

Combatting Witness Intimidation

*Experiences in Creating
Systems-Based Change*



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Executive Summary

Witness intimidation is a national epidemic. Offenders overtly and implicitly threaten victims and witnesses to prevent them from reporting crime. Victims and witnesses who do report crime live in fear of retribution. The [Combatting Witness Intimidation \(CWI\) Initiative](#) sought to identify challenges related to witness intimidation across all crimes, adopt strategies to address these challenges, and create methods to evaluate the impact of those approaches. AEquitas and the Justice Management Institute (JMI), with assistance from the International Association of Chiefs of Police (IACP) and other experts in the field (hereinafter CWI partners), led the Initiative and supported three jurisdictions to plan and implement a set of coordinated strategies to reduce intimidation in their communities. Baltimore, MD; Baton Rouge, LA; and Boston, MA were chosen as pilot sites for the CWI Initiative because they demonstrated an optimal mix of key criteria that the CWI partners determined crucial to the success of implementing effective strategies - namely, a demonstrated need for targeted interventions; an interdisciplinary approach to planning, implementation, and evaluation; and availability of reliable data to evaluate progress.

The sites' experience working to combat intimidation over a two-year-period highlighted several important themes and lessons:

- **Risk management.** In each of the three pilot sites, changes in key personnel, including the election of a new district attorney in one site, slowed the progress made in the early days of the Initiative. Risk management planning to anticipate this eventuality and maintain momentum in efforts can reduce the impact of personnel change.
- **Clear problem definition.** When addressing a broad issue such as witness intimidation, a clear definition of the problem is key to identifying realistic achievable responses to the identified challenges. Each site worked extensively to create a targeted definition of the problem which drove the work the sites engaged in over the course of the grant.
- **Accounting of available resources.** In each site, additional criminal justice initiatives were ongoing, many of which intersected or complemented the work of CWI but were often only identified at later stages. Initiative mapping at project onset and on an ongoing basis may improve the ability of multiple projects to pool and leverage resources, and avoid duplication of effort.
- **Close multidisciplinary collaboration.** A solution to a problem as large as witness intimidation requires leaders and specialized staff from all agencies that intersect with victims of crime. Some sites were unable to get their local initiatives off the ground because they had not successfully enlisted and maintained the involvement of the decision-makers and specialized staff needed to implement the necessary strategies. Early efforts to ensure close collaboration will increase likelihood that strategies will be carried out.

At the time of the grant's closing, the three sites were beginning to implement the policy and practice changes they had so carefully considered. Their time and effort - without dedicated funding - yielded focus and attention to an often overlooked issue that undercuts the work of police and prosecutors to address violent crime. Lessons from their work will assist criminal justice professionals across the board in recognizing and effectively responding to intimidation.

A. The Combatting Witness Intimidation Initiative

Witness intimidation is pervasive and increasing nationally. It is a concern echoed by the U.S. Department of Justice's Community-Oriented Policing Services; the National Institute of Justice; and the broader criminal justice, community service, and academic communities.¹ Intimidation, threats, and retaliation affect victims and witnesses of homicides, gang violence and domestic abuse; of institutional, corporate and criminal whistle-blowing; of financial fraud and embezzlement,² and of sexual violence and human trafficking.³ Entire communities may live in fear of retribution.

What is Witness Intimidation?

The CWI partners defined witness intimidation 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.

Intimidation has detrimental consequences for victims, witnesses, communities, and the entire criminal justice system. Victims and witnesses may live in constant fear for their safety and the safety of their loved ones. To the extent that witnesses are not reporting crimes or participating in the criminal justice system, law enforcement and prosecutors are unable to hold offenders accountable. When crimes go unpunished, offenders believe they can commit violent crime with impunity.

¹ Senate Sub-committee on Crime, Terrorism and Homeland Security of the Committee on the Judiciary, House of Representatives, 110th Cong. 51-58 (Feb. 15, 2007) (testimony of Paul Logli, Chairman of the Board of the National District Attorneys Association); Press Release, United States House of Representatives, Elijah Cummings, Congressman Cummings and State's Attorney Jessamy Call for Federal Resources to Protect Witnesses (Jul. 17, 2007); Kerry Murphy Healey, Nat'l Institute of Justice, Victim and Witness Intimidation: New Developments and Emerging Responses (Oct. 1995), <https://www.ncjrs.gov/pdffiles/witintim.pdf>; David Kocieniewski, Few Choices in Shielding of Witnesses, NYTIMES (Oct. 28, 2007); John Anderson, Gang-Related Witness Intimidation, NATIONAL GANG CENTER BULLETIN 6 (Feb. 2007), <https://www.nationalgangcenter.gov/content/documents/gang-related-witnessintimidation.pdf>.

² Kelly Dedel, Witness Intimidation, Office of Community Oriented; Sam Hananel, Feds Fear Witness Intimidation in Mine Probe, CBSNEWS (May 4, 2010), <http://www.cbsnews.com/news/feds-fear-witness-intimidation-in-mine-probe/>; David Cay Johnston, "Executive Accused of Tax Fraud and Witness Intimidation," New York Times (June 20, 2006).

³ Franklin Cruz and Teresa Garvey, Improving Witness Safety and Preventing Witness Intimidation in the Justice System – Benchmarks for Progress (AEquitas, 2014 available at) available at <https://aequitasresource.org/wp-content/uploads/2018/09/Benchmarks-for-Progress.pdf>; AEquitas, The Prosecutors' Resource on Witness Intimidation (2014) available at <https://aequitasresource.org/wp-content/uploads/2018/09/The-Prosecutors-Resource-Intimidation.pdf>.

COUNTERING THE INTIMIDATION MYTH: “RARE, IMAGINED, AND ABSTRACT”

A father whose one-year old son was killed during a gang shooting abruptly refuses to continue testifying on the witness stand. Five members of the gang have just entered the courtroom and locked eyes with him.

A domestic violence abuser calls his partner from jail and says: “I love you baby. If you don’t come to court, this all goes away and we can be together again.”

A stranger approaches a young man who had recently witnessed gang violence on the street. The stranger asks, “Hey, how’s your mom doing?”

A gang member posts a video on social media, reading from the transcript of secret grand jury testimony. He looks up into the camera as he reads the name of the primary witness to the shooting he has been charged for.

Police are canvassing a neighborhood after a shooting. When a woman opens her door to talk to the police, a neighbor shouts, “Shut your door!”

A trafficker tells his victims what happened to one of his victims who tried to call the police. He says she will never be heard from again, as he makes a slicing motion across his neck.

A witness to a violent crime is walking to court on the day of the trial. A picture of him entering the courthouse is posted later that day on a website called “rats215.”

Criminal justice professionals and allied stakeholders who interact with victims and witnesses face numerous hurdles to combatting witness intimidation. Detection is a major challenge. Offenders use overt threats and violence, but may also use veiled threats and manipulation to dissuade victims from reporting a crime or from testifying against them. The more subtle acts of intimidation, often committed in private, are missed by law enforcement and prosecutors, whose focus on the original crime can prevent the detection of collateral offenses. Victims, too, may fail to recognize the intimidation they experience is criminal.

Identifying intimidation is a heightened challenge when victims live in underserved communities or neighborhoods where there is a deep distrust or fear of law enforcement and the criminal justice system. The investigation and prosecution of violent crime is difficult to impossible when the “stop snitching” mentality prevails. Yet these are often the communities most in need of strong public safety efforts.

It is crucial for criminal justice professionals to face the problem of witness intimidation head-on. Solutions must be proactive in addition to reactive: special efforts must be made to identify intimidation when it occurs, prevent it before it does, and respond appropriately to protect victims/witnesses and to hold offenders accountable.

Initially, confronting witness intimidation can feel overwhelming. Perpetrators are elusive and their crimes are difficult to detect and prevent. However, success is not unattainable. Intimidation can be detected early through witness risk assessments which connect victims to the resources they need to

be safe, cope with their trauma, and recover from their victimization. Early identification promotes the creation of procedural solutions (*e.g.*, safety planning, restrictive discovery) that preserve the safety and privacy of victims and witnesses. In addition, early identification allows investigators to obtain evidence more quickly, reducing the likelihood that it will be lost or destroyed. This leads prosecutors to make better-informed charging decisions and arguments regarding bail conditions. Evidence of intimidation can be successfully utilized by prosecutors to bolster the strength of their case, whether as the basis for additional charges, evidence of consciousness of guilt, or to support the admissibility of witnesses' out-of-court statements when they are successfully intimidated.

The CWI Initiative sought to identify challenges related to witness intimidation across all crimes, adopt strategies to address these challenges, and create methods to evaluate the impact of these approaches. Working closely with three pilot sites revealed similarities in how intimidation affects communities, the challenges to an effective response, and promising practices that could be implemented across jurisdictions. However, differences among the pilot sites also revealed the importance of creating individualized strategies based on each jurisdiction's available resources and capabilities.

In this brief, by presenting the unique circumstances of each site and discussing their similarities and differences, the CWI Initiative provides a useful guide that not only identifies the most promising practices but also acknowledges how differences among jurisdictions can shape system approaches.

B. The Choice of Baltimore, Baton Rouge, and Boston

CWI partners selected three pilot sites to plan and implement a set of coordinated strategies to reduce intimidation in their communities. Baltimore, MD; Baton Rouge, LA; and Boston, MA were chosen because they demonstrated an optimal mix of key criteria (described below) determined crucial to the success of the initiative. As the criminal justice community is still evolving in its understanding of successful witness intimidation strategies and developing the capabilities to respond, no site was expected to have the full capacity to combat intimidation. Indeed, the sites were selected because they embodied the widespread intimidation problem in their communities and the challenges to overcome them. However, all three sites were well-positioned to engage in a multidisciplinary dialogue and develop creative strategies to respond to intimidation.

The CWI partnership determined that the three sites represented the most promising mix of the following attributes and guidelines.

1. Demonstrated need for targeted interventions; need may take the form of the prevalence of violent crime cases that do not proceed because of victim or witness intimidation, insufficient evidence from police investigations, and/or limitations of the prosecution practice to successfully bring these cases to disposition.
2. Indication and strength of readiness to change metrics
 - a. Community/organizational climate that facilitates change;
 - b. Current attitudes and efforts toward victim/witness safety;
 - c. Commitment to change; and
 - d. Capacity to implement change.
3. Demonstrated level of commitment to reducing intimidation, such as the existence of some strategies, at any stage of development, to improve the adjudication of violent crimes by addressing intimidation.
4. Commitment to invest some level of its own financial, human, and any other necessary resources to CWI.
5. Interdisciplinary approach to planning, implementation, and evaluation, which includes but is not be limited to: (a) the dedication of financial and human resources; (2) explicit support and investment across system leadership and stakeholders; and (3) understanding the gaps in current practice and openness to exploring new challenges and opportunities that may be discovered.
6. Availability of reliable data necessary to monitor and evaluate its efforts.
7. Capacity to sustain interventions to reduce victim and witness intimidation developed and implemented during the period of training and technical assistance.

Each of the three sites received individualized technical assistance from AEquitas and its partners. Baltimore, Baton Rouge, and Boston each engaged in intensive strategic planning, including mapping strategies to manageable and realistic outcomes. All received training and guidance from AEquitas, and the other partners as needed, regarding promising practices at policy and frontline levels, available resources that would inform the development of local interventions, and sequencing of activities to realize the strategies they identified. Beyond these common elements, the three pilot sites had vastly different experiences based on local conditions and needs, and responded differently as challenges common to any criminal justice initiative arose. The differences among the sites, as much as their commonalities, illustrated key lessons about the conditions necessary for a successful, comprehensive, and multidisciplinary response to witness intimidation.

Baltimore's Call to Action

Dangers of Cooperating with Law Enforcement Are in Plain Sight

C. Baltimore, Maryland

Baltimore has experienced several high-profile incidents that have heightened the seriousness of witness intimidation in the city and deteriorated community confidence in, and cooperation with, local law enforcement.⁴ Public officials cite fear of reprisal and a culture of noncooperation with law enforcement for the low closure rate of homicides and other violent crimes.

Paired with a clear call to action to fight victim and witness intimidation, Baltimore CWI began with a diverse and representative collaboration of local and state criminal justice and public service agencies. Participating stakeholders included the State Attorney's Office for Baltimore (SAO), the Baltimore Police Department (BPD), the Maryland Department of Public Safety and

- 2002 Seven members of the Dawson family are killed in a retaliatory firebombing of their East Baltimore home.
- 2004 Ronnie Thomas, also known as Skinny Suge, produces and releases the DVD *Stop Snitching*, containing threats of violence against those who cooperate with law enforcement. The DVD gets national attention and features a cameo of Baltimore native and NBA star Carmelo Anthony.
- 2005 The home of a North Baltimore community activist who was reporting drug activity to police is firebombed.
- 2009 A federal witness is killed after a document provided to a defense attorney was distributed.
- 2011 A witness in a Baltimore drug and gun case is gunned down on the lawn of his home after he refused to give false testimony.

⁴ See generally, Baltimore Police Department, Public Safety in Baltimore: A Strategic Plan for Improvement; No Boundaries Coalition, Over-Policed; Yet Underserved: The People's Findings about Police Misconduct in West Baltimore, available at <http://www.noboundariescoalition.com/wp-content/uploads/2016/03/No-Boundaries-Layout-Web-1.pdf>.

Corrections, Court Security, the Baltimore City Mayor's Office of Criminal Justice, the Baltimore Housing Authority and the House of Ruth.

The SAO provided top-level leadership to the initiative. This included Baltimore State's Attorney Marilyn Mosby, who pledged funding and support for CWI initiatives, and leadership from the Office's Homicide, Major Investigations, Gun Violence Enforcement, Domestic Violence, and Witness Relocation units.

Through the strategic planning process, stakeholders outlined a specific definition of witness intimidation.

Witness intimidation is 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. This includes overt or implied threats; violence; emotional manipulation; specific act in connection with criminal event; or the creation/exploitation of a setting that will discourage reports/testimony in the future.

From this definition, stakeholders crafted a corresponding problem statement to guide Initiative actions.

The system too often does not keep victims and witnesses safe from intimidation before, during, and after criminal proceedings. In turn, too many victims and witnesses lack confidence in the system's capacity to keep them safe.

Stakeholders went further by identifying commitments or principles that Baltimore and other jurisdictions like it should adopt when crafting any systemic responses to victim and witness intimidation.

Distinction between "intimidation" and "non-cooperation." Stakeholders distinguished between intimidating behaviors and non-cooperation with law enforcement. Participants noted dual cultures at play: the community's "stop snitching" culture and the legal system's culture of not seeing victims and witnesses of violent crime, who are often justice-involved themselves, as "righteous victims." These cultures contribute to victim/witness noncooperation, regardless of whether that noncooperation was prompted by intimidation. With the stakeholders' chosen definition of witness intimidation, they sought to guide initiative activities to target only true intimidation.

Improvement of collaboration. Stakeholders admitted that too often, system responses to intimidation were piecemeal and disconnected. There was little coordination between agencies, except in finding alternative housing for victims and witnesses. This diminished witness' confidence in system stakeholders as well as their willingness to participate in criminal justice processes.

Public involvement. Though witness intimidation clearly was a community-based problem, Baltimore’s criminal justice system had not sufficiently engaged the community to address it. Stakeholders prioritized adding community voices and soliciting their ideas about how best to address intimidation and—in the long term—repair community/system relationships.

Shared understanding of intimidation. As an extension of actively involving the public in CWI efforts, stakeholders believed the public should be informed that witness intimidation included not only outright threats but also subtle tactics that play on emotional attachments, incentives for the witness not to cooperate, and pleas to resolve local disputes “in the neighborhood.” This would help community members recognize and, hopefully, report intimidation instances. Participants also stressed that, given the nature of most homicides and attempted homicides in the city, system actors should remember that an individual could be a perpetrator in one instance and a victim in another.

Baltimore CWI defined its outcomes, to which it would be held accountable, as:

1. Increased number of witness intimidation crimes charged
2. Increased number of people within the criminal justice system that are formally trained as threat assessors
3. Higher clearance rate for all crimes involving victims
4. Decreased number of witness recantations when testifying

To reach these outcomes, Baltimore CWI identified a comprehensive set of strategies.

1. Conduct a community awareness campaign to educate internal and external stakeholders on intimidation
2. Launch a 24-hour intimidation hotline
3. Increase filing of intimidation charges and join to existing charges
4. Identify and implement the appropriate threat assessment training/protocol for each system stakeholder (e.g., screening for threat risk at intake/booking)
5. Plan and implement training for a broad base of frontline criminal justice personnel
6. Set time metrics for responding to victims/witnesses and collect and manage data regarding adherence to these metrics

Because of the structure of the criminal justice system in the State of Maryland, many of the personnel participating in Baltimore CWI were state-based. As such, those stakeholders also committed to working across state justice agencies and with the Maryland State Assembly to identify existing intimidation penalties and strengthen them as necessary.

Baltimore CWI began with a strong coalition, specific strategies—including a much-needed commitment to community engagement, and state-level leadership supporting its efforts to improve the protection of victims and witnesses. Besides the technical assistance it received from the CWI partners, Baltimore received over \$5.8 million in state and Federal funding for victim and witness services. In 2018, the site was awarded \$3.8 million in two-year funding via state funds and through the United States Department of Justice’s Victims of Crime Act Office. The SAO expected these funds to triple the size of their victim’s services unit and potentially help fund strategies under the CWI.

Since identifying its strategies, Baltimore CWI has faced a number of obstacles that have prevented it from realizing much of its original vision.

- Reluctance to engage the judiciary meant that any strategies that would involve the court, including enhancing court security, would face major hurdles. The bench would ultimately have to approve any court-based measures.
- Fragmented court security leadership exacerbated the obstacles to implementing any training, assessment, protocols in the courts. Court security was handled by a combination of private security contractors and government law enforcement officers.
- The BPD stepped back from engaging in Baltimore CWI. The Department was a critical actor given that it was usually a victim’s/witness’s first system contact. Furthermore, its active participation was essential to counter the negative public perception of the police and community reluctance to cooperate with criminal investigations/prosecutions. Yet, with the exception of the Department’s Gang Unit at the beginning of the Initiative, there was a lack of involvement from BPD.
- Data collection and information sharing were hampered by long-standing practices at BPD and SAO that closely control access to data, making intimidation data collection efforts a challenge.
- Leadership of Baltimore’s CWI Steering Committee changed twice during the course of the committee’s work on intimidation, which left the initiative without guidance and support during the transition periods—inevitably delaying progress.

Nevertheless, the root of Baltimore’s CWI initiative was improving cooperation and communication between the city’s residents and its legal system. To that end, the Steering Committee developed a witness intimidation brochure incorporating the Baltimore SAO’s existing motto, “Together We Are Stronger,” which was originally created as part of a public information campaign aimed at enhancing its relationship with the community and informing the public about SAO victim/witness services. The brochure aimed to educate the public about common forms of intimidation and provide access to resources available for victims of intimidation. The Family Survivor Network, a community group serving individuals and families that have experienced violent crime, is considering creating a focus group of victims of violent crime to get feedback on the brochure’s message and the resources identified therein. The

brochure will be made available at victim advocacy offices and community events—such as the SAO’s Court in the Community events, Summer Pop-up events, and Mayor’s Office’s Summer Block Party events. The SAO also made witness intimidation the focus of its Court in the Community Event on June 26, 2019, a gathering designed to educate the public about how the courts operate. The State’s Attorney, Ms. Mosby, began the event at a community center with a brief overview of witness intimidation from police, prosecutors, victim advocacy, faith-based community leaders, and outside experts. Ms. Mosby then engaged participants in a candid discussion, during which community members shared how violent crime and intimidation had impacted them and asked questions about what could be done.

Additionally, Baltimore SAO sought and received training on improving the systemic response to witness intimidation and effectively using evidence of intimidation, and it has sought training on best practices for witness protection/witness relocation. Baltimore’s existing Witness Relocation Program, largely run from the SAO’s office in coordination with BPD and the housing authority, is an expansive program that seeks to assist anyone who reports that they are being intimidated, whether they are witnesses to a case or not. Despite their in-house expertise in this area, they continue to refine and improve their practices by engaging other experts and programs. The Baltimore SAO also sought introduction of new legislation regarding witness intimidation at the January 2019 session of the State Assembly. The legislation sought to increase penalties for intimidation and sought to change the standard of proof in a forfeiture by wrongdoing hearing from the current standard, by clear and convincing evidence, to the near universal standard in other states,⁵ by a preponderance of the evidence.⁶ Both bills failed to pass, but the SAO is determined to continue its legislative advocacy efforts with respect to witness intimidation laws.

The focus of the initiative will continue to engage community activists and advocates and make solutions to victim/witness intimidation more community-based. By September 2019, members of Baltimore CWI hope to see improved communication and collaboration between BPD and SAO. With concerted efforts in building that relationship, Baltimore comes closer to tackling the community and system cultural barriers to addressing intimidation.

⁵ Except Washington and New York.

⁶ Due to limitations on grant funding, AEquitas did not support the enactment of this legislation; however, AEquitas was able to provide information on the current status of intimidation laws in Maryland and elsewhere.

D. Baton Rouge, Louisiana

In May 2017, Bryant Lee—a football quarterback at McKinley Senior High School in Baton Rouge—died after he was shot at a graduation party. Several months earlier in November 2016, he had also been shot in a drive-by shooting but survived with a leg injury.⁷ There were at least 50 other students at the party when Lee was shot. No one agreed to give a statement. Police had no suspects. Over two years later, Lee’s murder is unsolved.

Unfortunately, the injustice suffered by Bryant Lee and his family is not unique. In 2016, over 40 percent of homicides in Baton Rouge were left unsolved.⁸ Between 60 and 70 percent of domestic violence cases never cleared the police department’s domestic violence unit.⁹ Prosecutors recount case after case in which victims and witnesses would not cooperate at all or began to work with prosecutors only to recant later. In 2017, several organizations and criminal justice agencies held a series of community forums to discuss criminal justice issues, and one of the common themes was the fear residents had of reporting crime or cooperating with the police.

When Baton Rouge began its work as a CWI pilot site, it was in the wake of the terrible tragedy of Lee’s death. His murder and the lack of cooperation by so many witnesses brought into sharp focus the issues of intimidation and the need to do more. Baton Rouge focused considerably on community outreach and relationship-building to promote trust between residents of high-crime areas and law enforcement and prosecutors. Among the efforts were over 250 community forums, an annual Education Roundtable focused on issues in the public schools, and “Open Neighborhood Baton Rouge” to inform community members of crime in their neighborhoods. The East Baton Rouge District Attorney’s Office (EBRDA) and other law enforcement agencies took other direct steps to protect victims and witnesses and promote the prosecution of offenders, including:

- The EBRDA’s Crime Strategies Unit (CSU), which centralized criminal justice resources to address serious crimes by using “intelligence-driven prosecution strategies”
- A confidential informant protocol utilized in drug crime cases that includes an assessment of threats against witnesses for nature and credibility of the threat, severity, and root causes. The protocol is then aligned to potential options for resolution. The threat risk informs when victim and witness identities are disclosed in addition to other key decisions affecting their safety.
- Formal and informal relocation of victims and witnesses

⁷ “High school quarterback gunned down at graduation party in Baton Rouge.” by Michael Edison Hayden. ABC News. May 14, 2017. Accessed at <https://abcnews.go.com/US/high-school-quarterback-gunned-graduation-party-baton-rouge/story?id=47405444>

⁸ Data from Baton Rouge’s site application for the CWI project.

⁹ Data from Baton Rouge’s site application for the CWI project

- Protective custody to avoid contact between witnesses and those against whom they will testify (inmate witnesses are transferred to another jurisdiction for housing, if necessary)
- No-contact orders
- Monitoring calls of incarcerated persons involved in gang and other cases in which intimidation is suspected. Incriminating information is submitted to prosecutors and the calls are monitored by students from Louisiana State University, Baton Rouge (LSU), who are supervised by faculty at LSU's Social Research and Evaluation Center.

Local stakeholders admitted that these strategies were insufficient and there were significant gaps in the infrastructure to keep victims and witnesses safe. Combatting intimidation in the courthouses was cited as a particular challenge. Sheriff deputies assigned to the 19th Judicial District Court received no formal training related specifically to courthouse or courtroom security. Victims, witnesses, and defendants all waited in the same areas in the courthouse. They shared the entrances and other courthouse facilities, including bathrooms, stairways, elevators, and hallways. Court security was not trained to patrol for intimidation.

Problems persisted outside of the courtroom, as well. Police officers lacked knowledge and skills training on how to identify and respond to witness intimidation as the confidential informant protocol utilized for drug investigations had not expanded to other units within the Baton Rouge Police Department (BRPD). Witness intimidation offenses are rarely charged, as officers do not feel that there is sufficient evidence.

Even when violent crimes and intimidation crimes were investigated and charged, criminal justice professionals still faced significant challenges:

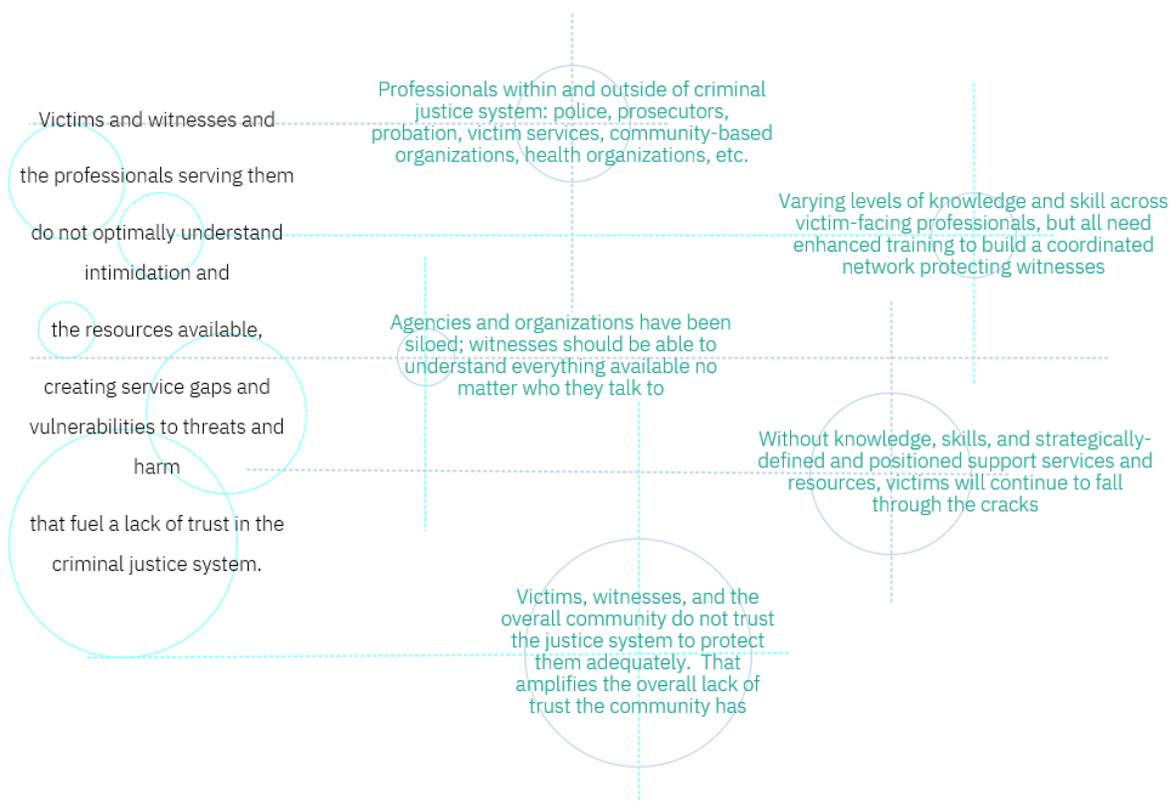
- Financial resources available for existing victim and witness protection efforts were insufficient. Only relatively small numbers of victims or witnesses could be relocated and typically only for short periods of time. Victim compensation and victim services and advocacy were also limited and underfunded.
- The quality of the data available from law enforcement agencies and the District Attorney's Office was inadequate for the identification or analysis of witness intimidation. Where there were information systems that could house useful data, they were unstructured or unreliable. In other cases, existing databases and documents simply did not record crucial case-level or system-level information, *i.e.*, indicators that a specific case involved intimidation or summative data about the scope of intimidation by time period or crime type.
- Case processing delays meant more time that victims and witnesses were at risk and more time for multiple intimidation tactics to be used against them. These extended processing times also made it more challenging to keep victims and witnesses engaged in the investigation and prosecution of their case. From the date of an incident, police took an average of two to three weeks to complete and transmit their reports to the

prosecutor’s office for charging decisions. Depending on the severity of the charges, prosecutors then had 45 to 60 days to make decisions on how to proceed.

With the leadership of East Baton Rouge Parish District Attorney Hillar C. Moore, III, stakeholders eagerly formed a steering committee to begin the process of overcoming these challenges and enhancing their existing efforts. The Baton Rouge committee narrowed the challenges they faced in combatting witness intimidation to a concrete, problem statement:

Victims, witnesses, and the professionals serving them do not optimally understand intimidation and the resources available, creating service gaps and vulnerabilities to threats and harm that fuel a lack of trust in the criminal justice system.

The Baton Rouge CWI Steering Committee deliberately crafted the target problem to be specific about who is involved, what the targets and needs are, and what outcomes to reach.



As illustrated above, the Steering Committee was very intentional about defining its target population and the “problem.” The target population included professionals from within the criminal justice system, as well as those from allied organizations and systems that either work directly with the justice system or who work closely with victims/witnesses of crime and are thus well-placed to identify and respond to intimidation (e.g., health care systems, schools).

Any success or failure in any part of this integrated network shapes the victims' experience and their impressions of the justice system.

The problem statement acknowledged that professionals in the criminal justice system vary widely in their understanding of and sophistication in the area of witness intimidation and promising practices. All professionals needed training to enhance their knowledge and support of the network model, but not all of them started from the same place. Moreover, while resources are available to meet victim/witness needs, those resources must be integrated to ensure that victims/witnesses do not "fall through the cracks." Every actor and stakeholder in the broader criminal justice network is accountable for any point of failure a victim or witness experiences.

The final part of the problem statement concerning lack of trust is one that emerged early and was reinforced throughout the planning process. Baton Rouge was very concerned about the community's lack of trust in the criminal justice system to keep them safe, uphold their rights, and provide them with adequate support. The issue of trust was unequivocally the focus of the problem statement and ultimately the development of the site's strategic approaches.

With a clearly defined problem statement, the Steering Committee was well-prepared to identify possible solutions. Ultimately, it decided on three that represented an important *first step* in a longer systemic improvement process: (1) streamlining bond decisions; (2) training frontline staff and developing supporting policies based on the real world application of promising practices; and (3) improving the capacity of justice information systems to promote interagency coordination and performance measurement of any effort to reduce intimidation. The Committee then delegated the work of creating detailed plans for the implementation of these approaches and monitoring the progress of each.

- Streamlined Bond Decisions Workgroup
 1. Streamline bond determinations by judges who are informed of defendant's risk of intimidating victim or other witnesses
- Training and Policy Workgroup
 2. Train professionals to know and use cutting-edge strategies to respond to victim needs, including witness protection beyond relocation
 3. Develop and implement consistent and complementary policies, protocols, and practices throughout system agencies, promoting seamless support and protective network for victims
- Data Integration Workgroup
 4. Develop integrated data systems/reporting to track information about intimidation and victims/defendants involved

5. Develop integrated data systems/reporting to document in detail what happens with cases that (1) involve intimidation of victims/witnesses and (2) include charges for intimidation from first contact to disposition/sentencing

Throughout 2019, the Baton Rouge Steering Committee and workgroups met to plan and implement this series of strategies. By the close of the grant period in September 2019, Baton Rouge had some successes to report. Training for court security personnel on the identification of intimidation and promising practices in court security to protect victims and witnesses took place in September 2019. Prosecutors, law enforcement, and victim advocates were also trained that month on improving the systemic response to witness intimidation and effectively using evidence of intimidation to convict perpetrators. The streamlined bond decisions strategy was bolstered by an unexpected policy change which cut the time between charging and first appearance in court to 72 hours, a dramatic reduction from the lengthy delays that Baton Rouge had cited as one of its major challenges. While still in the implementation process as the grant period ended, the shortened time between charging and first court appearance provided CWI personnel with an unique opportunity to implement policies that would minimize the exposure of victims and witnesses to threats and harm. The working group pivoted to address related implementation questions.

First, what information needs to make it through the system from arrest to pretrial release/bond decision to inform the judge and other necessary parties of the level of intimidation risk?

Second, how will that information flow from the originating law enforcement agency to the judge making the pretrial release/bond decision within 72 hours?

Third, how will the admissibility of the information and adherence to due process rights be ensured or preserved when the judge is provided with details regarding intimidation?

The first two questions dovetailed with the responsibilities of the Data Integration Workgroup, which unfortunately had significant difficulty gaining traction in its efforts. Despite some positive steps forward, Baton Rouge, like the other two sites, did not implement its strategies to the degree desired—at best, the efforts of two of the workgroups were just beginning by September 2019. The obstacles to the implementation planning process and implementation included:

- Change in local coordinator. The local coordinator went on leave as the steering committee transitioned from the strategic planning stage to the implementation stage. Although she was replaced for the period of her leave and returned during the grant period, the disruption made the already challenging task of convening stakeholders more difficult. With any turnover, even if temporary (as was the case here), there is a loss of institutional knowledge and momentum as new leaders or members gain a level of knowledge on par with all of the others involved in the change effort.
- Limited bandwidth among CWI team members. Busy schedules are challenges in any environment. However, it became evident that the strain on the schedules of working group and steering committee members was driven by more than the high caseloads and

fast-paced environment that is characteristic of criminal justice agencies. Numerous major initiatives were taking place in Baton Rouge at the same time, sometimes involving the same people. At least one other active federal project was underway and a privately-funded jail reduction project launched during the grant period. With the 72-hour bond decision change also came higher demands on the time of professionals who were pulled by their agencies into the planning and logistics of that effort. Although the policy and practice of the new bond decision time period supported CWI efforts, it was not necessarily focused on CWI problems and goals. The Streamlined Bond Decisions Working Group still needed to plan and implement the aspects of the 72-hour initiative that would specifically address intimidation.

- No financial leverage to help drive the planning and implementation. The lack of dedicated funding for Baton Rouge to implement its agreed-upon strategies was a barrier that was at least implicit in the other sites' experiences. The 72-hour streamlined bond decision is a major project of the District Attorney and other criminal justice leaders. As a system initiative, not only is leadership invested in and driving its execution, but the talented staff in their agencies have been deployed to work on it as part of the core work for which they are compensated. However, the CWI initiative was not a funded effort that allowed for agencies to "buy" time from their staff—any participants were engaging in efforts above and beyond their regular responsibilities. The city's experience with the jail reduction project underscores this point: with earmarked funding from the John D. and Catherine T. MacArthur Foundation as part of the foundation's Safety and Justice Challenge Initiative, criminal justice stakeholders could more easily commit staff and time to jail reduction reform. Combatting witness intimidation was no less important to Baton Rouge leadership, but without funding behind it, the CWI efforts were more likely to be "crowded out" by other work in the jurisdiction.

The experience in Baton Rouge illustrates obstacles that had the potential to create opportunities for meaningful collaboration. Over the course of the work in Baton Rouge, we discovered many different concurrent initiatives: a "family justice center" was being planned and constructed, a new, privately-funded jail reduction initiative was launched, and another major prosecution project was operating actively. It is easy to imagine how all of these would stretch the capacity of any staff person, agency leader, or organization to invest deeply into any one project. However, the existence of these and possibly other programs introduces the prospect of coordinating among different efforts to reach common goals. For example, because one of the steering committee members happened to be involved with the family justice center work, she could keep the broader group informed of its progress. She was also an essential conduit between CWI and the family justice center that translated into more support for victims and witnesses as part of the center's work. Were there other areas where those connections could be made? Could the CWI strategies regarding the bond decision process have been more explicitly integrated into the larger process of implementing a 72-hour timeline? Could these connections have been made more explicit to top leadership, to the benefit of advancing an important CWI strategy? Probably, on all counts.

E. Boston, Massachusetts

Upon taking office in 2002, Suffolk County District Attorney Daniel F. Conley declared witness intimidation one of the most serious problems affecting public safety and called for a multi-disciplinary approach by law enforcement agencies, government leaders, faith partners and members of the community. Far from isolated or episodic, intimidation of one sort or another was estimated to be present in approximately 90% of all cases involving guns, gangs and violence. Witnesses are intimidated not only where they live and work, but also in courtrooms and other criminal justice facilities. Despite the efforts of hardworking court security personnel, personal and sometimes violent courthouse confrontations, the use of cell phones to photograph or record witnesses, and subtle, non-verbal threats in the courtroom can foster an environment in which witnesses feel unsafe. The use of technology and social media to intimidate is especially prevalent, both inside and outside the courthouses. Pictures of victims and witnesses are distributed online accompanied by threatening messages labeling them as “snitches.” This sends a message to others about the potentially dire consequences of participating in the criminal justice system.

The CWI team began working with Boston professionals to address the city’s witness intimidation problem in late 2017. During a visit to Boston several months later, the CWI team met with 30 professionals from the Suffolk County District Attorney’s Office (SCDAO), the Boston Police Department (BPD), the Boston Housing Authority (BHA), and the local Department of Housing for the U.S. Department of Housing and Urban Development (HUD) to discuss the nature of intimidation in the city, the strategies currently utilized to address the problem, and the impediments to affecting a more robust response.

Boston had already employed - and continues to employ - an impressive host of strategies to address witness intimidation.

- Law enforcement responds swiftly to reports of intimidation, and the SCDAO charges offenders with intimidation-related offenses on a regular basis.
- BPD has a close relationship with the Massachusetts Bay Transit Authority and can quickly gather video evidence when intimidation occurs on public transit.
- Assistant District Attorneys (ADAs) request protective orders prohibiting the dissemination of confidential discovery materials, such as grand jury testimony transcripts, and in certain cases will even watermark discovery to track and hold accountable those who violate the court’s order.
- Boston has a notification system to alert victims when a perpetrator is released from custody.

In close cooperation with law enforcement, the Suffolk County District Attorney's Office brought over 1,100 intimidation charges from January, 2016 to July, 2018.

- BPD provides intimidated victims with transportation to court.
- SCDAO boasts a strong victim advocacy unit, which works closely with victims and witnesses to assess potential threats and address their extra-legal needs.

Working with AEquitas and JMI to define a clear problem statement and set of outcomes, Boston identified a number of challenges to its intimidation reduction strategies despite already-extensive efforts in the city and county.

[Training to address gaps in knowledge](#). All professionals needed more robust training on identifying, documenting, and responding to intimidation. While BPD and SCDAO staff respond swiftly to reports of intimidation, they rarely think to ask about or proactively investigate intimidation that is not reported.

[Lack of continuity as a result of staff turnover](#). Insufficient resources lead to staff shortages, particularly among court security and the SCDAO, as well as frequent staff turnover across disciplines, making continuity in response a challenge.

[Supply does not meet demand for witness relocation](#). There is a long wait list for public housing vouchers, making it difficult to relocate witnesses otherwise eligible for public housing.¹⁰

[Witness relocation too often fails to meet witnesses' needs](#). Even when witnesses can be relocated, they often find it difficult to adapt to new communities and lifestyles, and criminal justice agencies struggle to find the resources that could help relocated witnesses be more resilient.

Other problems include the lack of coordination among service providers, leading to gaps in service for victims in some areas and over-saturation in others; substantial case delays, providing ample opportunities for offenders to intimidate victims and witnesses; and a widespread perception that police and prosecutors cannot protect individuals or communities from violence and intimidation.

In September 2018, a multidisciplinary steering committee of criminal justice representatives engaged in a strategy development process, facilitated by AEquitas and JMI. From the generative work over two days, the group defined a vision of a criminal justice system “at its best.” That system would:

- Engender a feeling of safety among victims and witnesses of crime
- Embolden victims and witnesses to report crimes without fear of retaliation
- Increase victim/witness participation in investigations and prosecutions

¹⁰ There are alternatives to relocation that all three pilot sites explored during strategic planning. See generally Steve Seigel, Barbara Archer & Scott M. Snow, *Collaborations in Witness Protection: Denver's Replicable Model*, 85 POLICE CHIEF 48, 48-51 (2018).

- Deter future criminal incidents, including intimidation, since the threat of prosecution would be high to certain

Committee Members also envisioned a system and community that rally around victims and witnesses, transforming reporting crimes into a cultural positive and recasting perpetrators as social “pariahs.” The risk and danger would be borne by the intimidator, not the victim or witness.

This vision for the Suffolk County criminal justice system “at its best” would be reached using a combination of nine strategies identified by the steering committee.

1. Assemble a high-level Victim/Witness Intimidation Reduction Coordinating Committee, with top leaders from SCDAO, BPD, and BHA, that would have the decision-making capacity and political capital to implement strategies
2. Execute Memoranda of Understanding (MOUs) facilitating information-sharing among agencies to support creating metrics which measure the scope of witness intimidation and success of efforts to reduce it
3. Conduct a safety review of all criminal justice facilities
4. Enhance protection efforts when and where victims interact with the criminal justice system (identify and close any gaps)
5. Establish more rapid and effective BPD and SCDAO processes for responding to individual acts of intimidation
6. Strengthen oversight of individuals on pre-trial release and probation
7. Map and coordinate resources available to victims and witnesses that meet their needs
8. Establish seamless access to support and other services within that network of resources
9. Conduct a community education campaign about intimidation and the resources available for victims and witnesses

Of the three pilot sites, Boston began with the strongest infrastructure to support additional victim and witness protection efforts because it already had several initiatives in place. Key members from each agency were knowledgeable about and deeply dedicated to reducing intimidation, meeting the needs of victims and witnesses, and holding intimidators accountable for their criminal behavior. There was a history of system-wide reform efforts, so an effort like CWI yielded a far flatter learning curve than other sites. Because of this history, the Boston team had a solid foundation for launching strategies to reduce witness intimidation.

However a few months later, Boston revealed the challenges of implementing and sustaining systemic change efforts. Significant staff turnover of the CWI local project coordinator in Boston disrupted implementation efforts, and a new District Attorney was elected in late 2018. The lack

of continuity and differences in relationships with key partners in the steering committee translated into less engagement, poorer communication, and weaker support for efforts that gained moderate traction.

All jurisdictions experience changes in staff turnover, political administrations, leadership, and strategic priorities, and the Boston experience underlined the importance of building risk management strategies to prepare for such predictable obstacles. After the change in SCDAO leadership, CWI efforts came to a standstill for several months in late 2018 and early 2019. With the election of the new District Attorney and the appointment of new leadership, priorities were revisited and the CWI project needed to undergo a formal approval process. While the new District Attorney enthusiastically signaled her support for continuing the witness intimidation initiative, the lack of a plan to sustain efforts across administrations resulted in project delays that ultimately diminished the energy the project enjoyed in its early days.

What slowed momentum in Boston was not a lack of interest or awareness of the problem. It was related to challenges that most jurisdictions experience when efforts toward system-wide change coincide with staff turnover:

1. Less availability of time to dedicate to reform efforts as people prepare for changing administrations and political climates
2. Loss of momentum and additional time to understand the work that preceded one's involvement as professionals turn over
3. Need to reeducate and reengage new leadership in a reform effort that preceded them
4. Insufficient risk management or contingency planning for possible disruptors, such as changes in elected leadership

In the face of a prolonged period of change, the Committee concluded that the first strategy it identified – assembling a high-level Victim/Witness Intimidation Reduction Coordinating Committee – needed to be the singular focus during the grant period. The right stakeholders, leaders and decision-makers had not been convened to elevate the importance of the vision and implement the interventions identified. The existing steering committee sought to assemble the top leaders from SCDAO, BPD, and BHA who would have the political capital and, for the foreseeable future, the stability in leadership to realize the plan.

With the assistance of AE-JMI, several members of the steering committee identified the key stakeholders to target for this high-level oversight body and drafted a memo explaining the witness intimidation initiative and inviting them to an initial meeting. By the close of the grant period in September 2019, that invitation was under review by the SCDAO, which officially took ownership over the witness intimidation initiative. With the District Attorney and other SCDAO leadership engaged, the steering committee can support her efforts to engage other key agency peers in the criminal justice system.

Despite the challenging conditions, the steering committee took a bold and logical step to focus on ultimately one leader, the District Attorney, to leverage support and restore the momentum from Boston's CWI strong start.

F. Themes and Lessons

The work in Baltimore, Baton Rouge, and Boston yielded important lessons and insights - not only for how jurisdictions can most effectively implement systemic responses to intimidation but also for how technical assistance providers can enhance their coaching and support of these jurisdictions.

Ongoing public and intra-agency commitments to and communication about the coordinated intimidation reduction initiative, its goals, and its progress

One of the most powerful accountability tools for systems involved in change efforts is to make those efforts and goals public and transparent.

In the criminal justice arena, the commitment to system reform typically starts out strong. Persuasive and impassioned grant proposals by criminal justice agencies, bolstered by letters of commitment from allied organizations, signal a readiness to develop, implement, and sustain creative strategies to address a problem. However, the delay between these commitments and the actual inception of their corresponding efforts (*e.g.*, the time between the submission of a grant proposal and the award) may result in loss of early momentum and memories regarding details of the proposed work. Furthermore, priorities may change and leadership, elected or otherwise, also shifts. When early momentum is lost, it is difficult for busy criminal justice professionals to deviate from their normal and already-overloaded work schedules. These issues are not unique to any one change effort and certainly are not unique to the CWI work in each of the three partner sites.

Across all three sites, turnover and changes in leadership caused disruptions and delays. The institutional investment in the process wavered and the presence of decision-makers on the steering committees was not consistent. To guard against these predictable hurdles, *local criminal justice stakeholders* may consider:

- Public commitments to CWI work by agency and organizational leadership as part of a launch press event, including media releases

In concert with that launch, agencies should routinely send internal announcements to frontline staff, middle management, etc. explaining leadership's commitment to the project and communicating expectations for staff participation. Professionals in the criminal justice system vary widely in their understanding of and sophistication in the area of witness intimidation and promising practices. All need professional learning directed at enhancing their knowledge and supporting the network model, but not all of them are starting from the same place.

Witness Intimidation Promising Practices

- 1. Proactively respond to the use of technology to intimidate:** Use crime analysts to engage in social media investigations to identify signs of witness intimidation and intimidators. Where applicable, work with gang experts to identify the significance of gang symbols and subtle intimidation online. If resources are limited for social media investigations, consider utilizing local resources (e.g., researchers at local universities, criminal justice students). Consider motions for restrictive discovery that protect identifying witness information, and watermark discovery as “Defense Copy” to discourage its dissemination via social media.
- 2. Routinely collect and analyze data related to witness intimidation:** Identify the various sources of data on witness intimidation to measure the baseline level of witness intimidation and ultimately determine whether targeted interventions have a measurable impact. (See Appendices B and C for ideas on intimidation data points). Create a memorandum of understanding (MOU) to share information about intimidation between criminal justice agencies and outside agencies that may also have data related to intimidation (schools, domestic violence shelters).
- 3. Enhance court security to maximize witness safety and prevent opportunities for intimidation:** Promising practices include, but are not limited to, bans on cell phones in courtrooms or the strict enforcement of cell phone restrictions in the courtroom; checking IDs at courtroom doors; and conducting facility safety audits. Documenting every incident of intimidation in the courthouse, responding appropriately, and sharing that information with police and prosecutors can improve our ability to hold intimidators accountable. (See Free to Tell the Truth series of benchbooks for more information on witness intimidation at aequitasresource.org).
- 4. Review witness relocation and witness protection efforts:** When taking steps to protect witnesses, think beyond relocation. (See, *supra* Note 10). Relocation is not be feasible in the majority of cases and may not always be the best choice for witnesses. When relocating witnesses, consider the related tactical issues, any trauma experienced by the witness, and the necessary support the witness may need to adjust to this lifestyle change. When relocation is not an option, explore measures to enhance witnesses’ safety in their own homes and communities, including basic safety planning, security systems, and lock changes.
- 5. Effectively use the evidence of intimidation against the intimidators:** Investigate cases most often subject to intimidation as if the witness will be unavailable: identify all statements by witnesses, note any nontestimonial hearsay statements and individuals to whom it was made, determine applicable hearsay exceptions to admit these statements, and document any intimidation attempts to explain the absence of the witness, demonstrate the defendant’s consciousness of guilt, and admit the absent witness’ testimony via forfeiture by wrongdoing.

Clear “problem definition”

As witness intimidation is a broad concept which takes many forms, the strategies to reduce it and better protect victims and witnesses are manifold. Given its expansive nature, efforts to reduce intimidation risk having too wide a scope and rendering strategies which are not realistic or sustainable. One of the most difficult and instrumental processes that each site undertook was that of “problem definition” as part of strategic planning. All steering committees engaged in sometimes very challenging discussions to establish narrow, targeted definitions of witness intimidation. The goal was to settle on a definition from which impactful but feasible solutions could flow. In each of the cases described in this report, the problem statements are very targeted. None of the steering committees claim these statements were inclusive of the entirety of the problem, but they were realistic given the resources available, local priorities and conditions, and prevailing ways in which intimidation manifested locally. The problems and their concomitant strategies represented the most important starting points for each of their systems.

Accounting of available financial and human resources as well as “initiative overload”

In each site, the CWI partners included a discussion of the problem statement and supporting interventions within the “local context” as part of the strategic planning process. These discussions could be described as a test of feasibility. The three local CWI change efforts were not funded, so although they received technical assistance at no cost, they had to commit their own resources to implement whatever practices they chose to pursue. Certainly, part of the local context was the availability of financial and human resources to execute the plan. For example, Baltimore had complementary awards that could be leveraged to support and enhance their CWI efforts.

Where possible, sites should have earmarked funding for project implementation, whether through public grants or private donations. Funding not only boosts resources necessary for project design and implementation; it increases local “ownership” over accomplishing project goals. Lack of local funding can lead to deprioritization of the project, and technical assistance providers may fall into a leadership role to sustain project momentum.

The discussion of context was not exclusively about finances. It included political support, community sentiment toward law enforcement, interventions or topics that might be “taboo” to raise generally or with certain stakeholders, and individuals or organizations that would strongly oppose some of the projects. It also identified opportunities, such as the establishment and construction of a family justice center, as was the case in Baton Rouge.

The consideration of the local context was another driver of success in the strategic planning process and identification of interventions in each site. However, the experiences across the sites raise some ways in which this important step could have been improved.

- *Technical assistance providers* may better support the success of local CWI efforts by working with each steering committee to draw specific connections between funding and other resources to the strategies chosen. Each steering committee discussed the context of funding during strategic planning, which generally shaped the breadth of chosen strategies and implementation planning. However, the process of connecting strategies to the funding and personnel that support them was left to the working groups. Technical assistance providers may consider elevating that discussion to the steering committee level or being more directive in facilitating working groups to be specific about this issue.
- *Technical Assistance providers* also should consider “initiative mapping” as part of the strategic planning process, especially the discussion of local context. As the grant period progressed, CWI partners learned that some sites were engaged in major initiatives that (1) stretched the bandwidth of local stakeholders to take on another major change effort like CWI; and (2) presented possible opportunities for coordination or enhancement of CWI interventions. The simple act of listing all of the different activities, initiatives, and resources currently in place or being planned would have helped steering committee members analyze how CWI fit into the broader reform and enhancement efforts of the criminal justice system. Breaking down silos between complementary initiatives can strengthen the goals of each, as well as increase stakeholder investment and minimize the workload of personnel.

Consistent involvement of decision-makers during planning and implementation

Top leadership and other decision-makers often could not regularly participate in CWI steering committees, despite best efforts to accommodate their schedules. Although it is preferable for top-level leadership to regularly and directly engage in planning and implementing systemic change, it is often not feasible. However, top-level leadership can get involved in other ways that still advance the project. Key leadership from each site repeatedly announced their commitment to improving victim and witness intimidation reduction efforts. When involved in updates with the CWI partners providing technical assistance, they were engaged in the discussions of progress, offered solutions to obstacles, and leveraged their influence to advance strategies that had been lagging. Still, more could have been done to proactively engage top-level leadership on a regular basis in order to sustain project momentum.

In light of these experiences, *local criminal justice stakeholders* may consider:

- Scheduling regular progress meetings with key leadership and/or providing written reports updating on project work. These updates should be concise, summarizing established plans and clearly laying out action items that leadership will need to take to advance project planning and implementation.

An example of an action item is:

- “It would be helpful if you could encourage the City Council Public Safety Committee to pass a resolution supporting the establishment of a victim support services network.”

A more effective way to present this action item is:

- “Call the Chair of City Council Public Safety Committee and ask him to introduce a resolution that expresses the Public Safety Committee’s support of the CWI’s efforts to create a victim support services network. (Talking points attached.)”
- “Submit testimony at the next Committee meeting on April 4th at 10:00am updating it on the CWI work, reminding it of its previous expression of support, and calling for the Committee to further express its commitment by asserting the need for a victim services network. (Draft testimony attached.)”
- “Make a brief appearance (no more than five minutes necessary) at the next steering committee meeting on March 30th at 11:00 am praising its hard work to establish this network. (Talking points attached.)”

This strategy keeps leadership and their offices (*e.g.*, chiefs of staff) engaged, informed and aware of avenues for participation without being at every steering committee meeting.

Technical assistance providers can help local CWI teams stay on target by working with delegated committee members who will schedule and attend these meetings to translate the current stage of the planning and implementation process into very specific actionable tasks and activities for leadership.

Close multidisciplinary collaboration

Problems that cross the boundaries of agencies and organizations require multidisciplinary solutions. Witness intimidation affects victims and witnesses in their communities, courtrooms, schools, and prisons – and can be detected by teachers, judges, court security, health professionals, faith-based leaders, and other professionals and community leaders. The pervasiveness of intimidation provides us with numerous points of potential intervention.

Each of the three pilot sites’ steering committees developed strategies regarding implementation efforts that would require involvement from agencies and organizations not at the table. It wasn’t for lack of trying – each pilot site liaison solicited the involvement of allied professionals – but the responses were lukewarm at best. As a result, many of the sites’ initial strategies, even ones deemed crucial, were unable to get beyond the “idea” phase.

To increase the chances of close collaboration, *local criminal justice stakeholders* may consider:

- Enlisting the assistance of top-level leadership (e.g., the District Attorney, a high-level representative in the Mayor's Office) to garner interest in the project at other agencies and institutions. (As of September 2019, Baltimore is taking this route to recruit additional CWI members from agencies not currently represented on the team).
- Prioritizing collaboration with agencies the team has already worked with in other capacities. A history of interagency collaboration may increase the comfort-level of all team members and thus the likelihood that interdisciplinary agencies will remain engaged in project work.
- Developing MOUs to formally establish collaboration and hold all partners accountable.

Risk management planning

Another recurring theme across the three sites is the disruptive impact of turnover and leadership change. As mentioned earlier, these are predictable and inevitable events. If local stakeholders and technical assistance providers know that turnover and political leadership changes will happen, why are they not prepared for those scenarios?

Risk management planning is overlooked in many if not most technical assistance models. However, it could not be more crucial to plan for sustainability *from the very beginning of any system change effort*. All three sites would have benefited from considering the possible events or changes in conditions that could derail their CWI plans. These include staff/leadership turnover and change of elected leadership, but could also involve other predictable contingencies such as high profile cases that put the police/prosecutor relationship with the community at risk. Risk management planning by definition means more planning, but Baltimore, Baton Rouge, and Boston illustrate how just a little more could have resulted in further implementation successes.

Technical assistance providers are strongly encouraged to include risk management as part of their work supporting systemic reform efforts such as CWI. Some of the strategies sites may consider when developing a contingency plan for staff turnover at all levels are included below.

For turnover in top-level leadership:

1. Engage non-political staff who will likely survive a change in the elected head of an agency. Invite key administrative leaders and influencers to participate in planning. Solicit their feedback one-on-one as another way to sustain their engagement. Communicate regularly about the project's progress and its importance overall.

2. Plan for rapid development of transition materials for newly elected officials regarding the CWI work. Identify allies across different agencies and influential groups who will likely be consulted early by any elected leader as part of a transition and development of new strategic priorities.
3. Use community partners and advocacy groups to present witness intimidation as a campaign issue.
4. Prepare and distribute issue briefs for candidates in the election.

For turnover among other staff:

1. Ensure staff taking over CWI work are briefed in detail on project work to date at the earliest opportunity. If possible, have new staff attend a meeting with their predecessor(s), other personnel on the project, and technical assistance providers to ensure a more seamless transition.
2. New project staff may also be brand new to the agency; they will have numerous responsibilities that they will need to get acquainted with that are outside the scope of the initiative. Other project staff and technical assistance providers should be prepared to “sub in” for these new project members while they’re adjusting to their workload.
3. Ensure that new project staff are invested in the project by regularly soliciting their suggestions for improvement on work to date and plans going forward.

Other strategies that the CWI partners found to be effective engagement strategies for leadership and professionals at all levels, included:

Specific, operational training for front-line staff and mid-level supervisors that directly addressed their questions and concerns about witness intimidation.

Court security personnel in Baton Rouge knew that intimidation was taking place. They could recount specific instances of it and unambiguously expressed a desire to respond to it—knowing there many incidents they did not see. However, they were unsure how to respond to these threats, and when they did, the response was inconsistent. Under the leadership of the court security supervisor for most the implementation planning period, training was organized for court security personnel in September 2019. The training covered witness intimidation generally but was primarily based on the day-to-day work and operations of court security. The training was deliberate about providing security personnel with specific actions they could put to use *right away*, and supervisors left with guidelines detailing best-practice policies they could start to design and enact over *the next few weeks*.

Opportunities to learn from peers and expert practitioners who “had been there, done that.”

Whether through formal training or more informal phone conversations and site visits, local stakeholders found working with and hearing the experiences of peers from other jurisdictions to be especially powerful. The CWI partners were able to provide

some of that perspective as former practitioners themselves, and their expertise was complemented by connecting with local leaders well known for establishing promising practices in their own jurisdictions. These leaders answered specific questions from local law enforcement about how to craft policies and practices, and more importantly, appreciated the candid, peer-to-peer discussions they had regarding issues ranging from overcoming resistance from patrol officers to mitigating criticism from distrusting or antagonistic community groups.

One of the CWI's major goals was to examine whether and how criminal justice strategies to identify and reduce witness intimidation change from jurisdiction to jurisdiction. Witness intimidation takes many different forms and many promising practices have been identified. Although none of the sites reached the desired level of implementation, the Initiative nevertheless has advanced relevant work in each of the three sites and the broader public policy understanding of how to support local CWI efforts. Put simply, jurisdictions require different levels of support, and the context of the jurisdictions matters a great deal. The CWI overall has added value to the field by identifying specific ways that criminal justice stakeholder and their technical assistance providers can optimize the success of complex restructuring and transformative endeavors to combat witness intimidation.

G. Conclusion

Baton Rouge, Baltimore, and Boston piloted bold initiatives to enhance system-wide responses to witness intimidation – a problem with near immeasurable impact on the safety of communities and the efficacy of the criminal justice system. Each site dedicated experienced and hardworking personnel to the Initiative. Their understanding of witness intimidation and their willingness to look critically at system shortfalls was impressive; they crafted innovative and deliberate strategies to address intimidation and advance the knowledge in the field.

Their experiences serve as a microcosm of U.S. criminal justice initiatives from the past several decades. Early commitment, energy and progress eventually slowed as project staff from all three sites experienced staff turnover and the project competed with other important initiatives. The sites struggled to engage all of the partners necessary to the Initiative's success. Local resources for the project were stretched thin without dedicated funding and staff who could always accommodate another complex body of work within their already busy work schedules.

Despite these setbacks – and in some cases, because of them – the CWI partners and the sites themselves learned invaluable lessons about helpful conditions for implementing system-based change. Early and regular public commitments to new criminal justice efforts can increase agency accountability for sustaining project efforts. Strategic engagement from top-level leadership may help boost the project's political capital and further accelerate project momentum, as addressing any large problem like intimidation requires a narrow strategic focus alongside the engagement of a wide stakeholder community.

Intimidation is an impediment to the goals of the criminal justice system. Law enforcement, prosecutors, and allied professionals cannot fully protect the public and seek accountability for crime when offenders and their allies intimidate victims and witnesses with impunity. By learning from the CWI Initiative, Baltimore, Baton Rouge, and Boston, as well as jurisdictions across the United States, can take promising steps toward combating intimidation and realizing justice.

Appendices

Appendix A. Basic Data Request

Common themes in data requests

All data requests should, to the degree possible, include details that allow for identification and analysis of individuals and cases by the following items. We do not repeat them for the sake of simplifying this document.

- *Demographics like gender, race, and age*
- *Criminal charge or associated criminal charge (e.g., description and severity of charge(s))*
- *Whether an intimidation charge was filed*
- *Detail about nature of witness intimidation*
- *Responses or dispositions*
- *Dates of specific events related to intimidation (e.g., time(s) it was reported, when the arrest of perpetrator took place, police or prosecutor contact, entry into victim services or other support services, etc.)*

Data Request for System Actors

Law enforcement

- Calls for service about intimidation (including violations of protection orders)
- Arrests for intimidation (making terroristic threats, violations of protection orders, etc.)
- Number of incident reports taken on witness intimidation
- Incidents of witness intimidation referred to prosecutor's office (by criminal charge or report)
- Incidents where decision was made not to share the report with prosecutor and reason (e.g., insufficient evidence)
- Number of incidents closed without arrest due to intimidation
- Number of incidents of witness intimidation referred to prosecutor's office
- Number of relocation requests received
- Number of relocation requests completed
- Number of relocation requests transferred to prosecution
- Funding budgeted and spent on relocations

Prosecution

- Number/percent of overall cases with a victim or witness intimidation issue
- Number/percent of case prosecutions affected by witness intimidation
- Non-conviction adjudications caused by intimidation
- Intimidation cases screened
- Intimidation cases charged
- Recants (and reasons if known)
- Disposition of intimidation cases
 - Why do some cases that seem to be legitimate/strong cases of intimidation not result in conviction?
- Referred for other safety measures (safety planning, etc.)
- Protection orders sought
- Length of order (*i.e.*, how long was the order in place)
- Violations of protective orders (and reasons if known)
- Number of relocation requests received from police
- Number of relocations begun by prosecutor
- Relocations made
- Length of relocation (*i.e.*, how long were witnesses housed)
- Success of relocation
- Amount of money budgeted and spent on relocations
- Funding budgeted and spent on relocations (placed under law enforcement)
- Notification of release/detention status of the defendant/ offender

Court Clerk/ Court System

- Number of protection orders requested
- Number of protection orders granted
- Reason for granting of protection order
- Protection orders or no contact orders as conditions of pretrial release
- Type of sentence and sentence length for intimidation convictions

Court Security

- Number and nature of Complaints submitted by witnesses
- Reports from court officers of what they see (anecdotal/ documented)
 - Confiscated cell phone or other video devices
 - Confrontations/incidents
 - Persons escorted from the court room or court house

Jail/ Sheriff

- Detainees who need to be separated for protection
- Timing of those orders
- Detainees by classification
- Incidents of intimidation (*e.g.*, violence, threats) – either alleged perpetrators of intimidation or victims of intimidation
- Jail calls explicitly made to intimidate or to arrange for intimidation

Probation/Parole

- Probationers/ parolees with no contact/ protective orders as conditions
- Violations of those orders and responses
- Instances of intimidation and responses
- Instances of intimidation perpetuated by (against) probationers/ parolees

Witness/ Victim Protection Policies/ Practices/ Infrastructure in Place

- 1) Plan and implement coordinated criminal justice responses to victim and witness intimidation that span from the stage of reporting to after the release of the offender.
 - a) Identify cross-system planning groups with the capacity to advance witness safety efforts
 - b) Document and map current responses
 - c) Identify print materials and other resources that are used to educate victims and witnesses about witness intimidation
- 2) Equip justice system leadership and staff with an operational knowledge of intimidation and safety.
 - a) Identify training programs for leadership and staff and review curriculum
 - b) Survey leadership and staff to determine level of operational knowledge
- 3) Build trust with individual victims and witnesses by maintaining consistent teams of criminal justice actors who work with them and respond holistically to their needs.
 - a) Review policies and procedures regarding personnel assigned to work on cases and specifically to work with victims and witnesses
 - b) Survey justice professionals and victims and witnesses about their experiences
- 4) Create information-sharing policies that link criminal justice actors and allow them to identify patterns of behavior and possible intimidation in individual cases.
 - a) Identify the information systems used by each of the stakeholders in the criminal justice system
 - b) Document the interoperability of these systems
 - c) Determine the *capacity* of each system to document and track intimidation
 - d) Determine the *use* of these systems to document and track intimidation
 - e) Identify other sources of information about reports of intimidation and how they are used

- 5) Make all reasonable efforts to minimize contact between victims/witnesses and defendants throughout the criminal justice process.
 - a) Identify policies and procedures that separate these parties
 - b) Observe current practices in the courthouse

- 6) Create a safe space in their courthouses.
 - a) Observe current practices in the courthouse
 - b) Review policies and speak with staff
 - c) Identify strategies to prevent and respond to intimidating behavior in the courthous

Appendix B: Data Capacity and Detailed Data Request

Data Request: Research Partner, The Justice Management Institute

QUANTITATIVE DATA. We are requesting data on specific instances and responses to witness or victim intimidation. Preferably, these data should include the individualized records of noted instances of intimidation (*i.e.*, a record per incident or person). The best formats would be Excel spreadsheets or ASCII, CSV or TXT data files. We would be happy to discuss other data formats with the right people in your system as needed. If those very detailed data are not available, aggregated or summary data, such as you would find in a report, are still very helpful.

In addition to considering information that may be recorded in a case management system or database, we also ask that you think about the information you collect in paper form. That information is also very useful in learning more about witness intimidation.

Lastly, like our work during the first site visit, speaking with staff who are working on the frontlines and directly with victims, perpetrators, witnesses, etc. about their experiences and observations is also helpful information. We understand that some of the information we are requesting may not be available.

Our data request is meant to start discussion, so please ask questions and explain what you have or do not have. Also, as you gather materials, please feel free to send as many emails as needed to franklinc@jmijustice.org.

Two tables follow – one for each of law enforcement (includes court security) and prosecution. There is then a uniform request for information about policies and procedures that can be used for any stakeholder group.

ALL LAW ENFORCEMENT AGENCIES: QUANTITATIVE DATA

Please answer yes/no and provide some detail where relevant for each of the following types of data (to the right) for each of the items requested below.	Electronic/ database: Individualized data	Electronic/ database: Reports	Paper (e.g., incident reports; case files)	Staff experience; interviews
GENERAL				
Calls for service about intimidation (including violations of protection orders)				
Arrests for intimidation (making terroristic threats, violations of protection orders, etc.)				
Number of incident reports that mention witness intimidation				
Incidents of witness intimidation referred to prosecutor's office (by criminal charge or report)				
Number of incidents closed without arrest due to intimidation				
Number of relocation requests received				
Number of relocation requests completed				
Number of relocation requests transferred to prosecution				
Funding budgeted and spent on relocations				
JAIL/ SHERIFF				
Detainees who need to be separated for protection				
Reasons (e.g., gang) and who is requesting the separation (i.e., process for requesting or ordering separation)				

ALL LAW ENFORCEMENT AGENCIES: QUANTITATIVE DATA

Please answer yes/no and provide some detail where relevant for each of the following types of data (to the right) for each of the items requested below.	Electronic/ database: Individualized data	Electronic/ database: Reports	Paper (e.g., incident reports; case files)	Staff experience; interviews
Processing time between submission of request and physical separation of detainee/ inmate				
Incidents of intimidation (e.g., violence, threats) – either alleged perpetrators of intimidation or victims of intimidation				
Jail calls explicitly made to intimidate or to arrange for intimidation				
Instances of intimidation against probationers/ parolees				
COURT SECURITY				
Number and nature of complaints submitted by witnesses				
Reports from court officers of what they see				
Confiscated cell phone or other video devices				
Confrontations/incidents				
Persons escorted from the court room or court house				

DISTRICT ATTORNEY'S OFFICE: QUANTITATIVE DATA

Please answer yes/no and provide some detail where relevant for each of the following types of data (to the right) for each of the items requested below.	Electronic/ database: Raw Data	Electronic/ database: Reports	Paper (e.g., incident reports; case files)	Staff experience; interviews
Number/percent of overall cases with a victim or witness intimidation issue				
Number/percent of case prosecutions affected by witness intimidation				
Non-conviction adjudications caused by intimidation				
Intimidation cases screened				
Intimidation cases charged				
Recants (and reasons if known)				
Disposition of intimidation cases				
Narrative re: "why do some cases that seem to be legitimate/ strong cases of intimidation not result in conviction?"				
Referred for other safety measures (safety planning, etc.)				
Protection orders sought				
Length of order (<i>i.e.</i> , how long was the order in place)				
Violations of protective orders (and reasons if known)				
Number of relocation requests received from police				
Number of relocations begun by prosecutor				
Relocations made				

DISTRICT ATTORNEY'S OFFICE: QUANTITATIVE DATA

Please answer yes/no and provide some detail where relevant for each of the following types of data (to the right) for each of the items requested below.	Electronic/ database: Raw Data	Electronic/ database: Reports	Paper (e.g., incident reports; case files)	Staff experience; interviews
Length of relocation (<i>i.e.</i> , how long were witnesses housed)				
Success of relocation				
Funds budgeted and spent on relocations				

QUALITATIVE DATA REQUEST. Here, we are interested in policies, procedures, practices, protocols, guidance/ checklists, and other tools – sometimes documented on paper but sometimes developed as part of practice that has never been formalized – that either directly address some aspect of the intimidation of victims, witnesses, and informants or that represent the more general way that law enforcement activities are handled and documented.

As with the quantitative data, we expect that there will be some information that will not be available.

QUALITATIVE REQUEST FOR POLICIES

Policies and protocols (specific guidance about how to respond to specific situations/ persons) regarding interactions with victims and intimidation at any stage of the criminal justice process

- o Policies and protocols for interviewing victims, witnesses, and informants, regarding issues such as how to approach questioning, when to question, where to question, how to handle the information, any future contact for more information, documentation of the information gathered
- o Written or other types of information provided to victims and witnesses in *any* case
- o Written or other types of information provided to victims and witnesses in *cases when intimidation is alleged or suspected*
- o Policies and protocols for how ADAs (or other staff if relevant) keep victims and witnesses informed about the progress in a case
- o Protocols for communication between key criminal justice parties, such as law enforcements, ADAs, victim services, whether electronically, by phone, in person
- o Policies regarding level of contact and involvement by victims and witnesses required (*e.g.*, guidance regarding maintaining only minimum contact that is crucial to the prosecution of the case)
- o Protocols regarding handling of identity information in any situation (*e.g.*, victim/witness identity; suspect identity), including when there is an ongoing investigation by law enforcement (*e.g.*, involvement of detectives in an attempted homicide case)
- o Protocols and policies for supervisors to monitor and evaluate adherence to types of policies mentioned here
- o Specialized or otherwise different protocols, procedures, etc. based on case type or other factors, such as domestic violence, gang, other violent crime, calls for service, probable cause stop.
- o Guidelines/ tools used to determine whether there is a risk of intimidation/ danger and policy regarding how to respond depending on that determination
- o Protocols to inform key decisions based on assessment of exposure to danger or intimidation: conduct custodial arrest, issue citation or similar response, issue warning, refer to victim services, provide additional counseling, pursuing charges, etc.

QUALITATIVE REQUEST FOR POLICIES

Documentation (examples/ blank forms) of victim or witness intimidation or at-risk situations (intimidation is at high risk of taking place) and need for intervention

- o Guidelines/ tools used to determine whether there is a risk of intimidation/ danger and policy regarding how to respond to findings
- o Process of documenting allegations of intimidation when raised; protocols for responses, including advice/ services provided to victims/ witnesses
- o Protocol for determining the need for referral to victim services
- o Policies, practices, etc. regarding automatic involvement or teaming with victim services personnel (e.g., coordinators)
- o Policies and protocols regarding the respective roles of law enforcement and victim services personnel
- o Documentation of determination of need for referral and referral document(s); DV cases in particular may have their own forms
- o Ongoing documentation of activities in cases when law enforcement is working with/ involved with cases where victim services is involved
- o General policies and protocols regarding transporting victims/ witnesses to and from court; having them testify; taking depositions; etc.
- o Any different or special policies and protocols regarding the latter when intimidation has been identified
- o Protocol for responding to victim/ witness who fail to or stop to cooperate/ who recant; documentation of this outcome and related information (e.g., causes of recant such as intimidation)
- o Process for responding to instances when contact is lost with victims or witnesses
 - What efforts are made to locate them
 - What are those types of efforts
 - How long do you look for them
 - What information is gathered about victims/witnesses who have not maintained contact with law enforcement/prosecution (e.g., reason for loss of contact)
 - How is all of this process, especially the latter, documented

When law enforcement has implemented body cameras...

- o Policies regarding the collection of body camera footage and review of the footage; protocol for how to review the footage (i.e., what to look for)
- o Policies regarding how supervisors respond to findings from body camera footage

QUALITATIVE REQUEST FOR POLICIES

Training regarding intimidation

- Type of training offered (*e.g.*, how often, length of training, style of training, whether part of larger training program, follow up)
- Curriculum for training (*e.g.*, materials used by internal trainers to help them conduct the training; materials shared with staff)
- Processes for ensuring that staff are well-versed and current on the law around intimidation
- Frequency of training during staff tenure; updates based on changes or differences in the topics covered; for new staff members, policy for training on this topic (*e.g.*, always soon after hiring or participating during fixed times per year)

Supervision and case review

- Policies and protocols regarding identification and responses to witness intimidation during supervision (*e.g.*, one-on-one supervision monthly, quarterly evaluations)
- Policies and protocols regarding using information about intimidation as part agency review (*e.g.*, crime patterns)
- Policies and protocols regarding how supervisors respond when their direct reports identify actions (good, bad, or indifferent) taken in cases where intimidation may have taken, did take, or is likely to take place
- Documentation/ forms used by supervisors in supervision/ evaluation of direct reports where cases of intimidation identified
- Documentation/ forms used in all cases of supervision/ evaluation of direct reports

ADDITIONAL QUESTIONS REGARDING COURT SECURITY

- Policy/ practice regarding the deployment of courthouse security (*e.g.*, areas monitored, where stationed, hours areas monitored (compared to the operating hours of the courthouse))
- Protocols for court security overall (*i.e.*, what to look for, how to respond, how to document)
- Protocols for court security in cases of observed/ suspected intimidation (*i.e.*, what to look for, how to respond, how to document)
- Preventive policies/ guidance
- Policies regarding coordinating with victim services
- Incident reports/ documentation of instances when see/ identify intimidation
- Types of responses permitted to use when see intimidation; protocols for determining when to use those (*e.g.*, custodial arrest; summons; ban)
- Signage, informational materials, and other strategies used to address intimidation
- Policies and protocols for review of security camera footage and responses to observed intimidation, where applicable

Note: Specific policies that may cause a public safety risk by discussing in a public document will be handled carefully and not be shared. These kinds of policies will be discussed at a high level across all participating sites. As the evaluation continues and pieces of the written product are reviewed, we will make sure to address specific concerns.

Define the Problem

The planning process to improve a system, such as the criminal justice system, begins with a deceptively simple step: stating “the problem.” This Steering Committee has convened to reduce witness intimidation, or stated positively, to better protect victims and witnesses. Witness intimidation is the *issue*, and it provides the raw material for *defining a specific problem that we can analyze and measure*. Clearly stating the problem helps us better define targeted strategies or “solutions.”

In defining a policy or system problem, it can be helpful to consider:

1. The problem should be measurable and evaluative. How effectively can the process of solving the problem be evaluated or measured? How can we measure how the problem changes over time? What evidence do we have to support the existence or severity of the problem?
2. Deficits and excesses may be problems. Does the problem lie in too much or too little of something? Examples include a population or condition of concern (e.g., homelessness); a gap between supply and demand (e.g., more people with untreated serious mental illness than accessible services); or an emerging capacity issue (e.g., negative population growth will mean far fewer students than our system’s capacity within five years, with under-enrollment distributed unevenly throughout the city).
3. Conditions that cause negative outcomes can also be problems. How would we *diagnose* the causes of the problem (e.g., severe traffic congestion resulted from the closure of the third street tunnel)? Do the data support our diagnosis of what causes the problem? Here, we are not describing the problem so much as getting at the drivers of the problem.

There is at least one significant pitfall to consider when defining a systemic problem – *defining the solution in the problem*. Often, we have preconceived notions of solutions or strategies to solve a problem that are so compelling that we define “the problem” as the lack of that strategy. For instance, “there are not enough shelters for homeless families.” This statement sounds very much like a reasonable statement of a policy problem, and building more shelters may indeed be a solution to consider. However, defining the problem around a single solution takes us in a direction that misses other ways we can address the underlying policy problem we face.

We would not consider prevention of loss of housing, making affordable housing more accessible, improving conditions in existing shelters, etc. if we organize our planning using this problem statement. However, if we restate the problem more openly – “there are too many homeless families” – then not only do we allow ourselves more options but we are probably also better characterizing what we are concerned about.

What may seem like an issue of semantics or wordsmithing is critical to setting the course for strategic planning, because it shapes the ultimate vision for the future as well as all the outcomes, strategies and solutions, and necessary investments of time, effort, and resources that follow. We look back to this statement of the problem regularly to keep our efforts focused and to evaluate the progress being made.

“Victim and witness intimidation” is the *issue* that has brought together this group. How would you define the specific problem that the Steering Committee needs to tackle given the unique circumstances of this community?

Analyze the Evidence

Once the problem is defined, the Steering Committee uses available evidence to understand the problem – How big is the problem? What are the impacts? How is it changing over time? The evidence should also support the problem statement. It should inform strategy development and support decision-making between different approaches available to you. It is easy to spend a lot of time assembling large amounts of data that do not help you solve the problem and move forward.

The Steering Committee will review findings from three sources available to us at this point:

1. Your original proposal;
2. The findings from our site visit at the beginning of this project; and
3. The materials you submitted in response to our data request.

The Committee will begin to determine what information it has and what it knows about the systemic problem. During this process, you will also identify information that is missing and questions you would like answered. Again, it is easy to fall into the trap of spending a lot of time and resources gathering data at the expense of implementing strategies to solve the problem.

As you review the data and consider what else you need to know as the initiative progresses, it can be helpful to distinguish between *information* and *data*. Data are facts. Information answers critical analytical questions.

Although somewhat oversimplified, as you decide what information is necessary and relevant, consider the differences between “how prevalent versus how many;” “what types versus how effective;” “where are versus why does.”

Keep in mind that throughout planning and implementation, you will learn more and more about the nature and scope of your identified systemic problem, about the effectiveness of the approaches that have been used in the past, and about the effects of the new strategies you will introduce. The Steering Committee may find that it needs to tweak the problem statement or adjust its strategies. None of this work is static. To the contrary, committing to looking for quantifiable information about progress and results requires the Steering Committee to be nimble and ready to make the changes that are best suited to solving the problem affecting victims and witnesses in your system.

Construct the Solution: Logic Modeling

The Steering Committee, armed with a clear target (the problem statement) and the best information available today, begins to build a shared understanding of what resources are available, what activities and changes will occur, what these activities and changes will produce, and the necessary long-term impacts.

We will use the exercise of constructing a logic model to build that shared commitment and common understanding. A logic model, sometimes called a theory of change, is both a planning method and a visual way to define the connections among a problem, the ultimate outcome or vision of the solution, and the supporting steps in between. It provides a road map of what steps need to be taken to solve the problem and yield the desired impacts.

The problem statement provides the starting point for building the logic model (*i.e.*, where we are today). The solution or impact is on the other end of the model (*i.e.*, where we want to be tomorrow). Although the problem statement provides clear direction and it certainly frames where you want to be, articulating the vision in writing is a useful tool (1) to validate the problem statement and (2) to help build consensus about the Steering Committee's direction. Consider the following in the context of combatting witness intimidation:

I. What should our community or system look like or be able to do when we are at our best?

II. What should the people working within our system and those affected by our system expect from us?

The Steering Committee then uses the logic model to fill in the important details about how we get from "here" to "there." The logic model has five main components:

I. Inputs. Existing resources (both financial and human), policies, practices, facilities, and capabilities that you can leverage to solve the problem (or realize the vision).

II. Activities or strategies. The specific actions to be undertaken and implemented.

III. Outputs. The specific and immediate results that occur as activities and strategies are implemented. Outputs may include changed policies and practices, adoption of new tools/protocols, number of people trained, etc.

IV. Outcomes. Indicators that change is occurring because of the strategies. The outcomes show that your system has been implementing its plan and is having the desired impact.

The fifth component is **context**. You and your agencies, organizations, and constituents all operate within the environment and culture of this criminal justice system. You are also part of a broader set of political, economic, social, and cultural factors. Some contextual factors represent barriers, which may or may not be insurmountable, and opportunities that can be leveraged. They may also affect the timing or sequencing of the strategies (*e.g.*, an election in the next few months may change the leadership and philosophy of a major stakeholder, so strategies involving that agency may need to be tabled for several months).

From Planning to Implementation

The logic model or theory of change defined by the Steering Committee links a specific problem to strategies and solutions. It specifies what is required of each partner and it provides a framework for evaluating the progress and success of the strategies in solving the identified problem.

What the Steering Committee creates during the strategic planning process will provide an overall picture of the types of systemic activities and policy changes that need to occur to achieve the desired outcomes. However, it does not provide a plan for implementation.

Work remains to detail how agencies will work together, what individuals and agencies need to be involved, what the timelines are for specific steps toward reaching outputs, how other allies will be engaged, and what promising practices may need to be identified and adapted. That very detailed, logistical work is part of implementation planning, best handled by inter-agency/interdisciplinary workgroups working on each strategy or component of the plan. Members of the Steering Committee may participate in these workgroups as conveners or facilitators, but the best people to make up the rest of the workgroup are staff, advocates, or community members who are closest to and best understand the policies and processes affected by the strategies. They are those individuals who have the clearest view of how the people involved in or served by the proposed strategies will be affected.

Once the Steering Committee reaches consensus on an overall strategic plan, the next major step is to kickoff implementation planning (and actual implementation) by forming these workgroups.

Throughout the life of the CWI Initiative, these workgroups will present to the Steering Committee implementation plans for discussion and approval. As implementation of strategies begins, they will monitor the progress of each strategy and present those data to the Steering Committee. You continue to play an active role beyond the strategic planning, providing direction throughout the Initiative.

Statement of the Problem:

Vision of the Solution/Impact:

Inputs	Activities or strategies	Outputs	Outcomes
<i>Resources, policies, practices, facilities, and capabilities invested</i>	<i>Specific strategies to be implemented</i>	<i>Immediate results from implementing of activities and strategies</i>	<i>Indicators that demonstrate changes are occurring</i>

Logic Model Checklist

Review Questions	Comments
The problem statement is clear, specific, and quantifiable. <input data-bbox="856 440 911 488" type="radio"/>	
The problem statement does not suggest a single solution. <input data-bbox="856 565 911 613" type="radio"/>	
The vision is clearly linked to the problem statement. It is realistic and attainable. <input data-bbox="856 703 911 751" type="radio"/>	
The outcomes and outputs are quantifiable. <input data-bbox="856 870 911 919" type="radio"/>	
There is a logical, clear connection among the problem/vision and outcomes. <input data-bbox="856 1000 911 1049" type="radio"/>	
There is a logical, clear connection between the outputs and the outcomes. <input data-bbox="856 1138 911 1187" type="radio"/>	
There is a logical, clear connection between the activities and the outcomes. <input data-bbox="856 1276 911 1325" type="radio"/>	

All available resources (inputs) needed for the activities have been accounted for in the model. <input type="radio"/>	
Possible contextual conditions that may affect the initiative and its impact have been identified. <input type="radio"/>	
The activities described in the model are realistically attainable. <input type="radio"/>	
The underlying assumptions for how the initiative will work are clearly discernible from the model. <input type="radio"/>	
There is consensus among the stakeholders that the model accurately describes how the CWI Steering Committee will achieve the desired results. <input type="radio"/>	

Appendix D: Working Together: A Profile for Collaboration

from *Collaborative Leadership: How Citizens and Civic Leaders Can Make A Difference*

By Carl E. Larson and David Chrislip Reprinted with Permission from the Author

Purpose:

The purpose of this survey is to record your opinions about items that measure collaboration effectiveness. Candid responses to these items are extremely helpful. *Your responses will be statistically summarized and displayed, along with the responses of others, without identifying you individually.*

Instructions:

The group of which you are a member may be called a partnership, consortium, committee, team or coalition. The group exists to deal with one or more concerns, issues, or goals. You will be asked to report the extent to which certain items are true or not true of your group. As you respond to each of the items, please be thoughtful about the group you are describing.

Items 1-40 are grouped into five categories. To the right of each item is a scale for recording your responses. Read the item, think about the extent to which it describes your group, and fill in the appropriate circle.

	(1) True	(2) More True than False	(3) More False than True	(4) False	(5) Don't Know
THE CONTEXT OF THE COLLABORATION					
1. Now is a good time to address the issue about which we are collaborating.	1	2	3	4	5
2. Our collaborative effort was started because certain individuals wanted to do something about this issue.	1	2	3	4	5
3. The situation is so critical, we must act now.	1	2	3	4	5
THE STRUCTURE OF THE COLLABORATION					
4. Our collaboration has access to credible information that supports problem-solving and decision-making.	1	2	3	4	5
5. Our group has access to the expertise necessary for effective meetings.	1	2	3	4	5
6. We have adequate physical facilities to support the collaborative effort of the group and its subcommittees.	1	2	3	4	5
7. We have adequate staff assistance to plan and administer the collaborative effort.	1	2	3	4	5
8. The membership of our group includes those stakeholders affected by the issue.	1	2	3	4	5

9. Our membership is not dominated by any one group or sector.	1	2	3	4	5
10. Stakeholders have agreed to work together on this issue					
11. Stakeholders have agreed on what decisions will be made by the group.	1	2	3	4	5
12. Our group has set ground rules and norms about how we will work together.	1	2	3	4	5
13. We have a method for communicating the activities and decisions of the group to all members.	1	2	3	4	5
14. Our collaboration is organized in working subgroups when necessary to attend to key performance areas.	1	2	3	4	5
15. There are clearly defined roles for group members.	1	2	3	4	5
COLLABORATION MEMBERS					
16. Members are more interested in getting a good group decision than improving the position of their home organization.	1	2	3	4	5
17. Members are willing to let go of an idea for one that appears to have more merit.	1	2	3	4	5
18. Members have the communication skills necessary to help the group process.	1	2	3	4	5

19. Members of the collaboration balance task and social needs so that the group can work comfortably and productively.	1	2	3	4	5
20. Members are effective liaisons between their home organizations and the group.	1	2	3	4	5
21. Members are willing to devote whatever effort is necessary to achieve the goals.	1	2	3	4	5
22. Members monitor the effectiveness of the process.	1	2	3	4	5
23. Members trust one another sufficiently to honestly and accurately share information, perceptions, and feedback.	1	2	3	4	5
THE COLLABORATION PROCESS					
24. We frequently discuss how we are working together.	1	2	3	4	5
25. Divergent opinions are expressed and listened to.	1	2	3	4	5
26. The process we are engaged in is likely to have a real impact on the problem.	1	2	3	4	5
27. We have an effective decision-making process.	1	2	3	4	5
28. The openness and credibility of the process help members set aside doubts and skepticism.	1	2	3	4	5

29. There are strong, recognized leaders who support this collaborative effort.	1	2	3	4	5
30. Those who are in positions of power or authority are willing to go along with our decision or recommendations	1	2	3	4	5
31. We set aside vested interests to achieve our common goal.	1	2	3	4	5
32. We have a strong concern for preserving a credible, open process.	1	2	3	4	5
33. We are inspired to be action-oriented.	1	2	3	4	5
34. We celebrate our group's successes as we move toward achieving the final goal.	1	2	3	4	5
<i>THE RESULTS OF THE COLLABORATION</i>					
35. We have concrete measurable goals to judge the success of our collaboration.	1	2	3	4	5
36. We have identified interim goals to maintain the group's momentum.	1	2	3	4	5
37. There is an established method for monitoring performance and providing feedback on goal attainment.	1	2	3	4	5
38. Our group is effective in obtaining the resources it needs to accomplish its objectives.	1	2	3	4	5
39. Our group is willing to confront and resolve	1	2	3	4	5

performance issues.					
40. The time and effort of the collaboration is directed at obtaining the goals rather than keeping itself in business.	1	2	3	4	5

41. What one change would most improve the effectiveness of this collaborative effort?

42. What discipline/profession do you represent in this group? (*check one*)

Court administration

Parole

Defense attorney

Prison/Institution

Faith-based Organization

Probation

Jail

Prosecution

Judiciary

Substance Abuse Treatment

Law Enforcement

Victim Advocate Services

Legislator

Other: _____

Mental Health Treatment

Appendix E: Baltimore Logic Model

Statement of the Problem: **The system too often does not keep victims and witnesses safe from intimidation before, during, and after criminal proceedings. In turn, too many victims and witnesses lack confidence in the system's capacity to keep them safe.**

Definition of

Witness Intimidation:

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. This includes:

- Overt threats
- Violence
- Implied threats
- Emotional manipulation
- Specific act in connection with criminal event
- Creation/exploitation of setting that will discourage reports/testimony in future

Vision/Impact:

Effective victim/witness intimidation reduction achieves the following:

1. Meaningful sanctions for intimidators
2. Enhanced victim/witness safety
3. Professional system response
 - a. consistency in response
 - b. immediate support
 - c. evidence-based responses
4. A sense of community
 - a. stakeholders as part of the community, not dealing with a community
 - b. distinguishing between neighborhoods and communities
 - c. inter-agency communication
 - d. community trust)
5. A change in system and community culture: viewing victims and witnesses as equals and with respect and communicating that respect and compassion to them

Outcomes:

- A: Increased number of witness intimidation crimes charged
- B: Increased number of people within the criminal justice system that are formally trained as threat assessors
- C: Higher clearance rate for all crimes involving victims
- D: Decreased number of witness recantation when testifying

Inputs	Strategies	Activities	Outcomes
<i>Resources, policies, practices, facilities, and capabilities invested</i>	<i>Specific strategies to be implemented</i>	<i>Results from implementing strategies</i>	<i>Indicators that demonstrate changes are occurring</i>
<p>Better, proactive communication among stakeholders</p> <p>Greater comfort level between law enforcement and community-based advocates and among law enforcement agencies</p> <p>Enhanced penalties for intimidation crimes</p> <p>Prosecutor and Law Enforcement training on evidence admissibility in intimidation and other cases</p>	<ol style="list-style-type: none"> 1. Community awareness campaign to educate internal and external stakeholders on intimidation LEAD: Chief, External Affairs Director of Communication, Office of the Mayor States Attorney’s Office Implementation: 12/2019 2. 24-hour Intimidation Hotline LEAD: BPD or EBRSO (TBD) New hotline or 911/311 revision? 3. Lobbying of State Assembly regarding intimidation penalties LEAD: SAO Policy and Legislative Affairs 	<ol style="list-style-type: none"> 1. Social media campaign 2. Secure a “Dave Chappelle” level celebrity to record anti-intimidation message 3. Established Hotline 4. Enhanced penalties for intimidation crimes <ul style="list-style-type: none"> A) Add Intimidation to the Crimes of Violence Act to increase sentencing penalties B) Add Intimidation to 5133(c) prohibited persons (firearm restrictions) 5. Increased filing of Intimidation as add-on to existing victim charges 6. Change forfeiture by wrongdoing standard to “preponderance of the evidence” from “clear and convincing” 	<p>A. Increased number of witness intimidation crimes charged</p>

	<p>4. Increased filing of intimidation as add-ons to existing victim charges</p> <p>5. ASA and BPD training on superseding indictments and joinder motions.</p>	7. Decreased response time to intimidation complaint.	
Understanding the difference between witness protection and witness assistance	<p>1. Identify the appropriate threat assessment training/protocol for each system stakeholder.</p> <p>2. Identify the stakeholders appropriate for training</p> <p>3. Plan and implement training</p>		B. Increased number of people within the criminal justice system that are formally trained as threat assessors
<p>Additional advocates and coordinators and contact protocol</p> <p>Definition of “high-risk” individuals.</p> <p>Define parameters for higher clearance rates.</p> <p>Screening tool/risk assessment to apply at intake or at initial appearance.</p>	<p>1. After-arrest BPD and SAO advocate/coordinator contact with victims and witnesses to ensure that needs are met, thus increasing the chance of court appearance.</p> <p>2. Screening high-risk individuals at intake for potential intimidation threat.</p> <p>3. Increased number of identifiable civilian witnesses per homicide case</p> <p>4. Reduction in the number/percent of single-witness homicide cases.</p>	<p>1. Higher clearance rates for victim crimes.</p> <p>2. Decrease in nolle adjudications due to victim/witness FTA.</p>	C. Higher clearance rate for all crimes involving victims
<p>Video cameras</p> <p>Revised policies/procedures on victim and witness interviewing</p>	1. More complete questioning and recording of interviews upfront to prepare for possible intimidation.	1. Specific decrease in witness recants	D. Decreased number of witness recantation when testifying.

<p>Revised data entry protocols under the Maryland Judiciary Case System</p>	<p>2. Revise requirements for victim and witness data entry under the MJCS to prohibit entry of victim and witness-related case information</p> <p>3. Revise requirements for victim and witness data entry under the MJCS to prohibit entry of victim and witness-related case information.</p>	<p>2. Decrease in the number of nolle prosequis due to witness recants</p>	
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