

FUTURE TRENDS IN STATE COURTS 2012

*Courthouse Security
Incidents Trending
Upward: The Challenges
Facing State Courts Today
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A nonprofit organization improving justice through leadership and service to courts



COURTHOUSE SECURITY INCIDENTS TRENDING UPWARD: THE CHALLENGES FACING STATE COURTS TODAY

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Violent acts surrounding court cases have been steadily rising despite the presence of increased courthouse security. What must courts do to counteract this trend?

We live in a time when threats against judges and acts of violence in courthouses and courtrooms are occurring throughout the country with greater frequency than ever before. By their very nature, courthouse operations entail a heightened degree of risk. Every working day courthouses are visited by a large number of citizens, many of whom may be disgruntled and angry to the point of becoming lawbreakers. Individuals and groups have committed acts of violence in courthouses, often attempts to murder judicial officials, escape from custody, and disrupt or delay proceedings. Moreover, courthouses, which represent the ideals of democracy in American society, have become symbolic targets for antigovernment extremists and terrorists (domestic and international).

One only has to spend a little time immersed in social media to see how prevalent courthouse violence has become. Within a matter of minutes we can view videos of a considerable number of violent incidents that have taken place in courtrooms and courthouses across the country. Most of what we see in these videos involves, to one extent or another, unruly prisoners, disgruntled litigants, and upset family members. In addition to shootings, bombings, and arson attacks, there have been knifings, assaults, failed bombing attempts, suicides, bomb plots, murder-for-hire conspiracies, and much more. Often, it is only a matter of opportunity, a fateful decision, or the inability to “wrestle” away a handgun that has prevented a physical confrontation from tragically escalating into a deadly one.

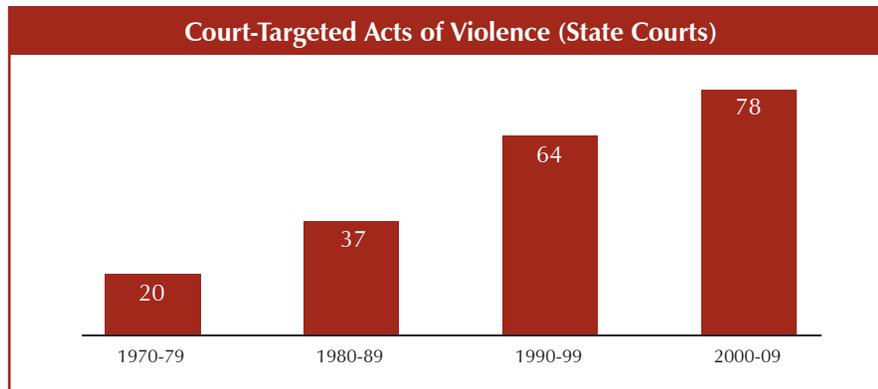
The expertise and objectivity entailed in an independent third-party assessment may also provide those who must appropriate funds a higher level of understanding and comfort that the assessed need is indeed legitimate and measured.

The number of threats and violent incidents targeting the judiciary has increased dramatically in recent years. At the federal level, the U.S. Marshals Service’s Center for Judicial Security reports the number of judicial threat investigations has increased from 592 cases in fiscal year 2003 to 1,258 cases by the end of fiscal year 2011. At the state and local levels, the most informative data about state courts comes from studies conducted by the Center for Judicial and Executive Security (CJES). Their data show that the numbers of violent incidents in state courthouses has gone up every decade since 1970.

In 2010 CJES’s Judicial Counter-Violence Initiative released its study on “Court-Targeted Acts of Violence.” This comprehensive study focused on courthouse shootings, bombings, and arson attacks. It covered incidents occurring in the United States over a 40-year period (1970-2009). Since publication of this study, CJES has continued to research and document courthouse shootings, bombings, and arson attacks, uncovering multiple incidents that had been previously unrecorded during the stated study period.

A breakdown of the CJES research data show that 199 incidents (shootings, bombings, and arson attacks) have occurred in state courts from 1970 through 2009: 20 during 1970-79; 37 during 1980-89; 64 during 1990-99; and 78 during 2000-09. In addition, CJES has documented 11 state courthouse incidents for 2010 and 13 for 2011. Clearly, incidents involving shootings, bombings, and arson are on the rise.

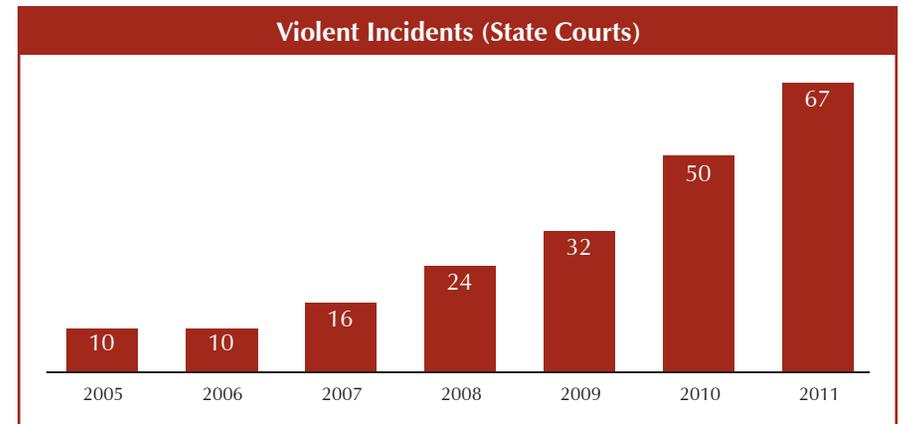
Additionally, CJES began in 2009 to track and record violent incidents in courthouses other than shootings, bombings, and arson attacks. These include knifings and other assaults, bomb plots, and incidents of violence that stop just short



of a shooting, bombing, or arson incident. With its 2012 publication “Disorder in the Court—Incidents of Courthouse Violence,” CJES has documented 209 such “other” incidents involving state courts from 2005-11: 10 in 2005; 10 in 2006; 16 in 2007; 24 in 2008; 32 in 2009; 50 in 2010; and 67 in 2011. Again, these types of violent incidents are on the rise.

The CJES research reveals that a majority of all of these types of incidents are “case-related.” This means that the person committing or plotting a violent act was involved in a past or present matter before the court. To commit a violent act in the courthouse, a person must, in addition to having motive and intent, be able to 1) identify the target; 2) determine the incident venue; 3) attempt to circumvent or bypass security; or 4) identify an incident site that either has a lack of security or a recognized vulnerability, limitation, or deficiency that can be readily exploited.

Of note is that arson attacks, through the use of improvised incendiary devices, have increased in number and frequency. This is predominately a result of “Incident Displacement Effect,” in which because of heightened courthouse security measures (e.g., security screening, controlled access, law-enforcement staffing, etc.) some individuals may have to choose locations other than the courthouse to commit violent actions. These “incident-displaced” locations might include security-screening stations and courthouse plazas, parking, and perimeter areas. The concern is that off-site locations, such as judicial residences, will become even more targeted. A few examples of measures designed to counter this effect



include residential security and risk-based assessments, protective intelligence and investigation programs, crime prevention through environmental design (CPTED) features, physical security and surveillance systems, identity-protection programs, and sound personal and travel security considerations.

With the advent of courthouse security awareness, heightened security measures, refined policies and procedures, specialized training, and site-specific security measures, one might have expected that the number of incidents would have decreased rather than increased in recent years. However, when one delves further, it becomes evident that because of the environment surrounding court proceedings, normally “good-persons” may resort to doing “bad things.” Those predisposed to violence may also act out on their impulses. This can be attributed to self-perceptions (actual or perceived) of what constitutes a “highly charged emotional event.” High-threat and high-profile proceedings may be considered highly charged emotional events but so might criminal court, family court, traffic court, conciliation court, etc. It depends entirely on what the involved believes—not what you or I do. What does prevent most of us from acting out are behavior or violence “inhibitors,” including strong family support, employment and financial stability, morals, freedom from incarceration, good health and well-being, and respect for authority, law, and justice. If these inhibitors are weak or absent, and if an individual is placed in a “highly charged emotional event,” there is a higher potential or risk of violence. The general rule is the more inhibitors one has, the less the threat or



risk they pose; the fewer the inhibitors one has, the higher the threat or risk they pose. The stressor (i.e., what causes one to lash out) in a courthouse that may precipitate the violent act could be a sentence, verdict, testimony, bond revocation, custody status, or criminal, civil, or family court ruling, order, or fine. Therefore, official court actions can be classified as potential stressors, and all court proceedings have an associated inherent risk and potential for violence escalation.

It is not surprising that incidents of courthouse violence have been trending upward. The risks involved in courthouse operations are great and varied, and they can never be eliminated. But with proper attention and care, they can be minimized.

Minimizing the risks is not necessarily expensive. Much can be done with little or no additional direct costs. Getting organized and getting the word out on security matters can go a long way toward minimizing security risks. Getting organized means first establishing a formal court security committee. The committee should be chaired by a judge and include court staff and stakeholders with an interest in or responsibility for court security—for example, representatives from law enforcement, the district attorney, the county facilities department, human service agencies, and first responders. The committee should meet regularly and be empowered to exercise rigorous oversight on all matters relating to security within a courthouse. Without such a committee, it is difficult, if not impossible, to assess and address properly the large number of security challenges facing court leadership.

Getting organized also means developing a comprehensive and cohesive set of policies and procedures on security. The existence of such policies and procedures signifies that those in authority have given these matters proper thought, that

concepts of best practices have been taken into account, and that an effort has been made for consistency with respect to security procedures. Once established and approved by the committee, policies and procedures must be promulgated and be the subject of a rigorous training regimen for everyone who works in the courthouse. Further, every single person who works in a courthouse has the potential to materially enhance the safety and security of their work environment, to be the “eyes and ears” of a workforce constantly alert to risks and threats, especially judges, court administrators, court staff, and other officials who have been well trained on well-publicized policies and procedures.

Of course, not all necessary improvements to security can be achieved without additional direct costs. There can be the need for security equipment, such as magnetometers, wands, x-ray machines, closed-circuit television (CCTV) camera systems, and duress and intrusion alarms. Moreover, there is also often a need for greater security-officer-staffing levels. Security equipment alone will not secure a courthouse. There must be a sufficient number of court security officers (CSO) to staff weapons-screening stations, to be present in courtrooms, to patrol hallways, and to conduct regular external inspections of the building perimeter and parking areas.

Obtaining funding is another challenge for court security. It is often the determining factor when considering whether to install equipment or increase security staffing. Officials around the country have been quite creative and innovative when it comes to funding. Some have gained the required funding through federal and state grants, Homeland Security funds, filing fees, asset-forfeiture programs, and mutual-aid collaborations. Others have had substantially more difficulty when it comes to funding. In that regard, the Bureau of Justice Assistance (BJA) awarded a 2011/2012 grant for the National Center for State Courts (NCSC) and CJES to conduct a 12-month national assessment on court security that includes identifying the current available resources to address the most critical needs. It is expected that when completed the assessment will be an invaluable reference with addressing this issue.

While security threats and incidents are rising in state courts, available funding for court security equipment and staffing is becoming more and more limited

due to budget constraints. Based on recent security assessments that the NCSC has conducted in approximately 225 courthouses throughout the country, there is ample evidence suggesting that critical needs for security resources are being left unmet. In one state, the NCSC security team assessed over 40 court locations and identified more than \$1.5 million in costs needed for additional security equipment.

In 2012 judges and court administrators with responsibility for courthouse security continue to seek guidance and training on how to discharge that responsibility effectively. Specifically, they want to know what measures to take to minimize risks and how best to seek funding to pay for those measures with state or federal funds.

In addition to the CJES research discussed in this article, there are three premier documents to assist judges and court administrators in developing and implementing effective measures for courthouse security. These documents provide a wealth of information on the best security measures to implement, how to approach implementation in a cost-effective manner, and how to develop strategies to fund those measures that may be costly.

The first of these three documents is the *CCJ/COSCA Court Security Handbook: Ten Essential Elements for Court Security and Emergency Preparedness* (2010). The ten elements are 1) standard operating procedures; 2) self-audit; 3) emergency

The stressor (i.e., what causes one to lash out) in a courthouse that may precipitate the violent act could be a sentence, verdict, testimony, bond revocation, custody status, or criminal, civil, or family court ruling, order, or fine. Therefore, official court actions can be classified as potential stressors, and all court proceedings have an associated inherent risk and potential for violence escalation.

management; 4) disaster recovery; 5) threat assessment; 6) incident reporting; 7) funding for court security; 8) security equipment and costs; 9) resources/partnerships; and 10) new courthouse design. Each element covered in the handbook features a general discussion of what the element encompasses and why it is so important, a practical guide on what needs to be done to put the element in place, and a list of additional references for more expansive and detailed information.

The second document is “Steps to Best Practices for Building Court Security,” developed by the NCSC (Fautsko et al., 2010). This document sets forth guidelines for best practices in all aspects of courthouse security. It also sets forth steps in phases that can be taken toward achieving these best practices. Recognizing that these measures at the “best practices level” can at times be costly, these steps are presented in realistic phases so any court in its discretion can adopt incremental improvements before reaching the level of best practices. These steps in phases are stepping-stones along an ascending path to court security improvement—improvement that can be achieved thoughtfully and over time.

The third document is “Guidelines for Implementing Best Practices in Court Building Security,” a report produced by NCSC and funded by the State Justice Institute (2010). This report contains four parts: a) an identification of the estimated costs associated with improving security as recommended in the “Steps to Best Practices”; b) a framework of priorities that a court may follow in deciding when and how to make improvements, as recommended in the “Steps to Best Practices”; c) strategies for seeking the funds necessary to make such improvements; and d) a description of performance and accountability measures that a court can use to measure the effectiveness of implementation efforts and to sustain funding for those efforts.

In closing, judges and court administrators should give serious consideration to securing outside experts to conduct a comprehensive security assessment of their courthouses. A careful analysis by an independent third party will provide a fair and objective picture of what is really needed to improve courthouse security. The expertise and objectivity entailed in such an assessment may also provide those who must appropriate funds a higher level of understanding and comfort

that the assessed need is indeed legitimate and measured. It should be noted that the assessments discussed here are not simple “checklists” or “inventories” but are contemporary documents that account for the complete multicomponent process of court security.

Providing a safe and secure environment for those who work in or visit a courthouse is a vital responsibility of judges and court administrators. Given the rise in violent court incidents and the constant threat of future incidents, and based on funding constraints, providing this type of a secure environment is a daunting challenge. However, with a careful and measured approach, improved communication, and access to funding, this challenge can be met in a way that will minimize the risks inherent in courthouse operations.

RESOURCES

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Justice Eileen C. Moore was charged with finding artwork for the new 4th District Court of Appeal building in Santa Ana, California with no budget. She contacted the school superintendent and then the probation department got involved. Students read court cases and depicted them in murals. This year's Trends cover was created by a 17 year old at Juvenile Hall. The case involved gang violations and disfiguring a public place and the young artist had also been charged with graffiti crimes. The resulting mural hangs in the courthouse, along with more than a dozen other paintings depicting Orange County, California cases.

