvey, *Witness Intimidation: Meeting the Challenge*, AEQUITAS (2013), available at [www.aequitasresource.org/library.cfm](http://www.aequitasresource.org/library.cfm).

<sup>3</sup> The Prosecutors' Resource on Witness Intimidation, AEQUITAS (2014), available at [www.aequitasresource.org/library.cfm](http://www.aequitasresource.org/library.cfm).

<sup>4</sup> Franklin Cruz & Teresa M. Garvey, *Improving Witness Safety and Preventing Witness Intimidation in the Justice System: Benchmarks for Progress*, AEQUITAS & JUSTICE MANAGEMENT INSTITUTE (2014), available at [www.aequitasresource.org/library.cfm](http://www.aequitasresource.org/library.cfm).

### **Print this Field Guide as a “Booklet”**

“You can print a multipage document as a booklet. Acrobat or Reader lays out the pages two per sheet. When you collate, fold, and staple the double-sided sheets, the result is a single book with the correct page order.” For Instructions on how to print this Guide as a Booklet from your computer, please visit <https://helpx.adobe.com/acrobat/kb/print-booklets-acrobat-reader.html>.

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## Instructions to Receive CLE Credit

### Please Read Carefully

The Prosecutors' Center for Excellence has not requested continuing legal education accreditation for this program. Instead, we will supply you with a **Uniform Certificate of Attendance**. This certificate will include Prosecutors' Center for Excellence (PCE) as the sponsor, the title of this conference, the dates of this conference, the location of this conference as well as a calculation of the CLE Credit Hours under both a 60-minute and 50-minute hour system. We believe that these hours accurately reflect the CLE credit you should receive. However, each state has its own rules on the accrediting process which could affect this calculation.

At the end of the meeting, you will receive a conference evaluation. You will need to fill out the survey in order to receive the **Uniform Certificate of Attendance**.

As part of the meeting materials, PCE will supply you with this meeting's agenda, a description of the various content to be covered throughout this conference, as well as the names and biographies of the speakers.

You will need to apply for CLE credit on your own through your state's specific process. Most jurisdictions have this as an option. Some jurisdictions require members to apply and report within 30 days of the original program date. We hope that the **Uniform Certificate of Attendance** will aid you in this process.

### Sign-In Sheets

To obtain CLE credit, most states require attendees to sign in at the time of the meeting. PCE will maintain a copy of the sign-in sheets and send copies upon request.

*Here are some specific sign-in rules from a variety of states:*

**Delaware Attorneys:** Delaware Attorneys and speakers seeking CLE credits must **sign in** at each individual session you attend.

**Illinois Attorneys:** Illinois Attorneys and speakers seeking CLE credits must **sign in** at each individual session you attend. The sign-in documentation is used to verify your total number of CLE hours.

**New York Attorneys:** New York Attorneys and speakers seeking CLE credits must **sign in** and **sign out** of each individual session you attend.

**Pennsylvania Attorneys:** Pennsylvania Attorneys must complete the Pennsylvania CLE Credit Request form to report attendance at in-person programs.

**Texas Attorneys:** Texas Attorneys must complete the Texas CLE Course Attendance Form to report attendance at in-person programs.



## PROSECUTORS' CENTER FOR EXCELLENCE

### UNIFORM CERTIFICATE OF ATTENDANCE

**SPONSOR:** Prosecutors' Center for Excellence  
**ACTIVITY TITLE:** 14th National Meeting- Statewide Best Practices Committees for Prosecutors  
**DATE:** January 27, 2020  
**LOCATION:** Washington, D.C.

#### **THIS PROGRAM OFFERS A TOTAL OF:**

5 CLE CREDIT HOURS (BASED ON A 60 MINUTE HOUR) of which, 0 may be in Ethics, PENDING STATE APPROVAL

6 CLE CREDIT HOURS (BASED ON A 50 MINUTE HOUR) of which, 0 may be in Ethics, PENDING STATE APPROVAL

*Reminder: Introductory remarks, keynote addresses, breaks, receptions, luncheons, etc. are not included in the computation of credit.*

**TO BE COMPLETED BY ATTORNEY** (Please note: If you are required to report to more than one state, complete a form for each state.)

By signing below, I certify that I attended the activity described above and am entitled to claim \_\_\_\_\_ CLE credit hours of which 0 were in Ethics.

\_\_\_\_\_  
ATTORNEY'S NAME (please print)

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
BAR MEMBERSHIP, REGISTRATION  
OR SUPREME COURT NUMBER

\_\_\_\_\_  
DATE

\_\_\_\_\_  
STATE WHERE CREDITS ARE TO BE  
REGISTERED

ACKNOWLEDGED BY:

Kristine Hamann  
Executive Director / Founder  
Prosecutors' Center for Excellence  
Phone: 917.885.9065

**NOTE: PLEASE DO NOT RETURN THIS FORM TO PCE**



## 14<sup>th</sup> National Meeting of Statewide Best Practices Committees for Prosecutors Washington, D.C. January 27, 2020

Your state: \_\_\_\_\_

**Overall how would you rate the presentation given by Jon Gould, Foundation Professor of Criminal Justice and Law and Director of the School of Criminology and Criminal Justice at Arizona State University on *Overlap Between Erroneous Convictions and Failed Prosecutions*?**

1	2	3	4	5
Poor	Fair	Average	Good	Excellent

Comments:

**Did this meeting provide helpful information on Funding Opportunities for Prosecutors from the Department of Justice and Bureau of Justice Assistance?**

- ☐ Yes.
- ☐ No.
- ☐ Other.

Comments:

**Overall how would you rate the presentation given by AUSA Mike Ambrosino, United States Attorney's Office for the District of Columbia on *Current Litigation Involving Ballistics Evidence*?**

1	2	3	4	5
Poor	Fair	Average	Good	Excellent

Comments:

**Overall how would you rate the presentation given by Deputy District Attorney Raymond Lepone, Shelby County District Attorney General's Office, Tennessee, on *The Impact of Fines and Fees*?**

1	2	3	4	5
Poor	Fair	Average	Good	Excellent

Comments:

**Did you find the Break Out Groups to Discuss Alternative Approaches to Low Level Offenses helpful?**

- ☐ Yes.
- ☐ No.
- ☐ Other.

Comments:

(Continued on page 29)



**Did this meeting provide helpful ideas about how prosecutors can address Witness Cooperation and Witness Intimidation?**

- ☐ Yes.
  - ☐ No.
  - ☐ Other.
- Comments:

**Overall how would you rate the presentation given by Director Peg Dorer and Deputy Director Kimberly Overton Spahos, North Carolina Conference of District Attorneys on Prosecutors as Leaders?**

1	2	3	4	5
Poor	Fair	Average	Good	Excellent

Comments:

**What aspects of the meeting could be improved?**

**What topics would you like Prosecutors' Center for Excellence to address in the future?**

**How can PCE provide assistance to your state?**