

DENVER WITNESS PROTECTION PROGRAM IMPLEMENTATION GUIDE

The following document provides insight into the Denver District Attorney's Witness Protection Program and its potential implementation for cities throughout the United States.

*A Program of the
Denver District
Attorney's Office*

Table of Contents

History of the Program	2 – 3
Structure of the Program	4 – 5
The Three Pillars of the Program	6 – 7
Collaboration as Key to Success	8 – 9
Witness Protection Assessment & Intake	10 – 12
Appendix	13 – 22
1) Colorado State Witness Protection Program Mission and Guidelines	
2) Colorado State Witness Protection Declination Statement	
3) Colorado State Witness Protection Guardian Declination Statement	
4) Colorado State Witness Protection Intimidation Report	
5) Colorado State Witness Protection Final Witness Memo	
6) Colorado State Witness Protection Program Payment Request	

History of the Program

Intimidation or harm to victims and witnesses of crime is a considerable security concern for law enforcement, prosecutors and human service providers throughout the U.S. Victim Witness Protection Programs form an imperative part of local, state and national security by providing safety for victims and witnesses while ensuring that dangerous criminals are incapacitated. According to a review of Witness Protection Programs around the world, including the U.S., the protection of victims and witnesses is essential to acquiring convictions and maintaining public confidence in the effectiveness of governments to protect their citizens.ⁱ

Victim and witness intimidation are particularly acute in the state of Colorado where in the past 14 years, 16 witnesses to crime were killed in Colorado and in Denver alone, prosecutors filed over 60 felony cases in 2010 and 2011 involving crimes against victims and witnesses. Awareness of the very serious dangers faced by witnesses hit home in Colorado in 1988 with the witness killing spree by an offender, who was in jail for robbery and kidnapping at a local cafe. He ordered his brother to kill the only witness to the crime, the café waiter. After killing the waiter and another man, the brother shot the waiter's roommate, who played dead and survived. Charged with these murders, the defendant then arranged for the murder of his own wife who was to testify for the prosecution. She survived five gunshots and testified against her husband. The witness' roommate survivor went on to work with the state legislature to establish Colorado's first witness protection fund in 1995.

Additionally, the types of crime that may require witness protection – gang related crimes, homicide, domestic violence and human trafficking – are prevalent within the state. According to the 2009 National Gang Threat Assessment, there are 5-7 gang members per 1000 residents in Colorado, placing Colorado in the top 5 states of gang members per resident. This study also found that in the SW Region, including Colorado, gangs are responsible for 60% of crimes committed.ⁱⁱ As a result of the “Stop Snitchin’” campaign, prevalent throughout the country in the early 2000s, a culture of witness intimidation grew among these criminal groups and in neighborhoods. This campaign was widespread in Colorado as well fostering a tradition of silence on the streets and lack of cooperation with law enforcement investigations. For example, at the funeral of a Denver Broncos player who was shot and killed by gang members, gang members were observed standing in the back of the room where the funeral was held wearing “Stop the Snitchin’” T shirts. At a homicide in Denver in the past few years, “Stop the Snitchin’” T shirts were placed on police cars while the police were interviewing potential witnesses in the community.

A horrific example of how this “Stop Snitchin’” culture has impacted witness intimidation in Colorado is the brutal killing in July 2005 of Javad Marshall-Fields and his fiancée Vivian Wolfe

who were gunned down in Aurora, CO just days before Marshall-Fields was set to testify in a murder case. In response to these murders, the Colorado State Legislature passed an act on May 30, 2006 that created the Javad Marshall-Fields and Vivian Wolfe Witness Protection Program. This act established a Witness Protection Board that would develop model instruments to utilize in witness protection and funding for witness and victims threatened by defendants in the state of Colorado. This act was deemed necessary by the Legislature “for the immediate preservation of the public peace, health and safety.”ⁱⁱⁱ

Although the Marshall-Fields/Wolfe murders were not in the jurisdiction of the Denver District Attorney’s Office, it was recognized that passage of a state statute and creation of instruments would not be sufficient to address these threats and attacks. It was also determined that the Denver District Attorney’s Office assignment of additional duties to existing courtroom team investigators would not be sufficient to meet the needs of intimidated victims and witnesses. Thus, Mitch Morrissey, the Denver District Attorney, authorized and funded the creation of a specialized unit of Investigators within the Special Programs Unit of the Office in 2008. The unit was developed to address the multifaceted issues that must be addressed in order to successfully protect victims and witnesses who come under threat.

Since its inception, the Denver District Attorney’s Witness Protection Program has grown from one part-time investigator to a staff of two and a half investigators specifically dedicated to these cases. In addition, the development of threat assessments, operational protocols, interagency collaborations and commitment to building investigator skills has been the foundation of the growth of the Program over the past five years.

Structure of the Program

While the type of criminal that obstructs justice by threatening or harming victims or witnesses can vary, they are often associated with gang activity, homicide, domestic violence or human trafficking. By ensuring that a victim or a witness is incapable or too fearful to provide testimony, criminals are able to evade prosecution and continue to prey upon our community. The Witness Protection Team works tirelessly to put these criminals behind bars, especially the growing number of gang members engaged in violent crime. With high rates of violent crimes in Denver, victim and witness protection is a critical part of maintaining public safety through the successful investigation and prosecution of violent criminals.

The Witness Protection Program is a part of the Denver District Attorney's Special Programs Unit which focuses on victim-centered approaches to crime through a variety of programs, including the Witness Protection Program. This Unit has spear-headed the development of a wide array of unique programs that provide vital services to victims and witnesses of crime and their families. These programs include the Communities Against Senior Exploitation, the Victim Services Network, the Domestic Violence Triage Program, the DNA Cold Case and Justice Review Team, the Juvenile Diversion Program, the Sexual Assault Interagency Council and of course, the Witness Protection Program. As part of this unit, the Witness Protection Program has access to a number of innovative collaboratives where they can access a multitude of services through systems and community based agencies.

During its five years of operation, the Witness Protection Program has developed specialized knowledge in conducting lethality assessments and implementing effective strategies to protect victims and witnesses. The Program has honed its expertise providing protection for victims and witnesses of gang-related crimes as well as domestic violence while enhancing its ability to provide protection in new cases, such as human trafficking, domestic terrorism and threats to Deputy District Attorneys. To date, the Program has opened 268 cases and there have been no successful attacks against victims and witnesses.

The Witness Protection Program currently maintains three investigators, two that work on protection cases full time and one that handles these cases on a part-time basis. These investigators are highly skilled individuals with unique qualities that are essential to success in witness protection, such as:

- Adept Interpersonal Communication Skills
- Expert Intelligence Gathering
- Capacity to Understand Ever-changing Technology

- Skilled at Collaboration with Diverse Partner Agencies
- Considerable Capacity for Patience

In addition to these skills, the Team has identified over the years that having both male and female investigators to work these cases was also a key part of the success of these cases. Diverse individuals that require protection may relate to each of the sexes differently, therefore, this diversity can be useful when someone would feel more comfortable speaking with one person on the Team about a certain issue. Likewise, while having a background and training in witness protection is important, having the qualities of someone who is easy to relate to or essentially being a “people person” is absolutely indispensable for a Witness Protection Investigator. Due to the nature of these cases, investigators are not only ensuring an individual’s protection but are also often coordinating in-depth case management where they act almost as a personal coach to assist the individual in obtaining job skills, applying for benefits, going through substance abuse programs, etc.

These highly skilled investigators meet frequently throughout each week with the Director of the Special Programs Unit to provide case updates, analyze new threats and discuss new cases and their potential to be accepted into the Program. The Team implements three major components in each of their cases, which include:

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

These components are discussed in greater details in the following section. The Witness Protection Team maintains constant communication with each other to confer about cases and developing threats. While current methods of communication include cell phone and email, the Program is currently seeking funding to implement an innovative mobile technology-based case management system. This system would enable the investigators to enter real-time data into a shared database that would notify other Team members of developments in protection cases.

The Three Pillars of the Program

The Witness Protection Program is comprised of three major components that employ evidence-based strategies to protect victims and witnesses in high-risk cases. Although there is a dearth of research on evidence-based protection strategies and no national model, the Program implements strategies based on lessons-learned during its four years of operation as well as strategies obtained from initial consultation with the Federal Marshall's Witness Security Program. The components of the Program include:

1) *Tactical Victim/Witness Protection Strategies* – Tactical protection strategies are the cornerstone of the Program and these measures include threat intelligence gathering and analysis; security assessments; housing and transportation; interstate relocation; and jail and corrections housing strategies. Additionally, the Team utilizes pro-active law enforcement strategies such as knock and talks, investigations on any new charges against the subject, use of search warrants and proactive interviewing strategies. These strategies require constant communication within the Team while demanding continuous collaboration with outside partners such as law enforcement, human services agencies, and housing and transportation providers.

Program staff communicate constantly to discuss and analyze intelligence, assess threat levels and identify high-risk cases eligible for protection services. This assessment of threat and security for victims and witnesses is an ongoing evaluation and can continue for years depending on the case dynamics. In addition, the Team maintains daily contact with local, state and federal law enforcement agencies in order to coordinate the protection of victims/witnesses. The Program implements tactical protection strategies in each of its cases and has maintained a 100% success rate in neutralizing threats towards individuals in compliance with the Program.

2) *Victim/Witness Assistance Services* – Collaboration with system based and community based advocacy agencies is central to combatting the physical, economic, social, spiritual and emotional impact of a violent crime on individuals and their families. For victims/witnesses in high-risk cases, the initial impact of the crime is exacerbated by fear created through threats and intimidation. Victims and witnesses in the Program have a complex set of needs due to the level of risk, fear and trauma involved. This means that the Team must often play various roles in providing safety to these individuals, from investigator to security advisor to overall case manager. Therefore, maintaining collaboration with service agencies is essential to ensure that victims/witnesses are adequately supported throughout the protection process.

Additionally, coordination with service agencies is crucial to guaranteeing victim/witness as well as service provider safety by confirming that services are provided under the strictest of precautions. Due to the high-risk nature of victim/witness protection cases, all clients in the

Program require victim assistance services. Therefore, each client that goes through the Program receives victim/witness assistance strategies including coordination of therapy, counseling, case management and health services.

3) *Lifestyle Transformation* –By nature, all protection cases involve some form of lifestyle change that can include physical relocation, change of employment or normal routine and limited communication with loved ones. However, cases where victims and witnesses are involved in high-risk lifestyles, such as gang involvement, drug addiction or the commercial sex industry, often demand intensive lifestyle transformation. This transformation is critical to the short and long-term safety of the victim/witness as it removes the individual from environments and individuals that may be closely linked to the defendant or that are generally dangerous in nature.

The Program has taken on intensive lifestyle transformation for cases of human trafficking, gang-related violence and cases where witnesses were involved in criminal activities prior to admittance to the Program. In order to obtain a successful lifestyle transformation, the Program has determined that it is important to act immediately to evaluate the potential for the transformation and the necessary services to complete it. Services provided to victims and witnesses as part of this strategy include an aggressive action plan for transformative steps, frequent contact with the victim/witness, monitoring of the victim/witness and provision of diverse support services.

Often times, victims and witnesses who require intensive lifestyle transformation may not have the capacity or self-esteem to fully engage in this change and in supporting themselves. This results in one of the most exhausting and emotionally draining aspects of the Team’s work as it requires a significant amount of support and has the potential to be dangerous to Team members. For example, these cases require a significant time commitment and dedication not only to the individual’s safety from external harm but to their safety from themselves. This can result in a loss of boundaries and perspective in these cases where officer safety could be compromised. Therefore, it is essential to utilize community-based agencies to provide services such as substance abuse counseling, continuing education, career counseling and life coaching.

Because all clients undergo some form of lifestyle transformation, whether small or significant, all clients receive lifestyle transformation service strategies through their involvement in the Program.

Collaboration as Key to Success

The operation of the Denver District Attorney’s Witness Protection Program necessitates constant collaboration with city, state and federal law enforcement agencies as well as community-based human services agencies. Coordination between the Program and this myriad of government agencies and non-profit organizations is absolutely essential to providing victims/witnesses with safe and supportive services through the protection process.

The Program coordinates with the State Witness Protection Board, the Colorado U.S. Attorney’s Office and the U.S. Department of Justice to determine best practices and establish interagency working agreements. Additionally, the Program has developed collaborative relationships with multiple law enforcement partners such as:

- FBI U.S. Marshalls
- HSI-ICE
- Denver Police Department (Gang, SWAT, Vice, Victim Assistance, Family Violence Units)
- Denver Metro Gang Task Force
- Probation and Parole (federal, state and local)
- Multiple surrounding jurisdictions’ police departments

These ongoing relationships are central to victim/witness protection coordination and offer the opportunity to debrief on current cases, create individually tailored safety plans for each case, and work within previously established protocols to take action on new cases.

With regard to victim assistance, the Program works in-office with Victim Advocates to assist in seamless communication with witnesses regarding criminal case updates and overall coordination of human services. The Program coordinates with countless community-based agencies in Denver through the Victim Services Network, a Denver based collaborative of victim service providers, and throughout the state to provide safe housing, basic resources and counseling and therapy services. The Program works with the following types of human services agencies:

- Domestic violence
- Sexual assault
- Child abuse
- Legal aid
- Private therapy
- Housing assistance
- Job assistance
- Transportation assistance
- Welfare assistance
- Health/medical

In short, partner collaboration is central to the operation of the Witness Protection Program. In order to guarantee victim/witness safety and support, involvement from an array of actors is required including government agencies, law enforcement and community-based human services organizations. Additionally, partner agencies cannot be limited to the city of Denver as protection cases may involve multiple jurisdictions and the protection of the victim/witness may necessitate relocation within or outside the state.

Witness Protection Assessment & Intake

As the internal assessment forms utilized by the Team are security sensitive, the Denver District Attorney's Office Witness Protection Program would like to keep these documents private. However, these internal forms are summarized below and can be made available upon request from law enforcement or prosecution agencies. Included in the Appendix of this guide are a number of standard forms from the Javad Marshall-Fields – Vivian Wolfe Witness Protection Program of the Colorado Department of Public Safety.

When assessing the presented threat and potential victim/witness protection case, the Team collects intelligence and carefully analyses the threat to determine:

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

Establishing this threat assessment information to determine the lethality of the perpetrator/threat requires a number of steps for investigators, such as:

- Review the complete criminal case and criminal history of the perpetrator(s)
- If the perpetrator(s) have been incarcerated previously, contact the facilities in which the individual was housed to learn about their activity while in the facility.
- Research any associations the perpetrator(s) might have.
- Conduct surveillance if the perpetrator(s) is out on bond.
- Research any previous military experience.
- Understand any bond information or conditions, such as GPS.
- Contact federal agents about whether the perpetrator(s) has had any prior cases or if they have been a cooperating defendant or informant.
- Monitor social networking sites such as Facebook, YouTube, MySpace, etc.
- Assume that domestic violence perpetrator(s) have higher lethality by nature.
- Threat assessment increases with threats to court staff such as Judges, Prosecutors and Defense Attorneys.^{iv}

If the case is deemed to be in need of protection, the Team then works on a safety plan for each protected victim or witness. The Team evaluates the safety concerns and the immediate needs of

the protected individual first by assessing:

- Who are the players involved in intimidating the individual?
- How can the individual be shielded from contact with these players as well as others who might carry out their message?
 - Example: if the threat is from a husband to his wife in a domestic violence case, is there someone that the husband might use in their family to intimidate his wife?
- Is the individual currently in a safe place? (Police Department, secured hotel room, trusted family member's home)
- Have their basic needs, such as food, shelter, clothing, medical, been met?
- Do we have a secure way of communicating with the individual?

Additionally, the Team also examines the long-term needs of the individual(s) in the protection case, assessing elements like:

- Is the individual currently on probation or parole? Do they have pending cases?
- Does the individual have a history of criminal involvement that could jeopardize their safety, such as drug abuse/trafficking or involvement in prostitution?
- What are the costs for the individual to relocate or change patterns in their day to day operation (such as change in schools, daycare, employment, etc.)?

The individual then must be briefed on ways to maintain their safety, such as:

- Being constantly vigilant and aware of their surroundings.
- Being wary of any new friends and how making new friends could potentially be threatening.
- Being aware of commuting habits and daily routine and helping them change this multiple times to avoid being followed.
- Taking information off of or shutting down completely their social networking sites such as Facebook and LinkedIn.
- Ensuring that case information and new habits established are only communicated to necessary individuals.

Over the years, the Witness Protection Team has also learned valuable strategies to the difficult task of protecting someone while allowing that individual to continue their life. Some of these strategies include:

- Making contact with hotels outside of the immediate area of the jurisdiction that you protect and setting up a direct billing account.
- Providing disposable phones.

- Providing grocery cards and encouraging individual's to order groceries online and have them delivered.

Finally, one of the most important things for the Team to provide is the support of victim services. Most victims and witnesses in protection are in very serious physical, economic and emotional trauma from the violent crime they were victim to or witnessed. Additionally, the initial impact of the crime to these protected victims/witnesses is further exacerbated by the fear created through threats and intimidation from the defendant. Therefore, in addition to immediate and long-term basic needs, the Team must assess for victims/witnesses service needs, including:

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

Assessments of both the threat to the victim and the victim's needs are ongoing throughout the period they are under the protection of the Witness Protection Team. This continuous evaluation requires constant investigation, analysis, victim contact and collaboration from the Team members to ensure victim and witness safety and security.

ⁱ Canada. Law Enforcement and Policy Branch Public Safety Canada. Research and National Coordination Organized Crime Division. *A Review of Selected Witness Protection Programs*. By Dr. Yvon Dandurand and Kristin Farr. N.p., 2010. Web.

ⁱⁱ "National Gang Threat Assessment 2009." *NICIC.gov*. N.p., n.d. Web. 08 Jan. 2013.

ⁱⁱⁱ "Session Laws of Colorado 2006 - Chapter 284." *Session Laws of Colorado 2006 - Chapter 284*. N.p., n.d. Web. 08 Jan. 2013.

^{iv} Denver Metro Gang Task Force. *Steps for Proper Threat Assessment Regarding Lethality of Perpetrator/Organization*. Rep. N.p.: n.p., 2012. Print.