



Violence Reduction Network

Strategic Solutions • Focused Action • Reduced Violence

Strategies to Address Witness Intimidation

MARCH 30, 2015
2:00 P.M. – 3:30 P.M., EDT

Michael Seelman



***VRN Co-Director
FBI Detailee to BJA
Michael.Seelman@ic.fbi.gov***

Webinar Overview

- Welcome and Overview
 - Mr. Michael Seelman, VRN Co-Director
- Speaker presentations
 - Ms. Kristine Hamann, BJA Visiting Fellow
 - Mr. John Delaney, Deputy District Attorney, Philadelphia, Pennsylvania, District Attorney's Office
 - Mr. Steven Siegel, Director of the Special Programs Unit, Denver, Colorado, District Attorney's Office
- Question-and-answer session
- Resources and contacts
 - Mr. Michael Seelman, VRN Co-Director

Today's Speakers

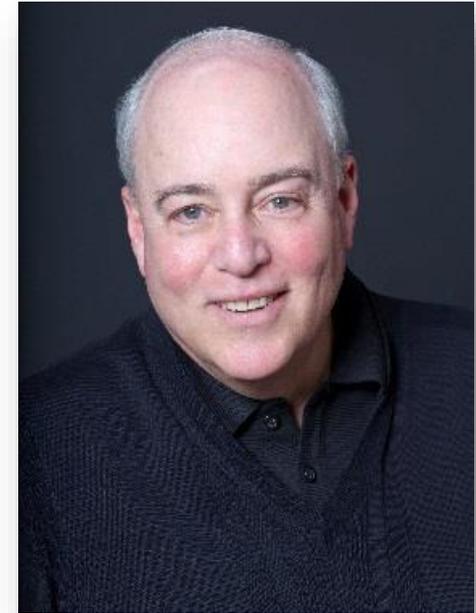


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Witness Intimidation



Who Intimidates?

- Anyone
- Highest risk:
 - Domestic violence
 - Gangs
 - Living near the witness/victim

How?

- Physical violence
- Threats and nonphysical violence
- Chilling effect

Anti-Snitching



New Threat



Bronx, New York

facebook

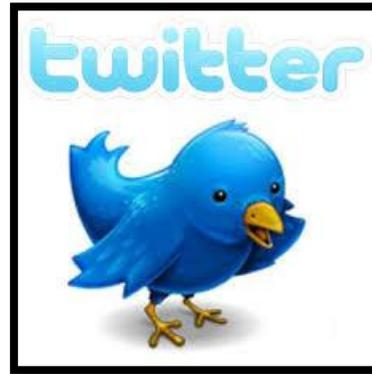
[REDACTED] July 24 via mobile 

KILL ALL RATS U KNOW WHO U ARE

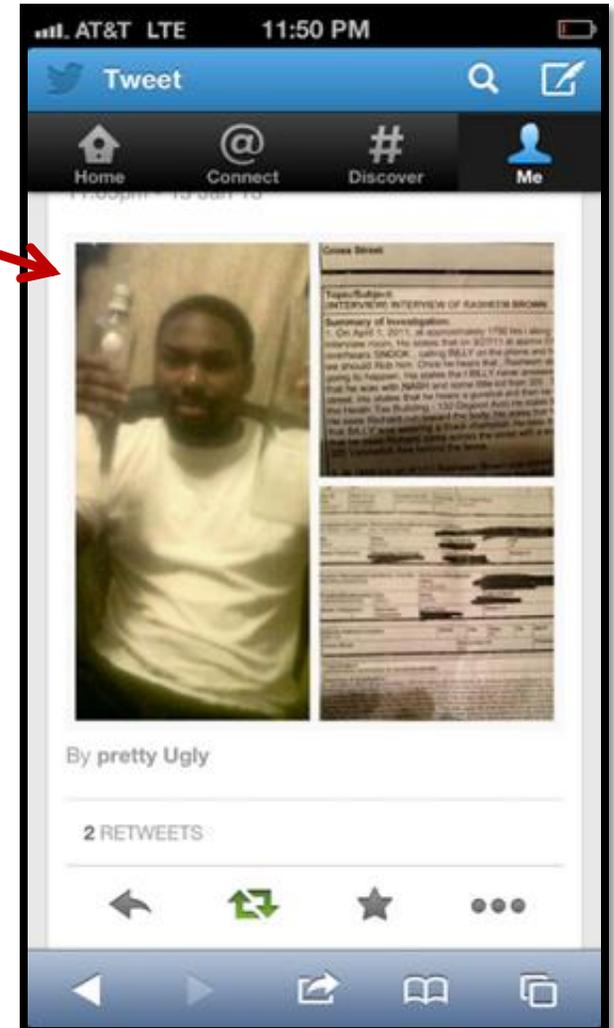
Staten Island, New York



Witness



Redacted Police Paperwork



Albany, New York



Video Shown



Solutions

- Pennsylvania
 - Engage the community
 - Bench book
 - Grand jury

Solutions

- Colorado
 - Witness protection fund
 - Training for witnesses
- Research and funding needed

John Delaney



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Combating Witness Intimidation

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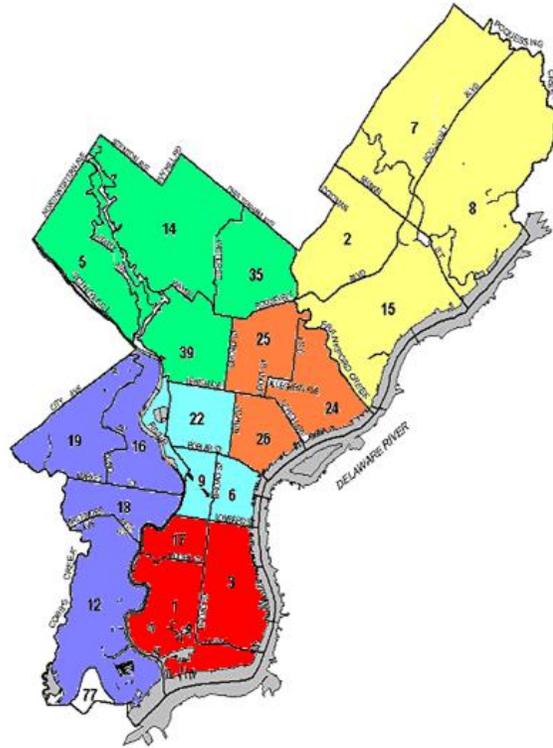


Combat—On Every Front

- Establish and maintain community relationships
- Vigorous detection, investigation, and vertical prosecution of every act of alleged intimidation
- Equipping judges with applicable law
- Protecting witness safety
 - In the courthouse
 - Indicting grand jury; restricted discovery
 - Relocation

Establish and Maintain Community Relationships

Northeast
Northwest
East
Central
Southwest
South



Community Action Centers

Community Participation in Sentencings

DA Participation in Community Events

Victim Advocates

Automated Reminders

Vigorous Detection, Investigation, and Vertical Prosecution

- Look for it, recognize it, respond to it
 - Prison phone tapes, letters, informants
 - Prison visitor logs
 - Cell search
 - Social media
- If in courthouse, seek immediate finding of contempt, seizure of any instrument
 - Actual or attempted violence or property damage
 - Explicit or implied threats
 - Photographing or recording the witness
 - “Packing” the courtroom or hallway

Vigorous Detection, Investigation, and Vertical Prosecution

- Specially assigned prosecutor
- Work with investigators to develop evidence and lodge appropriate charges
- Seek appropriately high bail, conditioned on stay-away order
- Seek appropriate verdict and sentence

Equipping Judges With Applicable Law

FREE TO TELL THE TRUTH

Preventing and Combating
Intimidation in Court

A Bench Book for
Pennsylvania Judges

Second Edition

2014

Development

- 2007—Forums on Witness Intimidation conducted by PA Commission on Crime and Delinquency (PCCD)
- 2009—Judicial bench book suggested. PHL DA obtains grant from PCCD, retains former prosecutor and current judicial educator Stuart Suss as researcher and writer. Judicial editorial committee formed
- 2011—Bench book published. Announced by PA Supreme Court and PHL DA
- 2013—Suss begins update and revision, again with judicial editorial committee
- 2014—Second edition published, includes hyperlinks, thanks to Pepper Hamilton staff! Copy provided to every judge in the commonwealth
- Bench book available:
 - on AOPC’s Web site: <http://www.pacourts.us/judicial-administration/judicial-education>
 - on PCCD’s Web site:
<http://www.pccd.pa.gov/AboutUs/Documents/Bench%20book%202%20published%202014-05-20.pdf>

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.”

Bench Book

“This bench book is designed to be a practical tool to guide judges in dealing with the many manifestations of witness intimidation or jury interference. Our goal was to identify the body of law in Pennsylvania and other jurisdictions that addresses this assault on justice. We identify the forms of witness intimidation and jury interference and recommend the best practices to protect the integrity of our courts.”

Table of Contents

1. Forms of intimidation outside the courtroom
 2. Forms of intimidation in and near the courtroom
 3. Creating a safe and secure courtroom
 4. Responses to witness intimidation
- Appendix

Legal Standard

- Safety and integrity of the judicial process are substantial judicial interests
- Court must specify reasons for the court's remedial action
- Remedial action must be no broader than necessary
- Court must state alternatives considered and reasons for not using them

Judicial Authority

“Trial judges are vested with broad discretion in setting and enforcing the standards of proper conduct for all those who seek to attend judicial proceedings before them. We should not be hasty to reverse a trial judge’s actions in establishing order in his courtroom, unless his actions are not designed to maintain dignity, order, and decorum, and instead deny or abridge unwarrantedly the opportunities for communication of thought and the discussion of public questions immemorially associated with resort to public places.”

—*Commonwealth v. Berrigan*, 509 Pa. 118, 133, 501 A.2d 226, 234 (1985)

Protecting Witness Safety: In The Courtroom

- Provide safe waiting areas for witnesses . . . and jurors; escorted transportation to and from the courthouse and courtroom
- Train courtroom staff to be alert to intimidating acts by spectators
- Strategic placement of police, sheriffs—requires notice and planning
- Daily warning in courtroom that:
 - Criminal conduct will be referred to law enforcement for arrest and prosecution
 - Misbehaving spectators will be held in contempt of court with accompanying fines and imprisonment and excluded from the courtroom
 - Any cell phone or similar device that is not powered off and out of sight may be confiscated and searched and may result in contempt and expulsion (Pa.R.Crim.P. 112(a))
 - “If you believe that intimidating a witness will stop the proceedings or otherwise help the defendant, you are wrong”

Protecting Witness Safety: Indicting Grand Jury; Restricted Discovery

- Pa.R.Crim.P. 556 et seq.
 - “Witness intimidation has occurred, is occurring or is likely to occur”
 - Witness testifies outside defendant’s presence
 - Secrecy
 - Delayed discovery
- Since January 2013 in Philadelphia
 - Grand jury sits 2 days/week for 6 months
 - > 1,400 cases presented
 - 89% indicted/HFC

Protecting Witness Safety: Indicting Grand Jury; Restricted Discovery

- Sealing Arrest Warrant Information—Pa.R.Crim.P. 513.1
- Use of initials or other identifiers in arrest warrant application and criminal complaint
- Protective Discovery Order—Pa.R.Crim.P. 573(F)
- Defense copy: redacted, watermarked

Philadelphia Police Department Investigation Report

DC Number 2015-02-010498
 Report No 2015-02-010498.1
 Report Date 3/3/2015 6:09:47 PM
 Report Type Investigation Report (75-49)

A - Approved

Page 1 of 3

Unit Control#: 2015-6400-002102-0

Class Section	0815 - ASSAULT DOMESTIC ABUSE - SIMPLE	Occurred On	2/26/2015 9:04:00 PM
Previous Class Section	0815 - ASSAULT DOMESTIC ABUSE - SIMPLE	Reported On	2/26/2015 9:04:00 PM
Location of Occurrence	[REDACTED]	Disposition / Status	2 - Arrest
Date/Time of Occurrence	2nd District PSA J	Closing Unit	0200 - 2nd District
Reporting Officer	P/O THOMAS QUINN (PR 215653 / #1194)	Investigating Officer	Det SUSAN KACHNYCZ (PR 208601 / #0878)
Assisted By		District Reporting	6400 - Northeast Detective Division
Related Cases			

Report Approval

Created 3/3/2015 6:09:47 PM Det SUSAN KACHNYCZ (PR 208601 / #0878)
 Approved 3/3/2015 8:30:29 PM Sgt CHRISTOPH KRAUSE (PR 192425 / #0856)

Report Summary

On 2/26/15 the offender was arrested for assault of [REDACTED]
 Initial report-Arresting Officer: P/O Quinn #1194
 Assigned: Det. Kachnycz #878
 NEDD Control #15-1102

Classification Detail: 0815 - ASSAULT DOMESTIC ABUSE - SIMPLE

Location	070 - Private Residence	Using		Mr. Pains Sealed
Offense Completed?	YES	Criminal Activity		Entry Method
Fire/Dia	Name (No Bias)	Weapons/Tools	Personal Weapons/Hands, Feet, Teeth, etc.)	Type/Security
Domestic Violence	YES			Tools

Victim / Complainant V1: Metzgar, Samantha

Address	[REDACTED]	DOB	9/18/1956	Officer Payroll #	
City	[REDACTED]	Age / Race / Sex	247 White / Female	District / Unit	SDU
Home Phone	[REDACTED]	Marital	Met of Hispanic Origin	GLN	
Cell Phone	[REDACTED]	Overseas/Overseas		GLN State / County	J
Beep	[REDACTED]	Employment		INNY	Apparent Minor Injury
Email	[REDACTED]	Employer Address		Classification	
Work Phone	[REDACTED]	Employer City		Reason for Absence	
Found Date	[REDACTED]	Home L. License			
Reason for Classification	[REDACTED]	Foreign L. License			
PC/CR/CC	[REDACTED]	Foreign ID			
Notification	[REDACTED]				
Victim Note	On 2/26/15 approx. 9:00pm complainant stated while inside their residence at [REDACTED] the offender was still mad over the earlier incident. The offender grabbed complainant by the neck and choked her for approx. 5 seconds. Complainant further stated as she went for the phone to call police, the offender grabbed her arm, she tried pushing the offender away and he wouldn't let go, complainant hit the offender with a picture frame. Complainant had red marks on her neck.				

Interview Section

Interview Date [REDACTED] Interviewed By (PR / #) [REDACTED] 11-113 Completed
 Interview Location [REDACTED] Officer Present [REDACTED]
 Interview Summary [REDACTED]

Property

Description	Reported Value	Recovered Value
TOTAL	90	90

Witness W1: P/O QUINN, THOMAS (PR 215653 / #1194)

Address	300	Officer Payroll #	215653
City	Age / Race / Sex / /	District / Unit	0200 - 2nd District

Protecting Witness Safety: Relocation

- Eligibility
 - Victim of or witness to violent crime
 - Cooperating with investigation and prosecution
 - Serious threat as result of cooperation
 - Agree to memorandum of understanding
 - Refrain from returning to “danger zone”
 - Seek permanent housing, move in three months

Protecting Witness Safety: Relocation

- Possible disqualifiers
 - Active probation/parole
 - Informant
 - Previously terminated from relocation program
- Assistance available: pre- or post-arrest
 - Immediate moving expenses
 - Temporary lodging and meals
 - Storage
 - Rental application fees
 - Three months' rent for permanent location

Protecting Witness Safety: Relocation

- Since 2002, funded by PA legislature
- Since 2005, through PA Attorney General
- Since 7/2012, supplemented by city of Philadelphia
- Average year: 100 witness/family units served
- Currently, 46 open cases, served by three victim/witness staff members



All Change Is Incremental

Steven Siegel



*Director of the Special Programs Unit
Denver, Colorado, District Attorney's Office
SRS@denverda.org*



Denver District Attorney's Office Witness Protection Program

Steven Siegel

**Director of the Special Programs Unit
Denver, Colorado, District Attorney's Office**

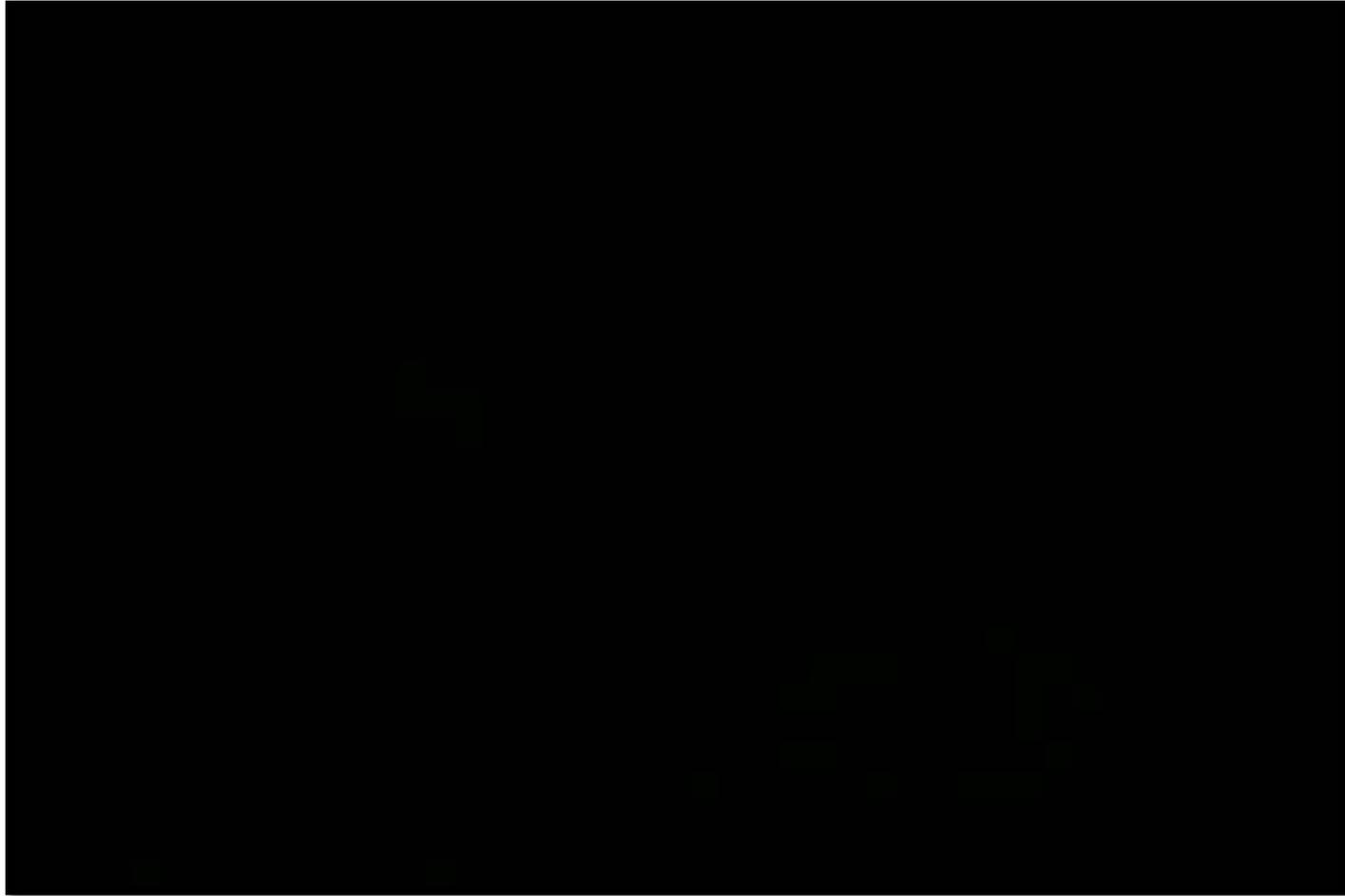
Audio Played



How Bad Is It?

- In the past 20 years, 16 witnesses have been murdered in Colorado
- In the past 11 years, 2,000 felony witness intimidation cases have been filed
- In the past 5 years, 15 District Attorney staff members have been assessed or protected from threats

Video Shown



Video Shown



Denver Witness Protection Program

- History
 - Started in 2008
- Program structure
 - Three full-time investigators

Collaboration Is Key

- City
- State
- Federal
- Community-based
- Human Services

Three Pillars of the Program

- Tactical Victim/Witness Protection Strategies
- Victim/Witness Assistance Services
- Lifestyle Transformation

Witness Protection Assessment and Intake

- Threat analysis
 - Is the threat credible?
 - How imminent is the threat?
 - How dangerous is the source of the threat?
 - What is the availability or potential to acquire resources to carry out the threat?
 - Is the threat geographical? Will moving the individual solve protection issues?
 - Is the threat opportunistic? Will the person intimidating only carry out the threat if they come into contact with this person?

Steps for Investigators

- Review the complete criminal case and history of the perpetrator(s)
- If the perpetrator(s) have been incarcerated previously, contact the facilities in which the individual was housed to learn about their activity in the facility
- Research any associations the perpetrator(s) might have
- Conduct surveillance if the perpetrator(s) are out on bond
- Research any previous military experience

Steps for Investigators

- Understand any bond information or conditions, such as GPS
- Contact federal agents about prior cases involving the perpetrator(s) or previous cooperation as a defendant or informant
- Monitor social networking sites, such as Facebook, YouTube, MySpace
- Assume that domestic violence perpetrator(s) have higher lethality by nature
- Threat assessment increases with threats to court staff

Protection Safety Plan

- Who are the players involved in intimidating the individual?
- How can the individual be shielded from contact with these players as well as others who might carry out their message?
- Is the individual currently in a safe place?
- Are basic needs met? (food, shelter, clothing, medical)
- Do we have a secure way of communicating with the individual?

Video Shown



Victim/Witness Safety Briefing

- Awareness of surroundings
- No new friends
- Social networking site safety
- Commuting habits
- Revealing location and/or case information
- Case-specific

Protection and Relocation Helpful Ideas

- Make contact with hotels outside of the immediate area of the jurisdiction that you protect and set up a direct billing account
- Provide disposable phones
- Provide grocery cards

Victim Services

- Access to counseling, therapy, and advocacy
- Access to support groups
- Access to safe and therapeutic shelter options
- Access to legal assistance and advocacy
- Access to assistance with physical health needs and potential rehabilitation

Lifestyle Changes

Self-Esteem

Substance Abuse

Human Trafficking

Family Dysfunction

Education/Job Training

National Needs

- A broader understanding of “Stop Snitchin’” movement employed by organized gangs
- Exchange of current strategies (legislative and programmatic) that are in place across the country
- Exchange of “lessons learned”
- Development of a Best Practices Toolkit
- Establishment of a Resource Guide to assist in interstate issues
- Consideration of developing technology and data strategies to link and assist nationwide efforts to combat this form of violence
- Exchange and utilization of tactical interstate resources and contacts



Question-and-Answer Session

Resources—HUD Relocation

The U.S. Department of Housing and Urban Development (HUD) Witness Relocation Program is operated out of the HUD Office of the Inspector General (OIG) regional offices. The police department or prosecutor's office can call for assistance and ask for the agent who covers witness relocation:

- Camden: Regions 1/2, (212) 264-8062
- Chicago and Detroit: Region 5, (312) 353-4196
- Oakland/Richmond: Region 9, (213) 894-0219
- Wilmington: Region 3, (215) 430-6758
- All others: <https://www.hudoig.gov/about/where-were-located>

Resources—Victim Compensation

The DOJ Office for Victims of Crime (OVC) provides states/localities with victim compensation funds as part of the Victims of Crime Act (VOCA). Direct reimbursement is provided to or on behalf of a crime victim for the following statutorily identified crime-related expenses:

- Medical costs
- Funeral and burial costs
- Mental health counseling
- Lost wages or loss of support
- Other compensable expenses may include the replacement or repair of eyeglasses or other corrective lenses, dental services and devices, prosthetic devices, crime scene cleanup, and forensic sexual assault exams. However, property damage and loss are not covered

Resources—Victim Compensation

VOCA Victim Compensation Funds State POCs:

- Camden: (973) 648-2107 and <http://www.nj.gov/oag/njvictims/>
- Chicago: (312) 814-2581 and <http://www.illinoisattorneygeneral.gov/victims/cvc.html>
- Detroit: (517) 373-7373 and http://www.michigan.gov/mdch/0,1607,7-132-54783_54853---,00.html
- Oakland/Richmond: (800) 777-9229 and <http://www.vcgcb.ca.gov/>
- Wilmington: (302) 995-8383 and <http://courts.delaware.gov/vccb/>
- All others: <http://www.ovc.gov/map.html>

Resources—Victim Assistance

The DOJ Office for Victims of Crime (OVC) provides states/localities with victim assistance funds as part of the Victims of Crime Act (VOCA).* Victim assistance includes, but is not limited to, the following services:

- Crisis intervention
- Emergency shelter
- Emergency transportation
- Counseling
- Criminal justice advocacy

* By statute, VOCA funds—including victim compensation and assistance—cannot be used for witness protection

Resources—Victim Assistance

VOCA Victim Assistance Funds State POCs:

- Camden: (609) 292-6766 and <http://www.nj.gov/lps/dcj/victimwitness/index.html>
- Chicago: (800) 228-3368 and <http://www.illinoisattorneygeneral.gov/victims/index.html>
- Detroit: (517) 241-5249 and http://www.michigan.gov/mdch/0,4612,7-132-54783_54853---,00.html
- Oakland/Richmond: (800) 777-9229 and <http://www.vcgcb.ca.gov/>
- Wilmington: (302) 577-8693 and <http://cjc.delaware.gov/>
- All others: <http://www.ovc.gov/map.html>

Resources—Federal Prosecution Cases

- **U.S. Attorneys’ Offices (USAO) Emergency Witness Assistance Program (EWAP)**
 - Limited funding available to USAOs for assisting witnesses on an emergency basis
 - For witnesses who have a perceived threat of danger in relation to testifying
 - POCs: USAO Victim/Witness Coordinators
- **U.S. Marshals Witness Security Program**
 - The U.S. Marshals Service provides for the security, health, and safety of government witnesses and their immediate dependents whose lives are in danger as a result of their testimony against drug traffickers, terrorists, organized crime members, and other major criminals
 - For more information, see: <http://www.usmarshals.gov/witsec/>

Resources—Publications

- Witness Intimidation Report for ABA (available in file pod after Webinar)
- Reforms Have Improved Philly Courts
- Free to Tell the Truth—Preventing and Combating Intimidation in Court, A Bench Book for Pennsylvania Judges
- The Unified Judicial System of Pennsylvania—Judicial Education
- Dozens in D.C., Maryland Paid the Ultimate Price for Cooperating With Police

Resources—Publications

- [The Problem of Witness Intimidation, Center for Problem-Oriented Policing](#)
- [Action Dispels Fear—A Best Practice Guide for Tackling Witness Intimidation](#)
- [Gang-Related Witness Intimidation, National Gang Center](#)
- [Pennsylvania Court Press Release on Grand Jury](#)
- [The Commonwealth of Massachusetts Witness Protection Program](#)

Contacts

- For more information, please contact:
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Thank You!