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## Overcoming Victim/Witness Intimidation & Gaining Cooperation in Investigations

### A Police Foundation Webinar

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 NATIONAL RESOURCE & TECHNICAL ASSISTANCE CENTER  
FOR IMPROVING LAW ENFORCEMENT INVESTIGATIONS

 BJA  
BUREAU OF JUSTICE ASSISTANCE  
U.S. DEPARTMENT OF JUSTICE

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## Objectives

- Participants will be able to
  - Discuss the impact witnesses have on investigations
  - Identify cases that may inherently have reluctant witnesses
  - Utilize a best approach to reluctant witnesses
  - Increase chances for witnesses cooperation
  - Mitigate common witness intimidation techniques

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More violent crimes, especially homicides, are solved by witness statements than by physical evidence or circumstantial evidence.

It is generally the physical and circumstantial evidence that support the witness' testimony through court

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Proper witness handling and corroboration are major factors in the successful prosecution of most violent crime investigations

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As investigators, we rely on witness information to move our investigations forward.

However, often the witnesses are reluctant to talk.

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## There are generally three categories of witnesses

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Those that understand the need and are willing to cooperate  
*-Honest and cooperative*

Those that are reluctant but can be turned around  
*-Silent, know-nothing, or disinterested*  
*-Reluctant or suspicious*

Those that refuse to cooperate under any circumstances  
*-Hostile and deceitful*

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## There can be a variety of reasons to cause a witness to be uncooperative

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- Afraid to get involved
- Don't want to be involved
- They are involved in criminal activity themselves
- Afraid to inform on friends / associates / gangs
- Afraid of retaliation

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Finding out the reason why the witness is reluctant is the first step to managing the situation.

Knowing the reason can point you in the right direction as to possible ways their concerns can be addressed or resolved.

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- Make an effort to identify with the witness
- Attempt to establish a personal connection
- Try to find common ground
- Start off positive
- Avoid the “good cop, bad cop” approach
- Demonstrate active listening
- Preparation is everything

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## Where to Conduct the Interview

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- Remember *Control*
- Do it where you have the most *Control*

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## When to Conduct the Interview

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My best interviews have been early in the morning when I wake the subject up at their house and transport them to the station

It is best to interview the subject when their body clock is slow and you are fresh

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- Proper preparation is no guarantee for success
- Lack of preparation is a recipe for failure

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## First Impressions

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- The first impression the witness has of you is lasting and hard to change
- Be careful not to enhance the fear they may have of the police. Calm their anxiety
- Are you the pleasant detective they “want” to talk to, or do they want to “get away from you?”

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## Be the Best Salesman

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You are selling yourself, your department, and our justice system

Often, the witness wants no part of what we have to offer

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## Cooperation

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- You must work hard to gain cooperation  
What are you willing to do to gain it ?

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## Get the Subject's Attention

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- Use both verbal and nonverbal
- Move in on the subject
- Build up the stress
- Touch their shoulder or arm
- Convey how important it is for them to do the right thing

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## Create Empathy / Accept Hospitality

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- Explain the purpose of the interview and what you hope the outcome is, “complete honesty”
- Personalize the event (it could have happened to you)
- Do not cut off or interrupt witnesses during the interview

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## Think of Your Approach

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- Use a ruse to make contact with people you think may be reluctant
- How would you react if you had several days to prepare for an interview with Internal Affairs or the IRS ?
- Have a family member or friend of the witness at the station for post-interview conversation

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## Before Taking a Statement

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- Key is to remember that eye-witness testimony is not infallible
- Do not always accept the first story as the truth
  - Is the witness holding back or lying?*
- Be prepared to overcome denials or refusal to give information

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## Interviews

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- You must have confidence in your interview abilities
  - If not, have a more seasoned detective conduct the interview.
- You must be positive of the outcome of the interview
  - Never go into an interview thinking the person wont cooperate
- You must be prepared for the interview
- Every word you use can be critical to the outcome

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## Interviews

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Don't start off with personal identification questions or writing things down. Start with small talk, gain rapport, then transition into the reason for talking. Obtain the information the individual has to offer, then get to their personal information. If it appears they have critical information any they are holding back information, the interview should moved to a police facility if possible.

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## Confrontational Interviews

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- The most effective interview will occur at a police facility.
- If the interview transitions into a confrontation it is almost impossible to apply pressure at someone's home or workplace.

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## Behavioral Symptoms Common to Truthful Witnesses

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- Nervous but composed over time
- Able to express themselves
- Tell a rational story
- Concerned
- Cooperative and helpful

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## Behavioral Symptoms Common to Untruthful Witnesses

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- Anxious, out of sorts
- Unconcerned, nonchalant
- Evasive in answers and eye contact
- Defensive

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## Idle Talk

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Rumors, innuendo, and gossip may have no place in the courtroom, but they are certainly welcome information for the detective navigating an investigation.

Can you locate the neighborhood busybody?

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## Characteristics of a Successful Interviewer/ Interrogator

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- Likeable attitude and demeanor
- Shows compassion and empathy
- Diligent, with a never give up attitude
- Good-Better-Best approach
- Able to gain the trust of the witness
- Repeated interviews with those who are holding back.

How many times will you try again?

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## Street-Level Crimes Involving Gangs, Narcotics, and Disputes

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- This is where a detective's interview and personal skills are tested
- Detectives clearly need to understand and address issues of retaliation and intimidation
- Lack of cooperation from the general public
- Some may feel the victim deserved it

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## Rule No. 1 of the Streets ?

“Don't be a snitch!”

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## How to Overcome Rule No. 1

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- Exceptional interview skills
- Witness relocation
- City council monetary rewards
- Deception

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## Witness Intimidation

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- Occurs mostly in gang and narcotic related cases
- The greater the penalty for the crime, the greater the desire to prevent the witness from testifying
- Defendants and their friends often intimidate in hopes of getting witnesses to withhold or change testimony
- Pressure on witnesses can increase as court day approaches

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## Witness Intimidation

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- Witnesses may be particularly vulnerable if;
  - They live near a defendant
  - They live within the defendant's gang territory
  - Their address is know to the defendant

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## Witness Intimidation

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- Includes the following;
  - Direct intimidation
  - Implicit threats
  - Courtroom Intimidation

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## Vigorous Witness-Intimidation Prosecution

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- Vigorous, immediate prosecutions of witness intimidators are critical
- We must send a message that witness intimidation actions are not tolerated


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## Edwin Johnson Gang Related Murder Case

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During trial, a friend of the defendant (both were members of the same gang), entered the court room wearing the below t-shirt. He sat in the front row, directly in front of a witness testifying on the stand. He never made a sound or gesture. His prison exposure was 12 years. He took a 7 year prison deal to avoid trial.



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## Example Case

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You have a murder that occurs at a backyard party. There were 25 other people present (18-25 years old) all of which fled prior to the police arriving.

What are the concerns for detectives ?  
What is your approach to the witnesses ?

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## Example Case

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- What are the concerns for detectives ?  
The witnesses are potentially friends with the suspect, the victim, or both.
- Are they afraid to inform on a friend ?
- Did the victim “deserve it” ?
- Did the witness aid or abet, even slightly ?

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### Example Case

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- Concerns
  - How do we overcome the concerns ?
  - Interview skills
  - Deception

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### Poll Questions

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What issues are you having with interviews?

What type of intimidation are you dealing with?

What are you doing to address and overcome witness intimidation in court?

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**Any final questions?**

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