

MINI-SYMPOSIUM ON COURT SECURITY

Editor's Introduction

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The genesis of this mini-symposium was the aftermath of the 2005 Atlanta courthouse shooting and the murders of a federal judge's family in Chicago. As chair of the National Association for Court Management's *Court Security Guide*, I attended the March 2005 Court Security Summit and was struck by the commitment of those attending to finding operational solutions to these issues and concerns. Even more telling, however, was the definitional challenge. As the NACM *Guide* suggested and the summit made clear, what was included within "court security" depended largely upon the person or the office held. As Rufus Miles once quipped, "Where you stand depends upon where you sit," and those sitting around the tables of the summit and in courts around the nation were espousing occasionally contradictory, although somewhat similar, meanings of court security. Moreover, while the conversations between judges, sheriffs, and court administrators as to what was and was not court security drove much of the overall conversation, others in academia, information technology, and even Homeland Security began to present their views and definitions.

By the summer of 2005, it became clear that there was a need to have all parties to the conversation lay bare their own concepts in one place and at one time. Discussions with the editor of this journal about the possibility of such a mini-symposium that would parallel a similar one that had focused on court administration education (26 *Justice System* 162–218 [2005]) led to agreement to proceed. Invitations were sent to key players within the courts: a judge, a court administrator, a sheriff, an architect, an academic, and a legislator. All were asked a short, direct, yet complicated question: How do you define court security? The day the letters went out, then-Tropical Storm Katrina made landfall in Florida, destined for Louisiana and Mississippi.

Security and Emergency Management. The six resulting articles form the core of this mini-symposium. Two additional research articles, one by Thomas Birkland and Carrie Schneider and the other by Jon Gould, serve as bookends for one particular strain of thought that runs through the other essays—the inclusion (or intrusion) of emergency management into court security. The article by Birkland and Schneider began as one focused exclusively on 9/11 and disaster management. After Katrina, the essay was modified to include references to the hurricane's effects, based on research done on the ground in the Gulf states. Within this article, concepts that would otherwise be considered as court security matters are either related to the concept of emergency management or are presented alongside emergency management with little distinction between the two. This manner of presentation speaks volumes, as many in the court community are unwilling or unable to present court security without mentioning or including emergency management in the same breath.

In like fashion, some of the other essays blurred this security/preparedness distinction. Nor was this the byproduct of Hurricane Katrina alone. As Caroline Cooper, speaking from the perspective of an academic notes, the process of “making [court security] synonymous with court emergency preparedness generally” was taking place immediately after September 11 and possibly even earlier. In giving the court administrator’s perspective, Zygmunt Pines specifically notes emergency planning, albeit in passing. Emergency-preparedness concepts, even if not identified as such, also appear when Judge Colin Campbell and Marcus Reinkensmeyer discuss efforts in Maricopa County, Arizona. Contrast this focus on court security as part of or intertwined with emergency management with the research Gould conducted post-Katrina, the results of which contain little if any discussion of emergency management, as Gould instead concentrates almost exclusively on issues of courthouse physical structure, screening, equipment, and security procedures. This presentation of court security as separate and distinct from emergency management is reflected in the essays of a sheriff, John Zaruba; an architect, Edward Feiner; and a legislator, Dow Constantine.

Expectations vs. Reality. Another thread that runs through all the essays in one form or fashion is the disconnect between what we as a society demand from leadership and what we actually receive. As German sociologist Ulrich Beck noted in *Risk Society* (1992), and research conducted by Paul ‘t Hart and Arjen Boin (2003) more fully elaborated, there are six major disconnects between what the public wants and demands of its institutions, including the courts, and what leaders are willing and able to accomplish. While each of the six essays demonstrates operational difficulties for organizations, the articles of this symposium suggest that for courts, the problems are even more fundamental and strike at definitional issues.

First and foremost is the notion that leadership must put public safety ahead of all other priorities. The research finds that leaders perceive the costs of maximum safety as too high, both in terms of economic and political capital. While every essay deals with funding in one form or fashion, two are noteworthy in this regard. Feiner demonstrates from an architect’s perspective that the definition of maximum safety, the ability of a court’s physical structure to withstand a massive bomb blast and the people inside to stand safely and watch the explosion, is impossible both as a matter of physics and as a matter of expenditures. Court administrator Zygmunt Pines, in discussing funding, notes that court security should be, but currently is not, viewed as “a necessary operational expense of the enterprise of justice.”

Second, leaders are expected to plan for the worst-case scenario but are wary to prepare for their crisis-response roles. Only where the leader or the organization has been involved in such an incident is there a willingness to engage in these issues, as when Birkland and Schneider point to the efforts of the federal Fifth Circuit, which took steps after September 11 to prepare for future catastrophic events. The key difference in approach may be based on the definition of organization. Court leaders who view attacks elsewhere as the problem of “another” court rather than as an attack

on the judiciary as a larger institution are less inclined to act. Examples of the latter are provided by Dow Constantine's description of a court security breach in Seattle that points to activity by a nearby court within days after. Carrying the matter even further is Sheriff John Zaruba, who begins his article by naming Oklahoma City and Fulton County, locations far distant from his own Illinois. The point is subtle but clear; the definition of a court organization impacted by security attacks or breaches cannot be limited to only a particular courthouse in a given location.

Third, leaders expected to heed warnings about future crises find information about threats inaccurate, misinterpreted, or ignored. There is no need to dwell on the ramifications of bad intelligence on the national or international fronts, but on the judicial front, the need for information gathering and sharing is no less important. Gould notes the placement of cameras in courthouses linked to video-display units that have no one watching them as an instance of information unused becoming useless information.

Fourth, managers who, amid crisis, believe in provision of top-down command and control from a single leader with a clear focus find themselves working in situations of lateral coordination. Here, the Campbell and Reinkensmeyer essay is noteworthy. The request for a definitional essay went to Judge Campbell for his perspective as a jurist, yet the article submitted was coauthored with his trial court administrator, and it contained twenty-six uses of the word "we." It is hard to determine whether this expansive definition of a judge's perspective on court security to include a court administrator in the equation is commonplace or is unique to the given set of circumstances. Incontrovertible, however, is the contention in almost every article of either the need for or use of cooperative efforts in the process of securing courts.

Fifth, promises of leaders seeking to be compassionate toward victims leads inevitably to failure to meet such unrealistic commitments. Cooper notes three state chief justices and their definitions of court security that range from narrow to broad. A balance must be struck as best as possible in each state, and for that matter in each court, as to what is and is not being promised. As the articles here broadly demonstrate, and the three chief justices indicate, there is and ought to be aversion to promising things outside the control of the one making the guarantee.

Finally, there is the anticipation that leaders will learn postcrisis what worked and what did not. However, research shows otherwise, as, for the most part, leadership becomes a matter of blame assignment and blame avoidance, with learning relegated to a tertiary position. As architect Feiner puts it, "In our nation, the greatest crime other than actually doing the dastardly act is being negligent. The 'blame game' has become a national pastime." Those courts that define the critical component postcrisis as the "blame game," or those courts which have the situation defined for them in those terms, will suffer from the burdens that entail.

These articles are an effort to rectify the problem noted in the final point. This is neither the place nor the time for the "blame game," and the authors are to be commended for putting forth their particular perspectives without engaging in that form

of discourse. Indeed, this material is focused not on errors in the past but has been cast as a way to grasp in the present the perceptions and realities of those involved in these issues. As leaders in the court community find their own efforts at court security being defined or redefined by ongoing events, which are a nation away or which are based on incidents in their own halls, it becomes useful to understand what the participants mean when they are amid discussion. This symposium by no means was contemplated as a way of providing a definitive definition of the term “court security,” but instead it serves as a means by which to determine overlapping principles and come closer to a better comprehension. jsj

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Emergency Management in the Courts: Trends After September 11 and Hurricane Katrina*

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This article is an overview of trends in emergency preparedness and management in the courts, with a particular focus on trends following the September 11, 2001 terrorist attacks and Hurricane Katrina in 2005. We describe the common features of disasters and of the management guidance available to courts. Of particular note is the degree to which Katrina was a catastrophic event that affected a broad geographical area, while the September 11 attacks constituted a major disaster but without the widespread damage done by a major hurricane or earthquake. While much emergency planning is based in anecdote and experience, we argue that there are important research questions contained in many plans and planning-guidance documents relating to the nature and extent of emergency planning in the courts, its variability across jurisdictions, and the extent to which other branches of government consider court security a priority. Further research in these questions would better inform efforts to plan and to encourage planning for extreme events that could affect the courts.

The courts serve a central role in our constitutional democracy. Under the rule of law, people rely very heavily on the courts and on courthouses, all of which are subject to various natural, technological, or humanly caused disasters or catastrophes. Preparedness for such events is a vital government function, but it is particularly important for the courts because they must remain open to the extent possible to ensure that all people's legal rights are protected.

This article summarizes significant managerial trends in disaster management and the courts. September 11 plays a prominent role in this discussion, because much of what we present here is a summary of court emergency-planning efforts that were a direct result of September 11 (see Leibowitz, 2001). September 11 was a major focusing event (Birkland, 1997) that focused more attention on emergency management than any other event in the previous twenty-five years. The other disaster examined here is Hurricane Katrina, which so damaged both state and federal courts (as well as New Orleans and its environs generally) that many courts were not yet fully operational more than a year after the disaster.

This article thus expands upon an earlier report prepared for the Center for Court Innovation (Birkland, 2004) by considering the range of planning guidance and actions that have been taken by courts to address actual or potential disaster. The research presented here is based on secondary sources, particularly the legal press, although much of the discussion about the courts in New Orleans and in New York City after the September 11 attacks comes from interviews with court officials. The

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article concludes with a brief consideration of research questions that have arisen from the September 11 and Hurricane Katrina disasters; we argue that what has heretofore been anecdotal evidence of different levels of planning and preparedness could be better understood with systematic research.

OVERVIEW: EMERGENCIES AFFECTING THE COURTS

Since at least 1989, in the wake of the Loma Prieta earthquake in California, the power of natural and humanly caused disasters to disrupt the courts' business has been understood (see generally Birkland, 1998; Boyum, 1998; Wasby, 1998a, b; Salokar,

Table 1
Important Events Affecting the Courts, 1989-2005

Year	Event	Jurisdiction	Summary of the Event	Effects
1989	Loma Prieta Earthquake	California	Magnitude 6.1 earthquake near San Francisco killed at least 63 people. Damage throughout the Bay Area. Significant disruption to transportation and utilities, but not as grave as other historic earthquakes in California.	Among the buildings damaged was that housing the U.S. Court of Appeals for the Ninth Circuit, which was required to vacate its quarters for seven years after the earthquake, and which took two years just to find temporary space adequate to its needs; in the intervening period, the court was forced to use makeshift space (Wasby, 1998).
1992	Hurricane Andrew	Florida	Category 5 hurricane that struck just south of downtown Miami. The town of Homestead and other areas were nearly or totally destroyed. The storm would have been much more serious had it struck in the more densely populated northern part of the county. Most damage was due to very high winds.	Greater appreciation for the threat of hurricanes on all sectors, including the courts. Increased efforts by the Florida courts to plan for emergencies.
1995	Bombing of the Murrah Federal Building	Oklahoma	A rental truck filled with ammonium nitrate (fertilizer) and nitromethane racing fuel exploded in front of the federal building in Oklahoma City, destroying much of the building, damaging many nearby buildings, and killing 168 people.	Greater appreciation of the threat of terrorism against federal facilities. While the courts were not located in the Murrah Building, related agencies such as the FBI and DEA were in the building.

Table 1, *continued*

1997	Red River Floods	North Dakota, Minnesota	Red River floods due to rapid snow melt. Results in evacuation of 75 percent of Grand Forks. Over \$2 billion in damage in the region.	In 1997, severe flooding of the Red River, which forms the border between North Dakota and Minnesota, did billions of dollars of damage and flooded most of Grand Forks, North Dakota, the largest city in the state. The trial courts were forced to move to a town 30 miles from Grand Forks, and some criminal defendants were forced to be relocated as far as 200 miles away. This event underscored the importance of planning for the adequate housing and management of prisoners in jails, either those serving a sentence or awaiting trial (Pedeliski, 1998).
2001	September 11 attacks on World Trade Center	New York	Terrorists hijacked four jetliners, crashing two into the WTC towers, one into the Pentagon near Washington, D.C. One plane crashed in Pennsylvania. The towers collapsed, killing over 2,500 people, and doing substantial damage to infrastructure in downtown Manhattan. Access to downtown difficult because of damage and the treatment of the attack as a "crime scene."	Most courts in affected area closed for three business days; most reopened following Monday, but many personnel, public access, and communications problems remained for some weeks after the disaster. The disaster destroyed NYC's Emergency Operations Center and two court officers were killed during rescue efforts (Metropolitan Corporate Counsel, 2002).
2005	Hurricane Katrina	Louisiana, Mississippi	Category 3 (at landfall) storm; the eye passed between New Orleans and Gulfport, Miss. Major storm surge and wind damage along Gulf Coast; damage in New Orleans due to high storm surge from Lake Ponchartrain and main failures of levees in New Orleans and nearby. The City of New Orleans was 80 percent flooded. Many people forced to evacuate, and the city still is only half as populous as before the storm.	Rendered many court facilities in New Orleans and surrounding parishes unusable or inaccessible. Substantial problems with holding suspects, maintaining evidence, or conducting even routine court business.

1998; Pedeliski, 1998). A number of major disasters, and one catastrophic natural disaster, Hurricane Katrina, have had a substantial influence on the administration of justice in the communities where they struck (see Table 1).

All the events noted in Table 1 differ in important ways. However, they also have several elements in common, including the significant disruption of normal functions of government and the shifting of priorities to respond to the disaster; considerable economic disruption, ranging from business interruption to labor shortages caused by evacuations; and the extent of social disruption, including deaths and injuries, the displacement of people from their homes, uncertainty about future risks, and uncertainty about how people's lives would be during and after the recovery from the event. None of these issues were new before September 11, but the attacks directed the courts' attention to homeland security issues. This was true across all levels of government and into the private sector, although Hurricane Katrina has demonstrated the shortcomings of an overemphasis on "homeland security" at the expense of understanding and responding to natural hazards (Tierney, 2005).

Regardless of the nature of the hazard, disasters will continue to challenge court managers for many years to come. Court managers must consider a range of complex issues, from the physical design of courthouses (Daniels, 2002; Griebel and Phillips, 2001) to the physical safety of its employees and to the structure of data and communications systems and their ability to function in a disaster, to policies that balance public access with security needs. Planning and training needs will become more urgent and more specialized.

While the probability of any event hurting any one courthouse at one particular time is small, it is important to consider such hazards as what have come to be known as *low-probability, high-consequence events*, the effects of which are so grave that planning for even unlikely events is necessary. The specific type of event is less important for planning purposes than the possibility that *some* sort of damaging event might happen. The probability of risk of such an event is something that generally cannot be changed, but the *risks* posed by such events are susceptible to change through careful management and decision making.

CASE STUDIES OF COURT SECURITY

To illustrate how disaster preparedness for the courts has become an important issue, we outline two case studies: the September 11 attacks and the impact of Hurricane Katrina on the courts in New Orleans.

The September 11 Attacks and Court Security. The September 11 attacks on New York destroyed the World Trade Center complex, including a building north of the main complex, 7 WTC, which housed the New York Office of Emergency Management. Many state and federal courthouses in Manhattan are located south of 14th Street, which defined the northern limit of the area of restricted access—the "frozen zone"—that was established in the immediate aftermath of the attacks. This northern limit was moved southward to Canal Street on September 14. While the

attacks did knock out power and communications lines, the frozen zone created more operational problems than did communications and information technology problems. The Criminal Term of Supreme Court had working computers and phones on September 12, but their staff and others could not access the building, notwithstanding efforts to open up access to those with court business (Root, 2002). This constraint was eased by September 17, when the restricted zone again shrank (Birkland, 2005:1). The New York Office of Court Administration (OCA) was also located in this area, as were the New York County District Attorney's office and the Special Narcotic Prosecutor's office. The federal courts in the south-of-Canal frozen zone included the U.S. Court of Appeals for the Second Circuit and the U.S. District Court and U.S. Bankruptcy Court for the Southern District of New York. Commerce and the private bar were greatly affected, including the New York Stock Exchange. Between 14,000 and 17,000 attorneys worked in firms in the original frozen zone south of 14th Street (Root, 2002:9; Wise, 2002). At least 1,400 lawyers in and near the World Trade Center lost their records when their offices were completely destroyed (Lippman, 2002).

New York State Chief Judge Judith S. Kaye and Chief Administrative Judge Jonathan Lippman sought to keep the courts open and to maintain normal business as a symbol of the ability of the judicial system, and of our system of government in general, to continue to function in the face of terrorism. However, by 3 p.m. on September 11, the courts' leaders were forced to close the courts statewide, and attention shifted toward reopening the courts as soon as possible. All courts outside the World Trade Center exclusion zone reopened normally on September 12, and the courts in the immediate area of the attacks reopened on September 17 (Lippman, 2002:4).

Despite the remarkable efforts of court employees to restore the courts to full operation, other factors, such as transportation restrictions in lower Manhattan, influenced the courts' ability to return to normal. There were considerable managerial, physical, and emotional challenges to overcome. These included communicating with the public and jurors as to the status of court operations and with the bar to provide needed information while helping attorneys recover lost records, securing and moving detainees from jail to court, restoring telephone and data communications, and ensuring that buildings were structurally and environmentally safe. These challenges occurred in an environment of increased concern about threats, the ability of personnel to manage threats, and the availability of resources to address threats effectively.

An important feature of this incident was the extent to which the courts were able to aid the bar in restoring their records. Over 1,400 attorneys had offices in the World Trade Center facility. Where records could not be accessed because they were destroyed or inaccessible in the frozen zone, the New York courts were able to aid attorneys by providing copies of materials already maintained in the courts' systems. This assistance was helpful to the attorneys but also, more to the point, made it possible for the courts to avoid issuing blanket postponements of cases, which would

have eventually led to further case backlogs. As it turned out, postponements were handled on a case-by-case basis, which significantly reduced the future backlog and preserved fundamental rights (Kaye, 2001; Metropolitan Corporate Counsel, 2002). The federal courts were similarly able to aid the bar after Katrina, although the number of displaced lawyers, and the challenges involved in locating them when they lost their homes, was much greater.

Hurricane Katrina. Hurricane Katrina was one of the costliest and most destructive natural disasters in the history of the United States. The total cost in terms of lives lost and damage to property is still unknown (Federal Emergency Management Agency [FEMA], 2005). However, early estimates indicated that the damage will cost the United States between \$150 and \$200 billion. In comparison, September 11 cost the government approximately \$63 billion (Suplee, 2005). Hurricane Katrina was, therefore, not merely a disaster; it was a catastrophe, the effects of which are still greatly felt more than a year after the storm struck the coast. A catastrophe is a disaster that, unlike the September 11 attacks or even the Loma Prieta earthquake, overwhelms the capacity of local and state governments to effectively lead response and recovery efforts (Quarantelli, 2005).

The primary damage from Hurricane Katrina came when it made landfall along the Mississippi-Louisiana border on August 29, 2005 (FEMA, 2005). While it was a strong Category Three storm one that might do substantial but not catastrophic damage, Hurricane Katrina resulted in a storm surge of up to thirty feet, which led, ultimately, to key levee failures in New Orleans, which resulted in flooding to over 80 percent of the city of New Orleans. Some neighborhoods experienced twenty feet of water.

Louisiana's court system and the U.S. Court of Appeals for the Fifth Circuit were profoundly affected. New Orleans was home to 7,500 attorneys, one-third of the state's bar. The offices of the Louisiana State Bar Association and the New Orleans Bar Association were flooded. The building housing the Louisiana Supreme Court and the Louisiana Court of Appeal for the Fourth Circuit, on Royal Street in the French Quarter, suffered minor flooding. The main problems for these courts were the buildings' inaccessibility because the city was evacuated, and few people were allowed back in quickly; the lack of utilities, power, in particular; and the impact of the storm on court personnel, all of whom were required to evacuate the city and most of whom suffered their own, often severe, property damage. City and district courts in eight parishes of metropolitan New Orleans were damaged and unusable. Over eight thousand prisoners had to be relocated, a process that was in many cases not handled well. The damage to the courts, and the disorganization that followed, was so severe that many suspects will be released because they have been held too long without charges being filed against them (Crowe, 2006). Evidence in approximately 3,000 criminal cases pending before the court system was lost, and many witnesses and victims had left the city, and even one year later, many had not returned. As a result, many cases were delayed or dismissed for lack of witnesses.

Orleans Parish (New Orleans) has separate criminal and civil courts. The civil court moved to the town of Gonzales, while the criminal court has moved from its quarters on Tulane Avenue to the Hale Boggs Federal Court Building, in a part of town far less damaged by flooding. The Louisiana Supreme Court moved its operations to temporary quarters in Baton Rouge. On October 26, the Louisiana Court of Appeal for the Fourth Circuit moved its operations to the campus of Southeastern Louisiana University in Hammond, about sixty miles from downtown New Orleans. The clerk of the fourth circuit relocated her home to Lafayette, over two hours from Hammond. The clerk was able to borrow space in the law library of the Court of Appeal for the Third Circuit, but still faced a lengthy commute to the court's offices in Hammond. The Orleans Parish criminal courts were able to resume jury trials in June 2006, but by August 2006, the court had still not fully returned to its Tulane Avenue headquarters; as of this writing some functions of the Orleans Parish civil court are still contained in the Convention Center.

The federal courts were somewhat better prepared for the storm than were the state courts, in large part because they had more options for alternate work sites. After the September 11 attacks, the Fifth Circuit Judicial Council met to discuss "terrorism and cyber attacks; chemical, biological and bomb threats; and the potential of natural disasters" and to plan for these events (*Third Branch*, 2001, emphasis added). The Court of Appeals for the Fifth Circuit moved its operations to its offices in Houston. When federal district courts had to relocate, Congress enacted legislation allowing federal courts to hold court outside their districts. For example, the bankruptcy court for the Eastern District of Louisiana relocated to Baton Rouge, in the Middle District of Louisiana (*American Bankruptcy Institute Journal*, 2005). By November, the federal courts, located in less damaged buildings on higher ground, had returned to operation.

The physical damage done by the storm was compounded by the effect of devastation at this scale on New Orleans as a community. Many people had been relocated, or had left New Orleans with no clear plan for returning. The storm therefore presented a greater challenge than most court leaders had anticipated. For example, "For both state and federal courts, the surprising discovery was that the biggest obstacle to gearing up was not court infrastructure as much as finding staff housing and a place to send their children to school." Fifth Circuit chief judge Carolyn Dineen King said she learned quickly that contingency operation plans developed after 9/11 did not anticipate that employees would have to move and bring families with them and also enroll children in school. The original plan called for moving the court to a rural air-force base with unused space in Louisiana, but court staff had nowhere to live and no schools nearby, she said (MacLean, 2005:10).

Of the twelve judges on the state Court of Appeal for the Fourth Circuit, nine judges were displaced due to damage to their homes. Still, the court managed to meet once en banc in Baton Rouge and resumed operations in Hammond in October. In the intervening period, closure orders for the affected courts created legal holidays, thereby extending relevant deadlines.

SEPTEMBER 11, HURRICANE KATRINA, AND DISASTER PLANNING

September 11, Hurricane Katrina, and events that predate these disasters have led to a considerable amount of advice for court managers. A review of several representative documents (National Center for State Courts, 2002; Minnesota Conference of Chief Justices, n.d.; Florida Supreme Court, 2002; SJI Court Emergency/Disaster Preparedness Planning Project, 2005; Wisconsin Courthouse Security Resource Center, 2003) finds remarkable commonalities in these documents. These common features are outlined below. At the conclusion of this section, we briefly discuss continuity of operations planning (COOP) as a rubric under which all these activities can be gathered to focus on the need to restore the courts to operation as soon as is practicable.

Leadership. As the NCSC (2002) notes, “the court’s leaders set the tone for effective emergency management.” As Root (2002:4) notes, “the type of leadership structure in place at the time of a crisis can influence the performance of an organization during a period when its regular mode of operation is disrupted.” Following September 11, the Fifth Circuit held an emergency-planning workshop at the request of Chief Judge Carolyn Dineen King so that it could better handle threats to and the safety of those who work in and frequent the buildings. The Fifth Circuit was the first of thirteen federal courts of appeals to take this step to gage its emergency preparedness (*Third Branch*, 2002), and it paid some benefits after Hurricane Katrina.

Leadership is also important after a crisis. Chief Judge Kaye and Chief Administrative Judge Lippman immediately took action after the September 11 attacks, leading the effort to restore the downtown Manhattan courts’ ability to function. Their determination to reopen the courts was very similar to federal Chief Judge David Russell’s commitment to reopening the federal courts in Oklahoma City after the 1995 bombing of that city’s Alfred P. Murrah Federal Building (National Center for State Courts, 2002). In both cases, court leadership inspired all members of the court community to work together to reopen the courts. Court managers are also important leaders. In the Louisiana cases, the clerks of court and their staffs took major leadership roles in a wide range of activities. These ranged from working with the IT staff to ensure that critical computers were recovered from buildings to ensuring that payroll systems were in place and finding all court personnel. These challenges were not as severe after September 11, because the attacks did not directly affect many residential areas, nor did they as severely affect telecommunications and utilities as did Hurricane Katrina.

Priorities. A key feature of leadership is setting priorities. Given limited resources, the courts and their managers cannot possibly plan for every possible threat. The courts must prioritize their emergency-management needs based on the most likely and the most injurious events that could influence the administration of justice.

As suggested by the *National Strategy for Homeland Security*, cost and efficiency considerations require that courts undertake reasonably rigorous risk assessments

before allocating scarce resources, particularly to very low likelihood threats (Office of Homeland Security, 2002:2). One can extend this logic beyond terrorism to natural disasters or to courthouse violence. For example, winter weather will likely disrupt regular business in cities and towns in northern states, but courts in these areas generally plan for these high-probability, lower-consequence events, and such events rarely put large amounts of people or property, including vital court records, at risk. Risk analyses are therefore implicit in these plans and are based on experience. By contrast, an earthquake or hurricane, while not necessarily yearly or seasonal, can put many lives at risk, destroy court facilities, and cause records to be lost. While the likelihood of such events happening in any given year is relatively low, the consequences of such events are sufficiently important that advanced training, planning, and drilling are necessary so that all will be ready to deal with these events. This is because even if the probability of a major hurricane or earthquake is low in any given year, the probability of such an event happening sometime in the next thirty or fifty years is often very high, and we have no way to predict when such an event will strike next. Of course, planning for snowstorms and earthquakes may not attract as much attention in Florida as it would in California, because the nature of the risks and of the courts' vulnerability to risk is different. This implicit risk assessment is usually reflected in planning documents and in the discussions among key court leaders.

Because risks and vulnerabilities can be highly variable, many emergency-management experts emphasize the "all-hazards" approach to planning for, mitigating, preparing for, and recovering from any human, natural, or terrorist disaster. Such approaches to planning tend to emphasize the most common type of major disaster that could befall a court, but proponents of all-hazards planning suggest that planning for one kind of natural disaster builds capacity and capability to address a range of natural disasters as well as terrorism (Tierney, 2005). For this reason, the all-hazards approach was the foundation of much of FEMA's work in the 1990s. With September 11, attention shifted to terrorism. This increase in attention was probably disproportionate to the hazard of terrorism, compared with other hazards. This lopsided attention to terrorism to the exclusion of other hazards was amply demonstrated by the fumbling responses to Hurricane Katrina. Ultimately, court leaders need to find an efficient way to address hazards that does not leave the court vulnerable to a low-probability, but still foreseeable disaster.

In the same way that pre-disaster planning must consider priorities, post-disaster actions must address urgent matters before they address important matters. Clearly, life safety is urgent. Other urgent matters include the safeguarding of records and evidence, information flows to stakeholders such as parties before the court and the public (including jurors), and the fair treatment of prisoners and detainees. Each court must, before a disaster, understand and communicate its own priorities. In addition, these priorities will not be viewed as priorities without effective leadership.

Plans. Plans are often criticized as being static or rote exercises, but the process of planning is as important, if not more so, than the actual planning document itself.

This is why many of the guidance documents for emergency planning are so small: New York's is twenty pages, with seventy pages of practical, fill-in-the-blanks forms that people can use to customize their plans. Wisconsin's guidance document is nearly as short, but outlines the considerations that courts should address during planning. In addition, organizations such as the Institute for Building and Home Safety (2006) and FEMA publish similar templates and guidance for emergency planning that are well suited to any kind of organization, although courts must modify these more generic documents to meet their needs.

Communications. There are four elements to communication: the technologies for communicating with essential court staff, the procedures for communicating with court staff, data communications and security, and procedures for communicating with stakeholders, ranging from those with daily business (members of the bar, primarily), to those with more occasional interactions with the courts as jurors, parties to legal actions, or users of other court services.

New York's manual calls for providing key personnel with backup communications equipment, such as cellular phones, handheld radios, and voice-over-Internet protocol (VoIP) telephones. However, as September 11 and Hurricane Katrina showed, any of these technologies can fail in an emergency, and in a catastrophic event such as Katrina, these systems can fail simultaneously. Even basic two-way radios are useful only as long as the means for keeping batteries charged is available. These considerations are central to any communications plan.

Any internal communication plan needs to take into account what will be communicated and to whom. The former category includes information such as court closings and openings, instructions on whether or how to work from home, instructions on reporting to alternative work sites, and the like. The decision about whether to post this information on a Web site, or to make it available via a call-in phone number, will hinge on how important it is for each individual to receive these messages and the sensitivity of the information being communicated. More timely communication may be needed before a staff member is able to log in or call in. However, not all staff members will need the same information or the most critical, time-sensitive information. Planning must balance the costs of information dissemination against the need for information to be quickly communicated and immediately acted upon (Root, 2002:25).

If telephones are still working, bottom-up call-in systems and top-down phone trees are useful. Larger courts might use call-in systems because they require less staff participation and they are usable by displaced workers if the call-in number is not in a disaster area. This is why toll-free numbers that ring in communities far from the disaster are often used.

Most information technology departments in courts follow similar procedures to protect against hackers and other sorts of attacks. More important after both Hurricane Katrina and the September 11 attacks are routine systems of data backup. Backing up computer systems to off-site locations is essential for business continuity

if computers at the primary work site are damaged, destroyed, or inaccessible. Taking backup tapes or other records home is a sound practice if the major hazard is fire or localized flooding, but in areas where disasters can strike entire metropolitan areas, backups must be kept far away.

Finally, external communication with stakeholders has become more challenging as a result of the proliferation of communications technologies that allow supervisors to communicate with their staffs. Faxes, cell phones, pagers, computers, and other devices have supplemented regular telephones. While supporting all these communications modes may be time-consuming, these systems also provide a level of redundancy that might improve the probability of messages reaching recipients, particularly when at least one of these modes of communication has failed.

Court managers must also be prepared to communicate key information to the public and to those having business with the courts. Each stakeholder group requires a different communication strategy. Most members of the public, for example, do not have an ongoing relationship with the courts and, therefore, must be reached through the mass media. The court's chief information officer or equivalent should be prepared to provide the mass media with information about court closings, alternative locations, changes in hours, and the like. The importance of this information should be stressed to media representatives, who may not have a good sense of why it is that the courts need to communicate with the public.

Communication with stakeholder groups with an established relationship with the court is more readily maintained. Attorneys, for example, can be notified of issues relating to practice through the courts and in conjunction with the local bar association. Attorneys, in turn, will notify litigants of changes in the status and schedule of their cases. The specialized media serving the bar are particularly important channels for disseminating information on the courts' status, changes in court procedures, and other information that helped the bar understand the courts' efforts to remain in business. After the September 11 attacks, the *New York Law Journal*, a daily newspaper, was central to this information-dissemination effort.

Because of the significant damage to the legal community in Louisiana, a communication system was also necessary to communicate with members of the bar. The federal courts, under a special master, established a communication system under a court order issued by Judge Richard Haik of the Western District of Louisiana. This communication center provided a point of contact for the displaced members of the federal bar, and provided assistance with, among other things, reconstructing files and reestablishing contact with other displaced counsel. The Louisiana Bar Association opened a business center for displaced lawyers, which provided access to work space, the Internet, meeting rooms, and online legal research tools. This business center was important in helping members of the bar reestablish contact with each other.

Jurors are a particularly important group with which open communication must be maintained. During the September 11 attacks, impaneled and potential jurors

made extraordinary efforts to appear at courthouses to discharge their duties (Root, 2002:3). This tendency may reflect the belief, deeply held on the part of most Americans, that the jury system is a pillar of American civil society. Given jurors' efforts in this regard, it is important that courts quickly and efficiently let jurors and potential jurors know whether their service will be required, when they may return to service, and where they should go if an alternate court site is established. Witnesses must also be informed as to the status of the courts. In Louisiana, the Orleans Parish Criminal Court established a toll free call-in line for grand and petit jurors, attorneys, and witnesses, and another line for defendants, specialty court clients, and those owing fees and fines.

Continuity of Operations. Continuity of operations is an important aspect of management in all levels of government (Federal Emergency Management Agency, 1999; Peterson, 2003a, b; Verton, 2002), including the judiciary (Peterson, 2003c) and the private sector. It is particularly relevant to large firms in sectors such as finance, which learned years ago that a continuity of operations plan (COOP) is important when disaster threatens to slow or halt business. However, this interest in and implementation of business continuity planning and operations in the private sector is uneven, as firms confront the same resistance, uncertainties, and resource constraints as in the public sector (Harris, 2003; Kotheimer and Coffin, 2003; Stahl, 2001). The emergency plan elements outlined above are important parts of COOPs because the COOP creates the conditions for an orderly response to and recovery from a disaster. New York's Office of Court Administration requires that New York City courts file their COOP with the deputy chief administrative judge (DCAJ) for the New York City courts and the chief of public safety.

Continuity of business planning will vary depending on the nature of a court, the nature of the guidance documents and other resources drawn upon for the planning, and the nature of the hazards or other threats to operation present at the courthouse. Many of the guidance documents list COOP separately or mention it as a parallel process to emergency planning in general. This separation of COOP from other planning is inefficient because the goal of planning is to ensure the minimal disruption of regular operations and the continued operation of vital functions of the court. But COOP has often been considered separately because of its initial focus on finding alternate work sites for staff, where information and communications systems are running and can, as seamlessly as possible, restore operations. The activation of a COOP must be coordinated among all key actors because of the activation of such work sites.

While some courts may deem alternative work sites needlessly redundant, experience has shown that natural hazards, in particular, can affect broad areas, so a long distance between the regular and alternative work sites is often the best assurance that the alternative site will be functional. The North Dakota courts learned the importance of having an alternative courthouse after the Red River Floods in 1997.

It appears that in both the North Dakota and Hurricane Katrina cases, alternative worksite planning was either not undertaken or was insufficient in the face of the scale of the disaster.

The COOP is also vital to effective recovery and restoration. Traditionally, recovery is often thought of as a facilities question: are the courthouse and its related infrastructure (phone, data, power, and the like) safe and sufficient for the restoration of normal business? Clearly, this is an important question. After the September 11 attacks, court facilities in lower Manhattan had to be concerned with these and other considerations, including public-health matters and the structural soundness of their facilities. This latter consideration is often a major part of recovery after natural disasters, as experienced by the North Dakota courts after the 1997 floods (Pedeliski, 1998) and by the U.S. Court of Appeals for the Ninth Circuit in San Francisco, which was displaced for nearly a year after the 1989 Loma Prieta earthquake (Wasby, 1998a). One reason for the slow return of the courts to the Royal Street building in New Orleans was concern over the safety of electrical and plumbing systems, even as the floodwaters receded and utilities were restored.

CONCLUSION: PROGRESS, CHALLENGES, AND RESEARCH NEEDS

As in so many aspects of American life, September 11 was a catalytic event in the history of court security in the United States. The experience gained and shared has been put into effect by many courts. Training and planning efforts have proliferated, and it is plausible to argue that court staff and leaders are now more familiar with emergency procedures than ever before. However, considerable challenges remain for courts in disaster areas. Hurricane Katrina teaches us that *catastrophic* disasters, that is, disasters that severely impede a community's ability to use its own resources to respond and recover, will disrupt the courts for weeks or even months. It appears that planning for a disaster of the scale of Hurricane Katrina was not undertaken by the Louisiana courts, but, in fairness, it should be noted that planning by all institutions at all levels of government was found to be wanting after this disaster.

The possibility remains that Hurricane Katrina may serve the same catalytic role, at least for courts along the Gulf Coast, that September 11 served for the New York courts. The extent to which September 11 or Katrina were indeed important "focusing events" that led to policy change (Birkland, 1997, 2006) are open research questions. Experience with other disasters suggests it is likely that attention to the issues raised by these disasters has already faded, and that the initial impetus for addressing preparedness for terrorism and natural disasters has become overtaken by the usual day-to-day pressures of the courts' business.

The sorts of prescriptions contained in various guidance documents are based on sound anecdotal evidence that court leadership is generally inattentive to terrorism or natural hazards, and that other branches of government are inattentive to these issues *as they relate to the effective operation of the courts*. There are, therefore, important resource constraints created by the dependency of other branches or agen-

cies of government to act; these dependencies range from the simple matter of having the county as the courthouse landlord to more complex questions of interagency and interbranch coordination of emergency planning, provision of resources for planning and continuity of operations planning, and the like.

While the prescriptive literature on court security is certainly useful, more research needs to be done on key questions on courthouse security. These include:

- What are the most common threats to court security?
- What are the most *consequential* threats to court security?
- How do these threats vary by jurisdiction?
- Is planning uniform within or between jurisdictions? What explains the variation in planning? Leadership differences? The nature of the courts' organization in a state?
- Are "lessons" really "learned" from past events? Or are lessons or aphorisms merely observed, without any fundamental action being taken?

No one scholar or institution can take on these questions, but the questions suggest a two-pronged research agenda that addresses two broad questions: What works in the way of emergency planning? and How and to what extent are plans considered, drafted, adopted, and implemented? September 11 and Hurricane Katrina are but two very rich cases from which scholars and court administrators could draw to address these questions. In particular, after Hurricane Katrina it is important to understand whether any post-September 11 "lessons" were "learned" in time for Katrina, and whether and to what extent the NCSC's best practices and other guidance tools were applied. Only through this sort of evaluation will we be able to assess progress toward better preparedness for a wide range of threats to the courts. **jsj**

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Citizens Have a Right to Safety in the Courthouse

DOW CONSTANTINE

The news traveled quickly to the top of the King County Courthouse in the heart of downtown Seattle: eleven floors below, three women had been cut down by a hail of gunfire. It was the morning of Thursday, March 2, 1995, when Timothy Blackwell entered the courthouse to attend closing arguments in his marriage-dissolution trial. His pregnant, estranged wife Susana and two of her friends were sitting on a bench outside a second-floor courtroom. Blackwell pulled a 9mm semiautomatic pistol from his briefcase and shot all three women at close range. Susana Blackwell and Phoebe Dizon died at the scene. The third shooting victim, Veronica Johnson, died the following day. That day, I was working on the twelfth floor of the courthouse as a King County Council aide. I well remember the horror of that day as county employees mourned these senseless deaths while facing new fears for their own safety.

This tragedy did not come without warning. A King County Superior Court security report found that forty-six handguns were confiscated from courthouse visitors in the first five months of 1994. In 1993 security staff members logged 2,000 incidents in the courthouse, almost one-quarter of which involved fights, assaults, or threats of violence. Hours after the triple murder, an anonymous King County Superior Court judge told *Seattle Times* reporters, "This was totally predictable and inevitable. This is the most dangerous building to work in the county."

Resulting Changes. The deaths of these three women were all the more tragic because they could have been prevented. By 1995 Washington state legislators had made significant advances on the issue of citizen safety in public buildings, including courthouses. While previous state law specifically stated that firearms were not allowed in courtrooms, it did not allow for general firearms bans in any public buildings. In 1993 State Rep. Rosa Franklin of Tacoma successfully championed legislation to allow entrance screening for weapons, but only in county courthouses with a proven history of security problems. However, in a state such as Washington, where courts are controlled locally and counties are specifically responsible for security in their own superior and district courts, it took time for the work legislators had done on the state level to be implemented by local jurisdictions.

In Rep. Franklin's home county, Pierce County, weapons screening was imposed at courthouse entrances by September 1994. The King County Council also approved \$200,000 in funding to purchase eleven metal detectors in May 1994, almost a year before the murders. However, the detectors had not yet been purchased, as money had not been allocated through the regular budget process to fund personnel to operate the machines. The delay was not strictly due to financial constraints: Several judges and the sheriff had urged the council just months before the shootings to buy X-ray machines to screen bags and to purchase more metal detectors. But Councilmember Kent Pullen, a gun-rights advocate, delayed a vote on the issue.

The day after the shootings, King County executive Gary Locke immediately ordered screening at all courthouse entrances. Within days, the King County Council approved an emergency allocation of \$412,000 to purchase X-ray machines, acquire more metal detectors, and pay for entrance-security personnel. Other urban court facilities followed suit. To the north, courts in Snohomish County began entrance screening four days after the King County shootings. Across Lake Washington, the city of Bellevue's district court joined them a week later. The results of courthouse entrance screening were stunning. In the first year of the King County Courthouse program, some 1,200 weapons, including 715 guns, were discovered in the possession of courthouse visitors. Originally, only firearms and illegal knives were banned. Within three years, complaints by courthouse employees to the media led to an order from the presiding superior court judge adding legal knives, screwdrivers, scissors, letter openers, and chemical sprays such as mace or pepper spray to the list of items confiscated at courthouse entrances. But the screening program came too late for Susana Blackwell, her unborn child, and her friends Phoebe Dizon and Veronica Johnson. We failed them.

Since 1990, there have been at least twenty-six shootings in courthouses across the United States. Some have been high-profile, such as the March 2005 escape of rape-suspect Brian Nichols from Atlanta's Fulton County Courthouse, which ended in four deaths and a much-publicized one-day manhunt. Other cases, which took place in smaller towns, were comparatively obscure, but no less tragic. Courthouse violence can happen anywhere. In 2004 *Fort Worth Star-Telegram* reporters Matthew Fernandes and J. Stephen Bolhafner compiled a list of courthouse shootings since 1990, later expanded and updated by James Bush of my staff. The updated list shows that of the twenty-six crimes cited, about half occurred in courthouses in major cities, and the rest in smaller jurisdictions of all sizes. These violent incidents were not limited to high-profile court cases, and only four of the twenty-six involved felony suspects seeking to escape custody.

Courthouse shootings are often intensely personal. Half the shootings involved family-law disputes such as child-custody or child-support hearings, divorces, or no-contact-order cases involving family members. Many of the shooters had been convicted or accused of spousal abuse. Courthouse shootings are also extremely deadly, in part owing to the fact that most involve pistols fired at close range. In twenty of these twenty-six shooting incidents, at least one person died: twenty-six incidents resulted in thirty-one deaths and twenty-seven injuries. In eight cases, the shooter also died at the scene.

Some cases defy categorization. In June 2005 a divorced father of three who had filed numerous legal challenges to child-support decisions arrived at the Seattle Federal Courthouse holding a hand grenade. He demanded to be allowed to deliver court papers to a judge. After a twenty-minute standoff, the man was shot by two different police officers when he made what they interpreted as a threatening movement. The hand grenade was later found to be a defused World War II-era relic.

Lastly, as effective as entrance screening can be in keeping weapons out of the courthouse, the need for security provisions does not end at the courthouse door.

Eleven of the twenty-six shootings took place outside the courthouse, on the courthouse steps, or in nearby parking areas.

Defining and Implementing Courthouse Security. What exactly do we mean when we use the term “courthouse security?” I would say that any person entering the King County Courthouse or any other courthouse has the right to know that comprehensive and competent entrance screening has been performed to keep weapons out of the building. They have the right to expect that the premises will be monitored by trained security personnel who can quickly intervene in any violent situation. They should expect a calm, controlled atmosphere that gives them a justifiable feeling of safety.

One feature of the post-Columbine, post-9/11 world is that the notion that Americans have a right to carry guns absolutely everywhere they go—even into the courthouse—seems quaint and outdated. But public opinion changes slowly, and these changes often require a push from our elected leaders. It’s important to remember that both Rep. Franklin’s courthouse-entrance-screening bill and successful legislation to effect a ban on firearms in all Washington schools—also proposed in 1993 by State Sens. Phil Talmadge and Lorraine Wojahn—faced significant opposition from gun groups.

After the 1995 King County Courthouse shootings and two other serious, but nonfatal, security breaches in state courts, the state of Washington formed a seventeen-member Courthouse Security Task Force. Composed of judges, attorneys, court representatives, and elected officials, the task force collected written comments and took testimony at seven public meetings across the state. The task force presented its recommendations in May 1996. They included a ten-point plan stressing the elimination of all weapons in courthouses, except by security personnel, through entry screening. Other recommendations included the presence of well-trained, uniformed security officers in all courthouses, tighter rules on transporting prisoners from jail to courtroom, use of technology such as video cameras and duress alarms, and a strict policy of reporting every violation of the law that occurs within a courthouse. There were not many surprises in the conclusions. Studies of courthouse security around the country generally recognize that it is of vital importance to keep weapons out of the courthouse and that entrance screening of people and their belongings is the most effective method of accomplishing that goal.

The old joke goes that there are two kinds of people in the King County Courthouse—people who work there and people who are not happy to be there, although some people fall into both categories. Like most jokes, there is truth behind it. For the most part, visitors to the King County Courthouse are compelled to be there. Who are these visitors? On any given day, these people are likely to be in the mix:

- A citizen reporting for jury duty
- A young mother seeking a protection order against her violent ex-husband
- A lawyer making a required court appearance for a client

- A work-release inmate checking in or out of custody
- A witness answering a subpoena to testify at a court proceeding
- A prisoner being escorted to trial

A recent informal survey conducted by the SeaTac Municipal Court (SeaTac is a Seattle suburb) shows that of sixty responding district and municipal courts in Washington state, twenty-four had no security, sixteen had limited security, and only twenty provided full entrance screening. A 2005 state survey demonstrated that, although entrance screening is common and used in most urban counties, our state's court security system is still a patchwork of different rules and practices.

Of the 10,000-some people who visit the King County Courthouse daily, about 2,000 are employees of various courts or divisions of King County. Many people are compelled by law to come to the courthouse and, for that reason, I believe we have the highest obligation to provide them with a secure environment. The biggest challenge to effective courthouse security is the cost of providing it. King County spends approximately \$6 million annually providing security and entrance screening at twelve locations: the King County Courthouse, the Regional Justice Center, juvenile court, and nine district court sites. For smaller jurisdictions, the costs of entrance-screening programs can prove daunting. Metal detectors and screening equipment cost tens of thousands of dollars, but the real major expense of entrance screening is the continuing cost of hiring and training the security officers to operate this machinery. In some small jurisdictions, courts cannot afford to provide both entrance screening and armed bailiffs in courtrooms. However, it is also costly *not* to provide security as failure to provide adequate security can also prove expensive to local jurisdictions. After the 1995 King County Courthouse murders, the families of two of the slain women filed a civil suit against the county, charging that these deaths were the result of inadequate courthouse security. The county settled the suit in August 1996 for \$1.6 million.

In March 2006 an eleven-member Court Security Committee was convened, with the goal of updating the recommendations and standards drafted by the 1996 Courthouse Security Task Force and establishing minimum security requirements for local courts. Fortunately, one goal is to establish for the first time a state funding source to help smaller jurisdictions purchase needed equipment.

As a former state legislator, cochair of the Washington State House Judiciary Committee, and vice-chair of the State Senate Judiciary Committee, I support our state government's stepping in to help with the expense of establishing courthouse-entrance-screening programs. As Washington counties provide court services under a state mandate, the state needs to help them keep courts safe for everyone. Keeping people safe in our courthouses is as basic a government duty as paving roads, extinguishing fires, and enforcing our laws. We must not fall short in providing the public this essential service. **jsj**

The Evolving Concept of “Court Security”

CAROLINE S. COOPER

Having been providing technical assistance to state and local courts for several decades in a wide range of subject areas, including those relating to “court security,”* it has been fascinating to observe the evolution of the concept that has occurred over the years and, in particular, during the past decade. During the 1970s and 1980s, the term “court security” generally focused on the protection of the courthouse and its occupants, with the components necessary to achieve “court security” generally entailing law-enforcement functions, hardware, and, to a limited extent, facilities design. More recently, however, the concept of “court security” has come to focus as well on the protection of all of the elements of court operations that are fundamental to maintaining the independence and integrity of the judicial process and to ensure its continuity and that of the rule of law. Associated with this expansion of the concept has been a concomitant expansion of the focus and functions entailed.

The concept of “court security” has traditionally involved two essential components: first, the procedures, staffing, physical environment, and related resources necessary to protect the functioning and integrity of the judicial process and, second, measures to ensure the physical safety and freedom from intimidation of courthouse users and occupants. Within this framework, the nature and dimensions of the activities and resources required to provide adequate court security have expanded significantly, as have the measures used to assess the adequacy of court security provided and the range of agencies that need to be involved in its provision.

Historically, the experience of LEAA’s Criminal Courts Technical Assistance Project during the 1970s and early 1980s in providing technical assistance and training in court security, shared by court security programs undertaken through other auspices, focused primarily on protecting common elements of the court facility considered to be directly related to enhancing (or diminishing) the security of court occupants and proceedings. These generally entailed ensuring that points of entry, particularly those for the public, were limited and well monitored; installing weapon-screening mechanisms; and developing circulation patterns for courthouse users, with separated circulation areas for judges and court staff, detained defendants, and the general public.

Frequently, attention to “court security” needs was raised by local county government officials rather than court officials, as a result of issues raised during the expansion or renovation of old county-owned courthouse buildings, which were being called upon to serve an increasing number and diversity of courthouse users and

* Since 1972, the author has been involved with the provision of technical assistance services to courts through the Criminal Courts Technical Assistance Project under the auspices of the Law Enforcement Assistance Administration (LEAA) and the Bureau of Justice Assistance (BJA) and, during 2003-05, directed the Court Emergency Preparedness Planning Project, under State Justice Institute (SJI) sponsorship, which entailed technical assistance services for courts in smaller populated and rural areas in the area of court emergency preparedness.

house an increasing number and range of functions, both judicial and nonjudicial. Common concerns reflected in these technical assistance requests generally centered on the need to limit public access to courtrooms, chambers, and records rooms; these were frequently exacerbated by the multifunctional nature of many courthouse buildings in which nonjudicial functions coexisted with those of the court. Prisoner transport was also a recurring concern, particularly for older courthouses with no secure corridors or entry points that could be dedicated for prisoner use. Responsibility for “court security” was generally considered to be a specialized aspect of court operations of primary concern to court facility designers and sheriff’s department staff. Available resources to address court security deficiencies were usually slim.

Since the mid-1990s, however, a marked shift has developed in both the scope of the concept of court security and in the recognition of the agencies and officials who need to be responsible for its provision. Although much has been written during this period on court security, four developments—most of which occurred in the twenty-first century—appear to have significantly contributed to the expanded definition of our current concept of court security, as it is now being applied by many court managers.

The first is the bombing of the Alfred P. Murrah Courthouse in Oklahoma City in April 1995. This event made it suddenly apparent to court officials throughout the country that “court security” required a focus *outside* of the court building as well as within, and that the court, as both a facility and an institution, was vulnerable to terrorist threats and attacks unrelated to any particular litigation that might be occurring within the courthouse. The reality that a court facility and its occupants could be vulnerable to an attack from outside the facility—in this case, a bomb in a van parked on the street—by a perpetrator who had no direct connection to a particular court proceeding that could be flagged as a potential security threat triggered a major rethinking of the nature and extent of functions necessary to provide adequate court security. Two issues that quickly became of major concern were the nature of restrictions needed on access to parking both within court facilities and in proximity to them, and the nature of protective measures that were needed to protect the courthouse from exterior attack. Many courthouses restricted interior parking to judges, court staff, and other approved personnel working at the facility and eliminated provision for public parking inside or adjacent to the facility. In a number of instances, landscaping plans also were reviewed to eliminate sheltered spots from which incendiary devices might be thrown or shots might be fired into a facility without detection.

The second development was the 1995 publication by the National Association for Court Management (NACM) of the first comprehensive guideline on court security. Although, in retrospect, the 1995 *Court Security Guide* was limited in focus and scope, it was the first national-scope report to focus attention on *court managers*, rather than solely sheriffs and other law-enforcement staff, as officials responsible for court security. By making court security a priority responsibility for court managers, the 1995 NACM *Guide* stimulated awareness among court administrators—and judges—that court security was their responsibility as well as that of sheriffs and required the devel-

opment of policies, procedures, and staff-training programs for court personnel in addition to those undertaken by sheriffs and other law-enforcement agencies.

The 2005 revision of the NACM *Court Security Guide* incorporates both the potential impact of international terrorism and a range of operational issues relevant to the security of court functions and the protection of courthouse users. In addition to traditional court security topics, such as auditing public and staff space, the *Guide* addresses such new topics as workplace violence and the implications of high-profile cases on the court's security. Published on the heels of the Atlanta courthouse shootings, and quickly followed by the disastrous repercussions of Hurricane Katrina on the integrity of the judicial process in New Orleans, the 2005 NACM *Guide* provides a framework for exploring the concept of court security in a much broader context than previously existed.

The third development was the September 2002 *Nine Eleven Summit: Courts in the Aftermath of September 11th*. This conference brought together diverse jurists, administrators, and other professionals from multiple disciplines throughout the country to address both the specific impact of September 11 on the New York courts and a number of issues that had not previously been considered part of the concept of court security. Among these were the court's capability to take necessary actions to protect the integrity of the judicial process and to ensure the continuity of court operations in the event of disaster. These included the need to assure the public that the rule of law is preserved; the urgency for developing strategies for safeguarding court records and automated data; the importance of having alternative communication mechanisms in place; the need for courts to guard against "new" threats, including those of bioterrorism and cyber terrorism; and the importance of close collaboration and communication among leaders and policymakers in all branches of government, law enforcement, and the business community (Kaye and Lippman, 2002). The multidisciplinary discussions and proceedings of the Nine Eleven Summit expanded the traditional concept of court security as well as the range of requisite agencies, resources, and court functions that needed to be involved, making it synonymous with *court emergency preparedness* generally.

The fourth development was the 2005 shootings in the Fulton County Courthouse in Atlanta and the killings of family members of a federal judge in Chicago. These incidents, involving defendants in very different situations—one a litigant in a civil matter and the other in a criminal proceeding—whose propensity for the violent acts they committed, had not, in retrospect, been fully acknowledged, highlighted the significant vulnerability of judges and their families as well as court staff and of the general public to acts of violence despite decades of efforts to enhance "court security" at both the federal and state levels. This is not to say that judges and their families had not been the target of threats or acts of violence in the past, but the circumstances of the Fulton County and Chicago killings, occurring at a time when significant training and other resources had been devoted to court security, reinforced the critical and ongoing need to make this issue a continuing priority.

In August 2005, the Conference of Chief Justices and the Conference of State Court Administrators adopted “Resolution 17: In Support of the Importance of Court Security,” which underscored the critical nexus between “court security” and the preservation of the rule of law. In pertinent part, it provided:

WHEREAS, open access to secure, safe courts promotes a sense of confidence in the stability of civil government; and . . .

WHEREAS, under Standard 1.2 (“Access to Justice”) of the Court Performance Standards a court is required to make its facilities safe, accessible and convenient; and

WHEREAS, it is vital that citizens feel confident and safe in seeking access to their courts and that court personnel feel safe in the performance of their duties. . . .

NOW, THEREFORE BE IT RESOLVED, that the Conference of Chief Justices and Conference of State Court Administrators:

- Agree to take those actions necessary to raise the visibility of the vital importance of court security needs with the public, the court community, and our intergovernmental partners.

In addition to urging adequate attention and funding for the court security needs of state and local courts, as well as the federal courts already receiving attention, the resolution urged each chief justice and state court administrator to “conduct assessments of their courts to determine their vulnerability to natural or man-made disasters” and to participate in a national system for systematically reporting court security incidents to the National Center for State Courts to provide a foundation for analysis and future preparedness efforts (CCJ/COSCA, 2005).

Less than one month after Resolution 17 was adopted, Hurricane Katrina struck the Gulf Coast area of the country. While perhaps not considered a “security” event in itself, the ramifications of this natural disaster on the capability of court systems to protect the functioning and integrity of the judicial process underscored the vulnerability of court functions and processes in the wake of sudden disaster. Katrina, perhaps more than any other natural disaster, has triggered a major focus on disaster-preparedness planning in court systems throughout the country—efforts that have come to be termed “COOP” (continuity of operations planning). COOP plans focus upon the activities, resources, training, relationships, and other planning that is needed to ensure the continuity of court operations in the event of disaster. COOP plans must, therefore, focus upon both the immediate post-disaster period as well as a more prolonged period necessary to ensure the full restoration of court processes.

Developing COOP plans for courts has taken the concept of court security to a new level. Most COOP plans focus on the “essential functions” the courts must perform within varying timeframes following an emergency (24 hours, 48 hours, 7 days) and pro-

vide for the policies and procedures that will be applied to these functions in the event of an emergency. COOP plans also provide for the potential establishment of alternative court facilities as well as alternative facilities for other justice system agencies, depending upon the nature of the emergency that has occurred. Under a COOP plan, provisions for court security must go beyond an existing court facility and contemplate a range of different facilities that may be involved in performing judicial functions.

The issue of court security has continued to attract the attention of the state judiciary at its highest levels. Within the past several months, three chief justices have publicly declared court security to be a priority issue. In February 2006 Chief Justice William Hill of Wyoming stated that courthouse security was a topic being closely monitored by the judicial branch (Hill, 2006). On March 1, 2006, Chief Justice Jean Hoefler Toal of South Carolina reported that she had been working to assemble a state courthouse security task force that, in addition to conducting security surveys in every state and local courthouse, would develop standard operating procedures applicable to judges and court staff, which local courts could use to develop their own security plans (Toal, 2006). On that same day, Chief Justice Ronald M. George of California delivered his "State of the Judiciary" address, calling for courthouses to be places "of safety and reason," recounting various incidents of courthouse violence that had occurred in the state, and advancing a broad definition of "court security" in terms of the physical building (George, 2006). Chief Justice George called for all courthouse facilities in the state to provide protection for courthouse users against violent acts, as well as to be free of "seismic deficiencies, so as to be capable of withstanding earthquakes; to be free of toxic mold; to meet basic fire and safety standards; and to be accessible to persons with physical disabilities." Expanding on this, Chief Justice George found:

Providing safe and secure facilities in which judicial proceedings take place is a matter of great urgency for all of us. Courthouses serve as cornerstones of our society and are where individuals have the most direct contact with government. . . . The existence of a secure, accessible facility in which the rule of law guides the resolution of disputes is not a luxury (George, 2006).

During 2006, an additional element has been added to the concept of court security—pandemic-influenza-preparedness planning. *The National Strategy for Pandemic Influenza Implementation Plan* requires that the U.S. Department of Justice "ensure that appropriate Federal and State Court personnel are provided the information necessary to enable them to plan for the continuity of critical judicial functions during a pandemic." The tasks mandated by the *Implementation Plan* include development of multipronged protocols for protecting the health of judicial (and other justice system) personnel, implementation of strategies to reduce close human-to-human contact; recommended personal-hygiene practices; and cross-training of personnel to address significant potential workforce disability.

In conclusion, the events of the past ten years have shaped a wider appreciation of what "court security" entails and who must be involved in its provision. The earli-

er focus on law-enforcement functions, hardware-screening mechanisms, and some facility design considerations has been significantly expanded to include a much broader concept of protecting the health and safety of both the users and occupants of the courthouse as well as safeguarding the full range of resources and judicial system activities necessary to sustain the functioning of the court system and the integrity of the judicial process.

This expanded definition of court security has also been accompanied by an expanded concept of the officials and agencies responsible. No longer is "court security" a function to be delegated primarily to the sheriff's department or other law-enforcement agency, but it is rather a critical responsibility of judges and court administrative staff, who must work in partnership with law-enforcement and other professionals to ensure the safety, security, and integrity of the judicial process and the full range of personnel, facilities, systems, and other components upon which it relies. The implications of this shift in definition for judicial administration are also significant. Court security is now an integral part of the responsibilities of court administration, reflecting the increasing recognition that the issue of "court security" and the responsibility for ensuring "continuity of court operations" are inextricably intertwined (NSPI, 2006). **jsj**

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Courthouse Security—A Direction or a Destination?

JOHN E. ZARUBA

Court security, in every size county, has changed as the world became smaller and threat became reality. One need only mention Oklahoma City, Fulton County, and Chicago to realize this. Government must respond to ensure that our system of justice remains intact. Yet no one person, not even the sheriff, the U.S. marshal, or judge, stands alone when world events catapult our aging and forgotten halls of justice into today's headlines of violence and death.

Acts that seek to destroy our American justice system have accelerated throughout our nation. Local violent behavior in domestic and juvenile courts, national hate groups, and international terrorism loom over our centers of justice. If the courts are to preserve our constitutional rights, effective security is essential. Court disturbances threaten an orderly system of justice by interrupting the trial process and making it difficult for a defendant to obtain a fair trial. Disturbances also undermine public confidence in, and respect for, the American legal process and may interfere with significant reform in the judicial system. In most every way, disruption is inconsistent with the rule of law in a democratic society.

Preservation of our society demands the protection of our judicial system. Every citizen who enters a courthouse, courtroom, or other judicial setting must be protected from threats of any nature, ensuring that justice is served. Without a sound system of justice, our society self-destructs. It is the duty of our government to secure this structure and the responsibility of American sheriffs and U.S. marshals to ensure it is done correctly. In most state and local jurisdictions, the courthouse and courtroom security are the responsibility of the sheriff; however, the means necessary to obtain the needed security lays strictly with his/her judicial partners, the judiciary, the county government and the variety of other components using court facilities. That old saying, "With money and manpower, I can accomplish anything," is not true when it comes to court security. What must be added is the most important component—cooperation. The sheriff cannot do it alone and neither can our criminal justice and governmental partners.

American courthouses come in a myriad of designs, from centuries-old stone fortresses to modern-day, multifloor monolithic towers, from the one-room council chambers to the abstract designs of the creative architect. No matter what the shape, size, or condition, the courthouse serves only one purpose, the assurance that justice and the judicial process is preserved and protected. Every American courtroom, courthouse, and judicial facility, no matter how big or how small, has the identical threat potential, and the governmental entity has the identical corresponding task of threat reduction, liability insurance, and public accountability.

Modernization of existing facilities or building anew can minimize the threat potential, but it is not all money, technology, or even cooperation with our judicial

partners. It is recruiting, staffing, assessing, training, supervising, conflict resolution, and procedural compliance. Even with the best, the newest, the most innovative technology, it all comes back to the human factor. People assess threats, people place firewalls, and people resolve conflicts.

Policies and procedures, national accreditation standards, certifications, requirements, guidelines, supervision, constitutional law, case law, standards, mandates, training, staffing shortfalls or freezes, funding, and political environments, just to name a few factors, affect our ability to ensure the preservation of our judicial system.

Renovating our antiquated courthouse to meet today's standards of protection or building a new judicial facility requires three basic steps.

Step One: Conduct a Threat Analysis. Assessing your court's historical, current, and anticipated threats is essential. National events and patterns of judicial violence must be reviewed because jurisdictions are similar based on demographics. Include worker/workplace events and take into consideration that recent research has found that workplace violence is fifteen times greater in a judicial setting than the national average.

Frederick Geiger, a retired Illinois appellate court judge, is credited with creating the "funnel theory" of court security. Simply put, every part of humanity somehow finds their way through the top of the funnel and flows down the small hole on the bottom called the courthouse, all at usually the same time, 9 a.m. Police officers, lawyers, judges, criminals, witnesses, jurists, the press, and the public all arrive in various states of mind, dress, and motivation. It would be best that not all enter through the same door, but in most jurisdictions they do. The sheriff's job is to anticipate threats and defend the courts against them. Without a true assessment and analysis, without completing this step, the remainder of the process may actually increase liability and will certainly divert from security. Threat analysis guidelines can be obtained from the National Sheriffs' Association, the U.S. Marshals Office, or the U.S. Department of Justice.

Step Two: Conduct a Court Facility Site Survey. Sample surveys can be obtained from the above organizations. Assess your facilities external and internal weaknesses. Assess your policies and procedures by physically testing them. Assess your staff, their physical and psychological abilities, their training comprehension, and their commitment to reach your destination and complete your mission. Assess your practices against national Commission on Accreditation for Law Enforcement Agencies (CALEA) standards. When assessing your current facility or planning for a future facility, start from the outside in—use the "Eight Zones of Security" as your building blocks in this step:

- | | |
|-----------------------|----------------------|
| 1. Site/parking | 5. Courtroom |
| 2. Building perimeter | 6. Judicial |
| 3. Public | 7. Security/prisoner |
| 4. Staff | 8. Building support |

The National Sheriffs' Association and the National Center for State Courts both have specific information on the zones. Sheriffs or U.S. marshals, people who have recently renovated or built a new court facility, or a reputable architectural firm specializing in designing modern court facilities can provide information. The blueprint for making any court facility secure is the same; the challenge is in the design. Many states like Ohio, Virginia, Minnesota, Michigan, and California have court security guideline/standards online. The Court Officers and Deputies Association (CODA) affiliated with the National Sheriffs' Association is also a great resource. The National Sheriffs' Association's "National Staffing Guidelines" and CALEA's standards manual are the best basic references for setting your staffing requirements. A note of warning: in the redesigning or planning of new construction, it is essential that the sheriff is intimately involved in all phases of security planning. Courts should not depend solely on the builder or architect "security consultants." Regardless of how impressive their credentials, they are gone when the project is completed.

Step Three: Establish a Court Security Committee. The establishment of a court security committee is probably the most difficult task, but it is essential for both short-term planning and long-term success. What is required here is an intimate understanding of interpersonal human relations, an abundance of political savvy, and just plain luck. Most of the members of this committee will detest the use of a committee structure to dictate policy. However, without formation of the committee and resulting direction, your destination will never be reached. The court security committee must consist of the head of every governmental user of the court facility, not only those entities housed in the facility, but also those who also have authority to respond to security threats. In addition, the chairman of the funding source for the facility and the county board chairman or president of the board of commissioners should be on the committee. Finally, the jurisdiction's legal advisor, state's attorney, or attorney general should also be named.

The court security committee must jointly discuss the following mandatory issues concerning court security and jointly come up with definitive answers. Who is legally responsible for court security?

- Who is responsible on the site and in the building for:
- Courtroom security and order?
- Transport of in-custody defendants within the courthouse?
- Public-area security (during court operational hours)?
- Non-public-area security?
- After-hours building security?
- Security of spaces for tenants other than court?
- Protection of site parking, sidewalks, and nearby areas?
- Site/building control in emergency situations?
- Juror security/handling?
- Witness security/handling?

- Security of movement of money to/from/within the courthouse?
- Response in medical emergencies (prisoner, staff, judge, public, other)?
- Media handling, including communications during emergencies?

What is the level of security desired for each court location? Is the facility going to be “gun free?” Who is authorized to carry firearms in the facility? Is security screening for all or are some to be granted passes? Can the eight security zones be segregated physically, temporally, or procedurally? Are they cross-contaminated? Is funding available now? Or can security be phased in? Or is this as good as it gets? Is staff adequate to protect and preserve the judicial integrity of the justice system?

Your court security committee must review the results of steps one and two together, then jointly decide the committee’s course of action. Maintain your committee in perpetuity to ensure that when you reach your destination, your direction does not change. Security planning will always be a compromise between safety and budgetary constraints. Utilizing this simple three-step process will put you in the right direction and speed you toward your destination of a safer judicial community and the preservation of our American system of justice. **jsj**

The Court Security Challenge: A Judicial Leadership Perspective

COLIN F. CAMPBELL AND MARCUS W. REINKENSMEYER

In January 1990, when Judge Colin F. Campbell became a superior court judge for Maricopa County, Arizona, security was not a major issue for the Arizona courts. Other than a few sheriff’s deputies who roamed the court buildings, no one worried much about security. In June 2004, when Judge Campbell was presiding judge and Marcus Reinkensmeyer was the court administrator, security had emerged as one of the top issues for the court, consumed a significant portion of the court’s budget, and was part and parcel of many other administrative issues once thought unrelated to security. The heightened concern over security was attributable to the tragic events of September 11, 2001; a number of courthouse shootings across the nation; and potentially fatal security breaches at the superior court in Maricopa County.

In 2004 and early 2005, the Maricopa County Superior Court reevaluated its security policies and put in place, through Administrative Order No. 2004-031, a new policy to tighten court security, which was vigorously opposed by some. This article discusses how a court views “court security” in terms of the interest groups affected and how they may hinder or help court security, the range and depth of issues encompassed by court security, and, finally, the pressing need for the court to educate the public and other interest groups about critical security concerns.

Interest Groups. Court security affects more than the judges and the public. It affects a number of distinct interest groups who have their own views on court security. Acting politically, these groups attempt to influence court policy on security.

One of the most common attendees of court proceedings are the police; they come to the courthouse every day to testify in criminal, civil, juvenile, and family court proceedings and will on occasion carry weapons. A contentious issue in court security is whether police should be allowed to carry weapons into the courthouse, and into a courtroom. Maricopa County has twenty-three separate municipalities, each with its own police department, and a county sheriff. When we met with the various chiefs of police during the reevaluation of our security policy, the chiefs told us they wanted their officers to carry weapons in the courthouse because they did not feel safe in the courthouse. The chiefs believed court security was so porous, that is, had the potential for others to introduce deadly weapons into the courthouse, that they needed to be armed.

Trial lawyers, both public and private, frequently come to the courthouse. Public lawyers, such as public defenders and county attorneys, may come to the courthouse several times a day. In the past, security-bypass cards to lawyers would be routinely issued. When anecdotes of lawyers carrying weapons in their briefcases surfaced, coupled with some troubling conduct by some lawyers, we stated we would reevaluate whether lawyers should routinely receive the passes. As officers of the court, lawyers became the angriest and the most vocal group in asserting their traditional privilege to bypass security.

Court security costs money; it costs money for capital equipment for screening individuals and bags, for judicial security employee salaries and benefits, and for redesigning existing court buildings. Court security directly affects funding of the courts, and whether funding is from county or state government, the "court's bank" has an interest and say in how much security is enough. From a global budget perspective, our court management also understands that funding requests for enhanced security directly compete with requests for other critical resources, e.g., new judgeships, probation officers, interpreters, and court staff.

Finally, another interest group impacted by court security is the court's own employees and judges. If the debate about whether police should carry their weapons into the courthouse, and whether trial lawyers should get passes, is heated, just ask a judge if they would like to go through screening themselves! Even with anecdotes of judges themselves carrying weapons into the courthouse, judges resist screening.

A court security policy cannot be written without engaging these interest groups. In an imperfect world, compromises are often pragmatically made. Whether these compromises are based on a true cost-risk evaluation, or less-than-ideal court security, is debatable. The presiding judge/court administrator management team bear the responsibility to develop an effective court security program. In our experience, court security can be significantly improved through a concerted planning effort, adherence to some key guiding principles, and an effective communications strategy.

What Is “Court Security”? “Court security” embraces a wide range of issues. It stretches from physical protection of judges to education, and from workplace violence to data integrity to architecture.

Judicial Officers. In our large Arizona urban courts, physical threats against judges have increased, both inside and outside the courthouse. Verbal and written threats to judges have become common. One judge in this jurisdiction received a handwritten letter telling her she would be dead within two months; another received a letter with a picture of her house and a notation, “we know where you live.” One judge was served at home in the middle of the night with a lawsuit from a “constitutionalist” private court; another had a mentally ill litigant walk into her backyard during a Girl Scout meeting. Simple physical protection of judges, both inside and outside the courthouse, has become a central concern of court security.

Potential Threats. The courthouse and all of its occupants have become potential targets. Bomb threats are a frequent occurrence in our modern urban courts. We work closely with our local police bomb squads to evaluate threats and assess whether evacuation is required. Our court faced an attempted arson on an unoccupied floor that was being reconstructed in 2000. Lastly, physical violence remains a concern. In one of our regional courthouses, a family court litigant walked to the main entrance of the court with a weapon in one hand and another weapon in a briefcase. Seeing a security officer, the litigant committed suicide at the entrance. The presence of two weapons raised concerns that the litigant initially intended to strike at people in the courthouse.

Since the anthrax attacks in 2001, biohazards have become a concern. One of our municipal courts was closed for three days while a powder that was introduced into the court building was assessed; an entrance to another courthouse was shut down when powder was released into a screening station. Threats to the courthouse and its occupants from biohazards need to be assessed and planned for. We now train every court employee to be aware of their surroundings and report suspicious people. We screen mail for biohazards. We have asked the sheriff, who has armed officers in our buildings, to always be in reasonable proximity of all of our public entrances.

Screening and Bypass. Maricopa County began public screening for weapons for people entering the courthouse in the early 1990s after a criminal defendant shot himself in a restroom after a sentencing. The goal, of course, was to preclude people from bringing weapons into the courthouse. From the beginning of the program and over time, many persons sought and obtained bypasses from screening. By the early 2000s, judges, employees, lawyers, paralegals, investigators, outside contractors, and many county employees had court-screening-bypass privileges. We conducted a survey of how many people we screened and bypassed each day and were shocked to discover we actually bypassed more people than we screened.

In our reevaluation of security screening, we sharply reduced bypass privileges. Police have bypass privileges and weapons-carrying privileges only if they are in court with a subpoena to appear as a witness and on duty. If they are present for any type of court proceeding as a party, they are screened as any member of the public and can-

not wear a uniform. Initially, despite strong protests from the trial bar, we did away with all lawyer bypasses. Since then, we have opened up express lanes, by Administrative Order (2006-078), for lawyers who must undergo criminal background checks and still be subject to entry screening. All court employees undergo random screening. If an employee has a pending court case, however, then the employee must undergo screening as any member of the public. Electronic card readers at each entrance ensure that court employees with bypass privileges are in good standing (free of litigation and not under administrative suspension) and that discharged staff do not have unscreened courthouse access.

Panic and Communication. How people react to threats is part of court security. Unfortunately, we have learned this the hard way. When an arson occurred in one of our high-rise court buildings, we discovered a breakdown in the automated communication system, which hindered evacuation of the building. When a powder was released in one of our screening stations, one employee went on e-mail to the entire court staff asking if everyone knew that a biohazard was being released into the building. The powder turned out to be harmless. When the police suspected a terrorist vehicle was parked across the street from our largest downtown courthouse two months after 9/11, the local police SWAT team arrived, ignored the court chain of command completely, ordered an immediate evacuation of the building at double time, and scattered employees and management away from the building.

Court security requires careful planning for how to react to events to avoid panic, how to communicate to decision makers and employees, what technologies are needed to ensure system-wide communications, and how to ensure the orderly evacuation of buildings. In Maricopa County, a central command room has been set up for emergency situations, drills are regularly run to simulate possible events, and procedures are continuously updated based upon findings from our evacuation drills.

Criminal Proceedings and Escape of Defendants. In the criminal courts, in-custody defendants are brought to court proceedings every day. As the courthouse shooting in Atlanta demonstrates, escape of in-custody defendants or prisoners is a major security concern. In our courthouse, in-custody defendants sit in the jury box until their case is called. Once, a gun was found taped under one of the juror chairs, presumably by a member of the public.

Certain criminal proceedings themselves present special security concerns. Proximity of a victim's family with the defendant's family in the courtroom and the hallways can spark a confrontation. Trials of prison gang members, like the Mexican Mafia, create heightened concerns for safety. We have had trials of gang members where other members of the gang will come and stare at jurors. Protection of jurors from intimidation and threats then became a concern.

As a matter of policy, county transportation officers who transport in-custody defendants and prisoners into court do not wear weapons. Extra security precautions in certain trials, such as screening before entering a courtroom, are available. Extra sheriffs are available to sit in on trials where security concerns exist. In planning new

court facilities, the court is requiring separate circulation patterns for judicial personnel, jurors, in-custody defendants, and the general public.

Workplace Violence. The Maricopa County Superior Court, which includes the probation department within the judiciary, has over 4,000 employees. In the past, court employees were bypassed from security screening. It does not take more than a cursory reading of the newspapers, however, to realize that employee workplace violence poses a major security concern. Whether it is an unknown workplace romantic relationship, or the ire of a terminated employee, workplace violence is a security concern that cannot be ignored. In viewing the computer use of one terminated employee, we ran across Internet visits to sniper sites by the employee. Of all the interest groups affected by added screening, court employees voiced the least dissatisfaction with being subjected to a random search and an electronic badge verification.

Judge and Employee Security Education. We have gone from the days when we gave no security training, to where we give security training at initial orientation for both judges and employees and in continuing judicial education. Judges, in particular, need to be alerted about hazards to their safety outside the courthouse and how security needs to be assessed. Employees need to be trained to be alert and become our first line of defense in raising security issues. To enhance awareness of these issues, we have included security presentations by the U.S. Marshals Service, the Sheriffs' Department, and Court Security Department at the court's annual Judicial Education Day and bench meetings.

Data Systems and Data Integrity. In recent years in Maricopa County, we have gone from a paper court to an electronic court. Dockets and paperwork are accessed electronically, and case filings are shifting completely to e-filings. Damage to our data systems or the integrity of the data filed with the court would literally shut down the courthouse, also destroying the "official court record." Court technology departments must be concerned with backup computer systems and backup of data in multiple sites; network security; and security of laptops, computers, and PDAs.

To address these concerns, we are moving our computer room to a new secure facility, creating a backup-system computer room with the ability to switch to the backup in real time, and maintaining multiple data-backup discs. Other measures to ensure data system security have included a substantial investment in "firewalls," network security, virus-detection software, and network-vulnerability audits.

Architecture of the New Courthouse. Most courthouses in our county built before 2000 were not designed with security as a critical architectural concern. Old courthouses do not have a large central public entrance with multiple lanes for screening to provide for prompt but secure public entrance into the courthouse, or employee entrances, which provide for similar screening. Old courthouses often have multiple entry points that need to be shut down to secure the building. Old courthouses do not have multiple camera locations and a space for a central security monitoring facility. Old courthouses do not have bulletproof glass, windows that do not provide sight lines to judicial officers, locked electronic access to court chambers, secure ventila-

tion systems, or secure parking for judicial officers. This poses a real challenge for the judicial leadership, who must spearhead courthouse renovation projects to enhance physical security. All of our new court structures are now built with security issues at the forefront of design.

Public Relations. Key to any court's security program is public relations with affected interest groups and the public at large. In dealing with the reevaluation of our security program, many interest groups displayed a remarkable nonchalance about security issues affecting the courts. Generally speaking, courts have not done a good job of educating the public and interest groups about court security issues. Court committees on security must regularly keep players advised as to security concerns, and the courts through community relations need to do a better job of educating lawyers and the public. Convened by the court, a multiagency committee can help garner enhanced support and cooperation from law enforcement, the bench and bar, government-funding entities, and emergency first responders. Although this collaborative approach is essential, it must be understood that security committees are advisory to the presiding judge who must ultimately make the "tough decisions" and set court security policy.

Without effective public relations and community education, the courts will struggle to gain support for enhanced security. Through ongoing bench-bar dialogue and proactive media relations, a court's judicial leadership can successfully "make the case" for a comprehensive court security program. A fully informed bench and court staff can also help with the education campaign, explaining the pressing need for security. In our view, it is the obligation of court leadership to develop and continuously enhance court security for the safety of court personnel, litigants, and the public, which we serve. *jsj*

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Securing Our Future

EDWARD A. FEINER

This is a short philosophical discussion about our current state of affairs regarding security design: how it applies to courthouses and other public buildings and how that may ultimately affect the American people's perception of their government and other civic institutions. Architecture and design have historically provided a mirror of the societies they represented or served. Today, particularly through the design of

our courthouses, we are once again “mirroring” our values, culture, and aspirations as a people. We have some serious things to reconsider and work to do.

In the Middle Ages, quasi-public buildings were castles and palaces and fortresses. They all had substantial setbacks, and the architectural style of the time had quite small windows, moats, and sometimes gargoyles to scare away enemies, real or imagined. Courthouses, to remain public buildings, have to provide easy access to the public. Although many people consider the World Trade Center tragedies of 1992 and 2001 the beginning of terrorism within the United States, acts of violence and attempted mass murder occurred earlier in our history, and they pose the problem that to remain public buildings, courthouses have to provide easy access to the public. The real beginning of a serious national concern over major acts of terrorism began with the bombing of the Murrah Federal Building in Oklahoma City in April 1995. When word first came out about this horrible act, many thought that this was an act of foreign terrorists, but when it discovered that this was a domestic act of terrorism, it sent a chill and a feeling of major embarrassment. Many felt that the Oklahoma City terrorist attack was directed at each one of us, rather than just the government as an abstraction. It is hard to place oneself in the mind of a terrorist who thinks for some reason that murdering people is not “personal.”

By this time, the U.S. State Department had addressed the impact of terrorism on the design of embassies throughout the world. In 1985, the Inman Advisory Panel on Overseas Security published a report that recommended major design changes based on security criteria. The report recommended, among other things, that buildings be substantially set back from public streets and other potential opportunities where vehicles could be used to convey explosives.

In most cases, these “standoff distances” were a minimum of 100 feet. Trying to build an embassy in New York City where real estate is constrained and the average block width is 200 feet, or in any other comparable city, proved daunting. Instead, embassies are now located well outside the central business or institutional centers of cities, sometimes miles away from the center. There are logical reasons why an embassy may require more protection, as the United States does not control the security and safety infrastructure of these sometimes not very hospitable countries. How can you balance security with openness and public access? The Inman panel recommendations were not as relevant to domestic public buildings as they were to overseas embassies.

After Oklahoma City, many security experts encouraged the federal response to be fail-safe or at least close to fail-safe. From the Oklahoma City experience and other testing and research, we had learned a lot about how buildings respond to bombs. We knew that we could build tougher buildings or tougher-looking buildings, but at what cost? Does a tougher-looking building improve the American people’s perception of their government? Does a tougher-looking building provide the services that the people come to receive from their government? Is a tougher-looking building really tougher, or are we deluded into a false sense of protection? Are we expanding vast amounts of very limited financial and human capital to provide a very limited amount

of protection? Could those resources be better used to address the core issues of terrorism and stop the terrorists before they get anywhere near the public?

Although there may not be perfectly correct answers to all these questions, there are some things that we have learned over the past ten years since Oklahoma City. First of all, there is no way to make a courthouse—or any other building for that matter—terrorist proof, in an urban context. Spending exorbitant sums of scarce funds to “harden” a target offers minimal protection and limits the government’s ability to spend those funds on more pressing security needs. Finally, is a false sense of security really valuable? Once that “security” is tested and most likely fails, the entire strategy would be questioned, and there would be even greater pressure to spend money unwisely.

In our nation, the greatest crime other than actually doing the dastardly act is being negligent. The “blame game” has become a national pastime. In a fast-moving society that barely has the patience for reality TV, the ten-second sound bite creates heroes and villains, with no time for anything in between. Therefore, even with all good intentions, politicians do not really want to be blamed for “not having done enough” to protect the people when the next incident occurs. In addition, many of the professional consultants who have become the new crop of security design experts do not want to “underestimate” the threat or how much it will cost to make the building safe from a bombing attack.

Coupled with this is the belief of many in government and the general public that 100-foot-setback protective construction, ballistic glass, Kevlar, and the like can make buildings so secure that the tenants can watch a truck bomb detonate outside their office windows. Sadly, none of this would protect them. If the bomb arrives at the site, it is just too late.

In the end, most of the federal criteria were somewhat reasonable, and major emphasis was placed on keeping vehicles from getting inside the building. The initial knee-jerk reaction has been “Jersey barriers” and lovely concrete planters that look as if they were designed for the set of a *Gulliver’s Travels* remake. There is just not enough money, or the paper available to print it, to implement reasonable urban design solutions quickly to make every public building “protected and accessible.” Over the past ten years, the average cost of “security enhancements” for public buildings has increased from about \$8.50 per square foot to over \$25 per square foot. That is a lot of money. The question remains: What is the price tag for not being accused of negligence? In my opinion, right now, it is much too high. We have to “get real” and set reasonable limitations on expectations and costs.

Gavin DeBecker, internationally recognized expert on security, notes that “the terrorist’s imagination begins where yours ends.” Who at that time would have thought that the 2001 attack would be airborne and involve four aircraft originating in two distant cities? The real problem is that there is no way to predict what means the terrorists will use to do their deeds. Biological, chemical, and nuclear arms are all part of a large arsenal of potential weapons. The Oklahoma City bombing made it

clear that the targets were not just New York and Washington, D.C. Again, there are obvious and often inexpensive things that architects can do to address some of these issues when designing courthouses. For example, the location of air intakes for ventilation should be carefully considered.

So the ultimate question is: What should we do? If the objective of the terrorist is to put fear in the hearts of the general population and further separate people from their established civic institutions such as government, they can gauge success by the nature of the reaction of the people and their institutions. If the courts take on the look of fortresses and castles within their communities, separated by oppressive architecture and great distances from the very people they are meant to serve, the terrorists will have been successful. If one horrific bombing can result in making armed camps of America's cities, that is quite a big return on their investment. Of course, no one is overtly advocating that we convert our courthouses into walled fortresses, but the process is much more incremental and insidious. Yes, if government claims there is a serious threat, the vast "middle" will accept certain inconveniences and limited sacrifices in response. If the government through its architecture tells us we should be terrorized, we will be terrorized—if not by its words but by its actions. Making our courthouses, which represent one of the most important institutions and symbols of democracy, into armed camps, and "protecting" buildings with Jersey barriers, fences, and potted palms, will grow a brave new generation who will look at civic institutions as "needing protection."

Some recommendations seem obvious. We need to begin to accept that there is risk in everything we do. There is much greater risk in crossing the street to get to a restaurant than in being injured by a hypothetical bombing of a federal courthouse. How many federal buildings were destroyed since Oklahoma City? None. We must accept that there are people out there who are up to no good and there always have been. Throughout history there have been ill-willed people and social misfits. That is the human condition. Should they determine our quality of life? No. We should implement "security enhancements" only as a last recourse, after exhausting all other alternatives, for example, buying a bigger piece of land and using landscaping and other civic amenities to provide some degree of distance from the street. In almost all cases the cost of the land is significantly less than the value of the building located on it. If that is not true, it is usually the wrong site for that building. Where existing public buildings, particularly historic structures, cannot accommodate setbacks or expensive overhauls, do nothing as there is nothing you can really do anyway within any reasonable cost except to degrade the respect for the institution housed within. Putting walls and flower pots around historic structures detracts from their presence and does nothing to protect them. As you can see, none of these recommendations are technical in nature. That is because the issue at hand is not technical, it is politically driven and politically solved.

In this complicated world, bad things happen. They always have and always will. It is how we react as a society, and as the oldest democracy on this planet, that

will determine our children's and our grandchildren's futures. Our courthouse's public buildings and civic institutions are the tangible representations of our values, institutions, culture and aspirations as a people. They tell many stories about us. Let's hope that they also tell one of bravery. jsj

Prudent Risk Management: A Court Administrator's View

ZYGMONT A. PINES

Justice Oliver Wendell Holmes Jr. once remarked that a word is “the skin of living thought and may vary greatly in color and content according to the circumstances and time in which it is used.” *Towne v. Eisner* (1918). In the formative years of our nation, “security” was a concept invoked to protect the citizenry against actions of the new national government. Among our first Bill of Rights was “the right of the people to be secure in their persons, houses, papers and effects.” Today, security has an expansive meaning that goes well beyond arbitrary government action. Every day we take innumerable security precautions to protect ourselves and those we care for. We try to roughly calculate risk and procure insurance so that the impact of calamity in our lives will be minimized.

The security of our workplace should be no less important. There is no special place of immunity from nature's ferocity or human malevolence. From a court administrator's point of view, the protection of those we serve—and those who serve—must be paramount.

Whether one looks at court security from the perspective of instinctive self-preservation, humanitarian concern, or prudent risk management, the balance must tip in favor of preservation and protection. For those who argue that security measures compromise public access to public spaces, I sincerely disagree. There is no incompatibility between security and public access. In fact, security secures access. However, as those who work in this area know so well, “court security” is a concept of immense complexity, both practical and conceptual. For court administrators and managers, there are certain aspects of critical importance.

Mechanicals. These are the essentials, the so-called nuts and bolts, of a court security program. The national associations of chief justices and court administrators (CCJ and COSCA) in 2005 proposed a skeletal framework of the “essential ten elements” for court security preparedness based on a national survey of court security administrators. The participants of that survey wisely ranked “standard operating procedures” as the critical first element, followed by facility assessments, emergency planning, and disaster recovery.

From a court administrator's perspective, a security administrative infrastructure and unifying standards/protocols, reinforced by ongoing training, are especially important. They should be an integral part of every court's operations. With an infra-

structure—*internally* in the court system and *externally* with law enforcement and other key stakeholders in place—systemic and sustained progress stands a greater chance of success. Standing security committees in each county or judicial district can provide considerable assistance to a presiding judge, court administrator, or security administrator in making sure that easy-to-understand protocols are implemented and enforced.

California, for example, has taken great strides in addressing two significant security management issues—funding and staffing. The attempt has been to create a rational funding formula and recommended ratios for staffing. Such templates and standards promote uniformity, fairness, and efficiency. These types of issues need to be addressed on a national level to assist our courts in their local and state funding efforts. **Funding.** It is time to recognize court security as a distinct and essential aspect of the business of the courts. For budget purposes, courts need to include the costs of security as a necessary operational expense of the enterprise of justice.

There is wisdom in the adage that Rome was not built in a day. Thus, achievement of this fiscal objective at the local and state level must be incremental, that is, slowly but surely. Although it takes little or no money to create security committees or develop protocols or foster a security mind-set, equipment and physical improvements—especially single point-of-entry modifications and personnel for equipment—require capital. The challenge here is for court leadership to educate others about why an investment in the safety of the people's judiciary is prudent risk management. Sustained communication and alliances—with law enforcement and leaders in our sister branches of government—can be persuasive. Sadly, it often takes a tragic incident to convince skeptics of the wisdom of security preparedness. Admittedly, with limited resources and other constraints, persuasion remains a difficult challenge. Recent efforts by the National Center for State Courts to facilitate direct federal funding to the courts for security may eventually provide some relief. But we must realize that court security ultimately remains a local and state responsibility, as well as a potential liability.

Threats and Gaps. At a 2006 meeting with court administrators in New England, Chief Justice Margaret Marshall of Massachusetts acknowledged that one of her greatest fears is to wake up one morning after a tragic incident and realize the “what if” scenario. Those who have experienced security tragedies in their courthouses are painfully aware of the spectral presence of *could've* and *should've*. In this modern age of terror, security planning taxes our abilities to assess risks and effectively respond. Biochemical terrorism, flu pandemic, bigger and more frequent natural disasters, and cyber attacks are no longer alien subjects for court leaders.

There are two fears that generate concern for me—communication breakdowns and continuity gaps. In the absence of communication, there can be no coordination between command and control. The prospect of isolation in a crisis is absolutely frightening. Communication capabilities in an emergency must be multifaceted. Telecommunications (land lines, cell, satellite) and information technology (espe-

cially remote-access capabilities) become our lifelines to sustain us in a crisis. We need to make sure that our communications systems will not fail us. Similarly, with the specter of a flu pandemic or other widespread incident, deeply layered succession planning is indispensable to continuity planning and survival.

Collaboration. Communication is the stepping-stone to collaboration. Court security is a collaborative enterprise. In my view, collaboration remains the Achilles heel of security. It is difficult to pinpoint exactly why this is so. Perhaps it's the complexity or multitude of security issues, the myopic sense of self-sufficiency, the hypothetical and unpredictable nature of security risk planning, the failure to appreciate the practical value of engagement, or simply inertia. One need only engage in a mock exercise of a security incident to realize how interdependent we are. Better yet, simply look at the horrific experiences in other jurisdictions since 1995—in Oklahoma, New York, Georgia, Louisiana, Mississippi, Florida, Alabama, Texas, and Toronto, to name some prominent examples.

We need to build a culture of collaboration that will create a mutually supportive network of information and assistance. From my vantage point, collaboration needs to take place on many levels:

- local (within the facility itself, with broadly representative standing committees on security, and with law-enforcement, executive, and legislative leaders)
- regional (with colleagues and partners who can provide guidance on common issues or support in the event of a debilitating incident)
- state (with court leadership, executive-level committees on security and disaster planning, the legislature, and state police)
- national (with the Department of Homeland Security, Congress, and various associations and organizations, such as the National Sheriffs' Association and National Center for State Courts)

On the plus side, there has been some good work. The National Center for State Courts has served as an increasingly valuable resource center and catalyst for collaboration through its security summits and programs. The joint security committee of chief justices and court administrators has identified the essential ten elements of a court security program and offered a template of standard operating procedures based on the best practices of many states. At the regional level, for example, court administrators in New England have engaged in a meaningful dialogue to address particular problems of court security. And in some states, such as Pennsylvania, the courts have been invited by the executive branch to participate in pandemic-flu planning. However, for many states, there remains a severe disconnect between the executive and judicial branches in emergency planning and communication. This is an ominous gap that poses significant dangers. Courts must be persistent in their efforts to be a meaningful participant in state and local emergency-planning processes.

Leadership. This last item, of course, should be first. The security of our courts will be a frustratingly elusive or impossible goal without visible and sustained commitment of leadership at all levels—chief justices, presiding judges, court administrators, executive and legislative leaders, law enforcement, and national organizations such as the National Center for State Courts, National Association for Court Management, and National Sheriffs' Association.

The leadership component is critical in persuading others about the importance of the security challenge, in ensuring compliance with security protocols, and in fostering a security-minded culture. Even before the tragic events of September 11, 2001, there were state court systems such as Ohio, Tennessee, Washington, and Alabama that demonstrated active leadership in promoting the security of the judicial branch through clear protocols, administrative support, and fiscal sustenance. They were able to move past obstacles and resistance. They overcame the insidious forces of complacency and presumption.

We cannot foresee what will happen in the future. Nor can we guarantee that our efforts will prevent tragedy. But leaders can take steps to minimize risk. If we truly value the welfare of those we serve and those who serve, we will realize that court security is essential and prudent.

Beyond the immeasurable and unpredictable human and psychological costs of a security failure, there is an overarching consideration for court leaders. As Chief Justice Ronald George of California noted in a recent interview, "The dispensation of justice is one of the most—if not the most—significant services provided by governments" (Egelko, 2006). Despite the fact that state court systems receive only a small percentage—often 1 to 2 percent—of their states' total budgets and are often viewed and treated as simply another governmental agency, court leaders must be steadfast advocates for safety and security. As servants and guardians of the third branch, we must never lose sight of the importance and survival of our mission in our democracy. **jsj**

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Security at What Cost? A Comparative Evaluation of Increased Court Security*

JON B. GOULD

This article presents results from a pilot case study comparing the effects of court security in two modern and highly respected metropolitan county court systems. Although federal and state courts have paid increasing attention to security in their buildings and operations, little formal evaluation has been conducted of the effects of heightened security on court operations or court users, including judges, litigants, lawyers, jurors, and the general public. The present research identified four common areas of concern, including inadequate signage and covered waiting areas at courthouse entry stations; disparities between the public's expectations of security measures and the limits of implementation; inconsistent monitoring of security measures; and gaps between heightened public expectations of security and the realities of limited resources to accomplish these tasks. If even these courts presented issues of concern, there are likely additional courts that warrant greater attention to the effects of security.

"Court security is a balance. A courthouse is a place where people are supposed to come to find justice" (Murez, 2005).

Since the mid-1990s, federal and state courts have paid increasing attention to security in their buildings and operations. Bollards and magnetometers are now regular features in many courthouses, as the judiciary is adopting many of the same security measures common in other sensitive government facilities. In this understandable move to raise the bar for court security, however, little formal evaluation has been conducted of the effects of heightened security on court operations or court users, including judges, litigants, lawyers, jurors, and the general public. To be sure, the effects of security measures may be an informal component of the decision to purchase a new security system or adopt new security protocols. But given the special nature of the judiciary as an open arbiter for the general public, it is important that the measures adopted by the courts to protect themselves and their constituencies avoid harm to the courts' reputation for openness, impartiality, or prudence.

This article presents results from a pilot case study examining the effects of court security. The project systematically compared two respected metropolitan county court systems, using both observational and qualitative methodologies to examine the effects of security measures on court operations and constituencies. Both courts are among the national leaders in securing their facilities, and court officials have been responsive to organized objections to security measures when voiced by court staff and, in some cases, by attorneys. However, the research identified four

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common areas of concern, suggesting there is more that these and other courts can do in considering the effects of heightened security.

Problems begin at courthouse entry stations, where inadequate signage and a lack of covered waiting areas may inadvertently leave a poor impression on court users of the courts' responsiveness and competence. In addition, there appear to be disparities between the public's expectations of security measures and the limits of implementation in both courts; such discrepancies may unintentionally create a false sense of security among those who use and work in the courts. Conversely, the failure of court leaders to regularly monitor security measures and communicate about them may raise the anxiety level of some court users, who worry that courthouses are insufficiently secure. Finally, there are gaps between heightened public expectations of security and the realities of limited resources to accomplish these tasks, which may lower staff morale and lead to burnout.

This project was not intended to examine the merits or adequacy of security measures in these courts; thus, the article does not present recommendations for new or additional security measures. For that matter, the research methodology of two case studies necessarily limits the generalizability of these findings. However, when employed comparatively, the case method permits more detailed assessments of sites studied than if quantitative or some qualitative approaches were employed. Put another way, in sacrificing breadth of application, the pilot study garnered greater depth in appreciating the effects of security measures on these courts. Considering that the courts examined are among the most modern and respected across the country, the common problems identified between them likely warrant further consideration—either through additional research on the effects of court security or as a cautionary lesson to other courts as they examine their own security measures.

HISTORY

Nationally, the courts are relatively recent converts to heightened security in their operations. Although judges and court staff have long recognized the danger posed by some custodial defendants, only in the last fifteen years has the judiciary given intensive attention to other threats to its operations, whether from court users or outsiders who wish to attack their facilities.

In the late 1970s, participants at the Second National Conference on the Judiciary noted that "that 'security in the courtroom and in the courthouse [had become] an increasing problem'" (Best Practices Institute, 2003); the result was the introduction of metal detectors and x-ray machines into courthouses (Wax, 1994). Within a decade, the National Sheriffs' Association had surveyed its membership to record courthouse incidents; the association's then-director remarked that "security in courts is in bad condition" (Wax, 1994). The growing concern for courthouse security crystallized in 1990, when the Commission on Trial Court Performance Standards released its standards for the effective operation of American trial courts. Standard 1.2 established a goal of safety, accessibility, and convenience in court per-

formance, with courthouse security intended to mean “the feeling of safety combined with the measures taken to provide that feeling of safety—against personal injury, property damage, and the loss of records housed in the courthouse” (Johnson and Yerawadekar, 1981).

At the time, court security was largely envisioned to address disgruntled litigants or potential escapees. A survey by the Supreme Court of Ohio and its Judicial Conference from the period underscores this point. Asked to recount violent incidents at state courthouses, staff reported the following incidents in declining order of prevalence: escape or escape attempt, physical assault, hostage situation, bomb threat or explosion (Jones, 2003:vii-ix).

The nature of court security would soon change with the 1993 bombing of the Alfred P. Murrah Federal Building in Oklahoma City and the 9-11 attacks of 2001. Coupled with a series of natural disasters in recent years that shut down court operations in Louisiana (hurricane), Florida (hurricanes), and California (earthquakes), the term “court security” has broadened to encompass emergency prevention and management. No longer do courts limit their attention to incidents that occur inside their buildings (Wax, 1994); now they are urged to prepare for external threats as well (Birkland, 2004; Siegal, Cooper, and Hastings, 2005; Wasby, 1998). As Judge Jane Roth, former chair of the federal Judicial Conference Committee on Security and Facilities, has explained, “The Judiciary has always been at risk from those who come before us in both criminal and civil cases and who disagree, sometimes violently, with our decisions and with the judicial process. Since 9-11, we have added the risk of terrorism. Because of this increased risk, our security has been tightened” (Roth, 2003).

The growing attention to court security uncovered a discrepancy in the level of courts’ preparedness. A 1997 survey by the American Judges Association (AJA) found that the vast majority of its respondents had security in place in their courts, but the meaning of the term varied considerably, from full perimeter security to a judge who happened to be armed. Recognizing these disparities, a number of respected and well-minded organizations stepped forward to advance the level and reach of security in the nation’s courts. “In 1995, the National Association for Court Management [NACM] produced the *Court Security Guide*, and several states followed with their own security manuals” (Best Practices Institute, 2003:1).

The NACM publication was followed by the “9-11 Summit,” held in September 2002; this meeting “brought together court leaders from across the country to discuss emergency management and pool the knowledge of court professionals who experienced emergencies firsthand” (Best Practices Institute, 2003). Among the results from the summit was the release of best practices for courts in managing emergency situations. Other groups have published guidelines “for trial courts—particularly those in rural areas—that are beginning the process of developing emergency preparedness and response plans” (Justice Programs Office, n.d.). Finally, in 2005, the National Center for State Courts and the National Sheriffs’ Association “jointly convened the National Summit on Court Safety and Security and Follow-Up Meeting to

collectively “identify critical court security needs and discuss realistic solutions” (Casey, 2006:1). The meetings brought together over 100 justice officials, ultimately creating “an ambitious plan to address court security in a collaborative, coordinated, and integrated approach” (Casey, 2006).

ATTENTION TO THE EFFECTS OF COURT SECURITY

In the concern for increased security, however, the courts have paid relatively little attention to the effects of that security. Much of the reason is undoubtedly that justice leaders are still trying to convince legislators, and some courts themselves, that stepped-up security in the courts is needed. One might also presume that the effects of security are naturally included in the calculus about the appropriateness of security.

To be sure, the courts recognize that heightened security necessarily touches on the judiciary’s constituencies, and, like any service industry, the courts are concerned about the needs and circumstances of their employees and users. In one of the best practices stemming from the 9-11 Summit, courts are urged to “prepare a list of individuals who might be affected by a court emergency and determine the best way to communicate with them” (Best Practices Institute, 2003:8). So too, the report from the 2005 National Summit notes the “multiple audiences” subject to “court security efforts,” including “court staff . . . attorneys, community service providers, volunteers, and other individuals regularly in the courthouse” (Casey, 2006:6).

These groups are mentioned, however, in the context of adopting “targeted training to ensure the safety of all courthouse users” (Casey, 2006), not in considering the effects of the security measures adopted. *Security: A Guide for Post 9-11 Environments* (2003) provides more than 300 pages of recommendations to the courts on security procedures to adopt, but no section addresses the likely effects of increased security on court users or other constituencies. A 2005 report from the AJA identified six important issues for courts to tackle in securing their facilities, but, again, the recommendations largely failed to address the needs or reactions of court users other than by advising courts on how to “handle opposition to the installation of security measures.” In framing court security in this way, the AJA, perhaps unintentionally, gave the impression that judges and court leaders know best how to balance the needs and effects of heightened security and that the constituencies who use their facilities must simply accede to these directives without concern for externalities.

Where the effects of heightened court security surface these days, it is often in the context of aesthetics. In Worcester, Massachusetts, for example, the bollards surrounding a federal courthouse were replaced with barriers that are less of an “eyesore” and more “aesthetically pleasing” (Kotsopoulos, 2006:B1). *Architecture Record*, too, has noted the tension between necessary security in courthouses and the public’s desire for a sense of “openness” in their government buildings (Loeffler, 2006). More recent reports have considered the messages sent by perimeter security. An appendix to the report of the 2005 National Summit stressed the importance of magnetometers or other measures that are “less intrusive and more effective in screening,” recogniz-

ing that some “inconveniences of access . . . are not acceptable” (Casey, 2006:14). Similarly, a 2004 report from the National Center for State Courts cautioned against “overt security measures [that] evoke an image of justice held hostage.” Although “general court security measures remain a prudent necessity . . . security measures should remain as unobtrusive as possible” (Hardenbergh, 2004).

As prescient as these cautionary asides may be, the effects of increased security on the courts and court users are still largely “a matter of conjecture, not fact” (Wax, 1994). Few, if any, courts have conducted a systematic evaluation of the consequences of heightened security measures on courthouse operations or the experience of constituencies who work in or use the courts.

PILOT RESEARCH PROJECT

Between October 2005 and February 2006, a two-person team undertook a comparative case study of the effects of heightened security measures on court users and constituencies. The project’s goal was to estimate how court security, especially those measures adopted since 9-11, affected people participating in day-to-day court business. The research did not test a hypothesis, although the study began with a suspicion that the recent rush to secure courtrooms and courthouses, while undoubtedly necessary, may have failed to consider the needs or interests of some court users. This, in turn, may have inadvertently lowered the public’s impression of judicial openness and competence.

The project examined any protocols, equipment, or systems adopted by the courts to provide security in their courthouses. Although initial interest in the subject was spawned by the courts’ response to Oklahoma City and 9-11 and to recent natural disasters, the study was not limited to those measures adopted after 1993, the year of the Oklahoma City bombing. First, it was often difficult to separate the effects of those measures adopted previously, such as x-ray machines, from those implemented more recently, like explosive scanners. Second, the majority of court security measures have, in fact, been adopted since the mid-1990s. Finally, the study was focused on the overall effects of court security on court users, which is likely an amalgam of reactions to measures adopted both before and after the early 1990s.

“Court users” or “constituencies” included those who either work in the courts or who have legitimate reasons to visit courthouses or participate in court business. Thus, the research encompassed judges, courtroom staff, litigants (whether civil or criminal, in custody or released), attorneys, jurors, and members of the public present either to observe a court proceeding or to attend to business elsewhere in a courthouse.

Researchers followed the case study method, using both observational and qualitative approaches, to examine two highly professional and well-respected county court systems. The selected courts were recommended by a panel of national leaders as efficient and effective, and as employing most, if not all, of the security protocols advised by national professional organizations. Of course, a focus on “elite” courts

may affect the results of the study, but it is an influence that likely works in favor of the courts selected. One may presume that they would not have allowed access unless they were confident of their operations. Thus, to the extent that the research identified issues of concern, those problems are likely magnified among other courts that may not be as experienced or attentive to these issues.

The project was divided into several stages. Researchers began by interviewing the presiding or administrative judge at each court and by meeting with members of the courts' security committees to learn the history of the security operations at the court and how these individuals envisioned the nature and likely problems of the security measures they employed. Depending on the court, these meetings involved representatives of court staff and the respective sheriff's department in addition to one or more judges.

Following these introductory meetings, the bulk of research was observational; researchers monitored perimeter security, courtroom operations, mailrooms, detention facilities, hallways, and general public space. Observation had three objectives: to describe the security measures employed and note the circumstances of their use; to record any reaction of those in contact with the measures; and to anticipate how the situation might unfold under different but reasonably anticipated circumstances. For example, standing outside a courthouse on a Monday morning, researchers noted the number, type, and designated lines for metal detectors at a courthouse's entry; they recorded the number of people waiting to enter and the approximate time it took them to make it through security; they noted both voiced and nonverbal reactions of persons who came in contact with the magnetometers, distinguishing where possible between the behavior of court staff, who had identification cards, and members of the public; and they sought to predict how the situation would be different if the weather had been raining or snowing. Wherever possible, observers attempted to "blend in" to avoid disturbing the normal order of business. In some cases, as for example when they observed lockups, they had to be escorted by staff. In these cases, observers tried to linger longer and watch.

Researchers also interviewed court users; they ranged from structured interviews with judges, sheriffs' deputies, and court clerks to informal discussions with attorneys, litigants, and members of the public. A formal structure was not employed for interviewing litigants, attorneys, or members of the public, so while conclusions about the effects on judges, sheriffs' deputies, and court staff are based on systemic responses from those individuals as well as observations, findings about the effects on other court users come from more-limited sources.

THE TWO COURTS

The study offered anonymity to the court systems and individuals involved, so the two courts are described here as "Southville" and "Northville." Both court systems are among the busiest county courts in their states. Each covers urban, suburban, and

collar communities and serves multiracial and multiethnic constituencies. Southville includes a sizable city within its county borders, while Northville directly borders a major city. Although Southville has a considerably larger court system than does Northville, both are considered among the largest in their states, and they receive heightened attention and greater resources from state officials as a result.

Southville County Court. Southville County covers over 1,000 square miles and has more than 1.5 million residents. It is a wealthy county, with a median household income topping \$70,000. The county is 50 percent white, with the other half divided among Asian, Hispanic, and African-American residents, in order of their proportion of the population.

Southville County Court is a unified trial court and among the five largest in its state. The court employs more than ninety appointed judges and commissioners in several courthouses across the county. In a given year, more than 300,000 cases are filed in the Southville court.

Northville County Court. Northville County's population nears 1 million, spread over a 500-square-mile area. Median household income for the county approaches \$60,000. Over two-thirds of the residents of the county are African-American or Hispanic, with just a quarter of the population identified as white.

Northville County Court is the second largest circuit court in its state's system, which uses state-run general-district courts for misdemeanors and county circuit courts for more serious matters. Northville County Court employs approximately twenty publicly elected judges, all presiding in one building that has been expanded over the years to accommodate the increasing caseload. More than 35,000 cases are filed each year in the Northville County Court.

SECURITY IN SOUTHVILLE COUNTY COURT

Security first reached the Southville County Court's agenda in the mid-1980s, when its presiding judge gave up that position and took over as chair of the court's security committee. Security is provided for the court by the county sheriff's office, although a joint security committee of twelve judges, a captain and lieutenant from the sheriff's office, and the court's director and assistant director of security create security policy for the court. Participants claim it is a friendly and collaborative process, unlike that described by many of their brethren around the state.

Magnetometers were first installed in Southville courthouses in the late 1980s, although security did not become a priority until the early 1990s after an incident in the family division where a litigant brought a gun to one of the county's courthouses and sought to kill his ex-wife. Recent shootings in Atlanta and Chicago have drawn attention and raised concerns, but 9-11 did not seem to have a large effect on the court's security, other than to speed up the then-existing process to provide perimeter security at all of the courthouses. While a majority of the county's courthouses had magnetometers in 2000, all do today, including x-ray machines and detectors for organic material at courthouse entrances. The county provided the court special

funding for improved perimeter security, some of which was used to purchase mail scanners shortly after the anthrax scare in 2001. The scanners also necessitated a change in mail delivery. Today, all mail destined for the Southville court is delivered to a central facility, where, the security committee claims, letters and packages are scanned for explosives and biohazards before being delivered to the various courthouses. However, as explained later, a site visit to the central mail facility found otherwise. The scanners can only be used for mail, not parcels; they can detect explosives but not organic material; and, most significantly, they were not used. Private express delivery (e.g., Federal Express) can be delivered directly to the courthouses, where parcels are scanned through the x-ray machines and organic detectors.

When metal detectors were first installed, court staff balked at being scanned, claiming that the imposition of this requirement was a violation of their collective-bargaining agreement and, thus, an improper change in their conditions of employment. As morale was already low and the staff had threatened to strike over other issues, the court decided not to require staff to go through the detectors. Today, staff and judges may use key cards to enter through separate, designated doors and avoid the detectors. The court's security director says there is a problem of staff holding the doors open for others, which the security committee plans to address by stationing a sheriff's deputy at staff entrances in the morning and after lunch to give staff a "friendly reminder" not to let others into the building when they open doors themselves.

Attorneys also complained when the magnetometers were first installed and they were forced to use them. Since then, the courts have allowed attorneys with valid bar cards to go the front of the line, but they must still pass through the detectors. Since 9-11, court staff say, attorneys' complaints have subsided. The county's security committee claims that seated jurors displaying a badge are allowed to bypass the lines, but this did not appear to be the case at most courthouses visited.

Many of the Southville courthouses have closed-circuit television cameras (CCTV), but they are generally limited to outside doors, lack audio, cannot pan, and are rarely monitored outside of the central courthouse because of a lack of technicians. The theme of limited resources permeates much of the county's consideration of court security. The sheriff's office, which provides deputies for court security, has seen its budget for these purposes reduced, so deputies are regularly moved around to different functions in each courthouse when a particular courtroom "goes dark" or there is a lull in a deputy's regularly assigned activities. Each morning, the sheriff's office conducts a "security assessment" of the hearings and defendants to be dealt with that day. If there is a particularly well known case, or if a defendant is especially violent, extra measures may be taken, including adding a second level of security screening at the entrance to a courtroom, providing additional deputies in the courtroom, or moving a case from one of the county's satellite courthouses to its main building.

Entry-level sheriff's deputies begin in the courts and then are rotated out to street patrol before being offered the opportunity to return to the courts. At least one deputy is assigned to each judge's courtroom. Judges sit behind bulletproof benches

and have “panic buttons” at their knees. Judges continue to park in open, unsecured areas, although secured parking is a current priority for the security committee, along with additional bollards at all of the county’s courthouses, better CCTV coverage and monitoring, and a policy on judges’ possession of firearms. According to many respondents, a number of judges arm themselves both in court and outside, although the practice is generally conducted “on the down low.”

SECURITY IN NORTHVILLE COUNTY COURT

The Northville County Court is located in a single building in a relatively untrafficked part of the county. The county court shares space with limited-jurisdiction district courts administered by the state, as well as a clerk’s office, the district attorney’s office, and a few state offices. The county has expanded the courthouse recently and anticipates adding more space in the foreseeable future.

Security is supervised by a safety committee composed of the administrative judge of each court, along with representatives of the county sheriff’s office and the other tenants of the building. Because of disagreements between the two courts, with the county court generally seeking higher security than does the district court, the sheriff’s office will often break the tie and decide which security measures are warranted for the building. Judges tend to defer to the sheriff because of his public-safety responsibilities. However, if the public complains about security procedures, the county judges—who are elected—have been known to step in to change policy.

Magnetometers came to the courthouse in the late 1970s, with x-ray machines following, although even today the latter are limited to metal detection and cannot identify explosives or organic material. For a one-year period in the late 1980s, court staff were required to pass through the metal detectors, but after several complaints from staff, the safety committee removed this requirement. Court staff, and anyone else who works in the building and has an identification card, can use their identification cards to enter through the employees’ door from the staff parking lot; alternatively, they are permitted to walk around or through the metal detectors at the two public entrances by flashing their identification cards. Staff are not required to pause if the magnetometer beeps.

The magnetometers are staffed by civilians and a sheriff’s deputy, with deputies assigned to other stations in the building as well. These stations include each courtroom, a central control room to monitor building alarms, the holding cells, and defendant transport, with occasional forays outside to patrol the parking lots. Sheriff’s deputies rotate through courthouse duty and street patrol, with their average stay in court security being about a year.

In addition to the court clerk and stenographer, each county courtroom is staffed by a civilian bailiff, who serves as a staff assistant, and one or two deputies who are armed and provide security. In a district courtroom, a single bailiff provides both functions, but only some are armed. In an unusual arrangement, the sheriff’s office is responsible for the holding cells and inmate transport; this means that county

deputies bring defendants upstairs from the holding cells and turn them over to the district court bailiffs in those courtrooms. For county court, deputies retain responsibility for custodial defendants throughout the entire process. The sheriff's deputies do not think much of the district court bailiffs, describing some as "old retired cops."

The Northville courthouse has CCTV, with the new wing even boasting a motion-activated digital-video-recording (DVR) system. However, recording is not currently performed, nor are there sufficient monitors in the control room to observe the cameras, which so far are mainly unused. There is a bomb-sniffing police dog assigned to the court; the dog can be brought out at times like gang trials to give the appearance of heightened security, even though the dog is not trained for crowd control. The county attorney's office will notify the sheriff's office when a notorious case is scheduled for circuit court, and the sheriff's office will often assign additional deputies to that courtroom as a result. There is extra wandering outside courtrooms for high-profile cases.

All mail for offices in the Northville courthouse enters the building through one of the x-ray machines, with letters and parcels then distributed to the respective offices through the mailroom. There is no capacity to scan for explosives or biohazards, only for metal objects. In fact, Northville lacks resources to upgrade the technology in its security systems, either for improved and additional screens to monitor CCTV or for more-regular upkeep. The financial situation is getting better, some staff said, as long-simmering disputes between the county and district courts and between leaders in the county administration and the sheriff's office decline with changing leadership, which has provided the county court with new funding that it can dedicate to security. In addition to the motion-activated DVR system in the new wing of the courthouse, employee-identification cards have been programmed to limit access for each employee to those areas in the building in which the individual has reason to work. Unfortunately, the new funding has not significantly improved the salaries of security personnel, and turnover remains an issue, particularly among those civilians that assist with monitoring access.

Judges have "panic buttons" in their courtrooms and, like the rest of the staff, may park in a designated, underground parking lot. There is an additional parking lot for judges, restricted by a gate and key access, but this sits adjacent to the main street, with the result that the judges are visible to the public no more than ten yards away. For this reason, most judges choose to park in the underground, albeit ungated, lot. The administrative judge, who parks outside, summed up the dilemma when he spoke of the county judges' dual roles as jurists and community leaders who must stand for election. "We can't just hide," he said. People expect to have access to Northville judges, whether in the courtroom or at community events.

ISSUES OF CONCERN

Notwithstanding their differences in court structure and security systems, the effects of security in these two courts systems present many of the same concerns. Initially,

both courts have been receptive to complaints from court staff and users about the effects of courthouse security. When staff complained about the magnetometers, officials in both court systems exempted them from passing through the metal detectors. Southville also acceded to the concerns of attorneys, who said that the lines at the magnetometers delayed them from reaching court and that being subjected to search was an affront to members of the bar who should be trusted. Attorneys there may now move to the head of the line at a metal detector by showing their bar cards. In addition, security committees in both courts amended rules prohibiting cell phones when it became apparent that the technology had become so essential to the lives of lawyers, litigants, and even court staff that it was a serious inconvenience to be without a cell phone while in court. Today, cell phones are permitted in the Southville and Northville courthouses as long as they are not camera phones.

Interestingly, it took collective complaints from court staff or users to move the courts into changing their security policies, for in general these courts appear more reactive than proactive in considering the effects of increased security on court constituencies. Court officials did not push back against the complaints, insisting, for example, that staff use the metal detectors like everyone else because rogue employees with building passes could pose a threat to the courts. Instead, they acceded to the demands, largely to “keep the peace” with court staff. Court leaders in these two jurisdictions have been willing to balance the effects of security against the need for protection when faced with collective criticism from those who either work in their buildings (staff) or access them regularly (attorneys).

Information Needs and Comfort of Court Users. Although the Northville and Southville courts have been receptive to organized demands, they have not been as proactive in anticipating or routinely monitoring the effects of security on court operations or constituencies. The concern begins at perimeter security, where the courts could do more to anticipate the information needs and comfort of some court users. Judges and court administrators acknowledge that there are often long lines at the entrance stations to many courthouses, especially on Monday mornings when new jurors are summoned, but neither court system has attempted to track waiting times. Informal reports suggest lines may last as long as fifteen to twenty minutes, and these are often at courthouses that lack overhangs or covered areas to protect jurors or litigants from inclement weather. The situation leaves a poor impression on court users, the majority of whom said in interviews that they had expected to wait a few minutes to enter the courthouses but were angry at delays that approached fifteen minutes. To the extent that the lines are sizable, the delays may stall court proceedings. A few judges interviewed complained of having to start court late in the mornings or immediately after lunch to accommodate delayed jurors, witnesses, and attorneys.

In addition, none of the courthouses observed provided adequate signage either to prepare people for the items, most particularly camera phones, that are prohibited in the buildings, or to offer explanations in Spanish, Korean, or Vietnamese to serve the significant minority populations who come to those courts. This was especially a

problem at the Northville court, where many court users park in a lot one-half mile from the courthouse and take a shuttle bus to the building. Although the court explains its security measures when issuing jury notices, there are no signs in the parking lots to remind jurors or others to leave camera phones and other prohibited items in their vehicles. The result is that a number of people reach the magnetometers only to turn around and return to their cars. The delays that follow not only slow court processes that depend on the presence of these individuals but may also lower the public's opinion of the courts.

Inconsistencies Between the Expectations and Realities of Court Security. For all of the considerable attention paid to security in the two court systems, there were several serious discrepancies between the rhetoric and expectations of those who set security policy and the implementation of those directives by deputies and court staff charged with providing security. Perhaps the most troubling was in Southville, where the presiding judge and members of the security committee reported that all mail directed to the courts was being scanned for weapons, explosives, and biohazards in a central facility. However, a visit to that mailroom found two scanners stacked in the back of the room. Mail staff explained that they no longer used the equipment and that, in any case, the machines only scanned for explosives. In Northville, the administrative judge reported that deputies regularly patrolled the outside of the courthouse for suspicious activity, but the deputies themselves said patrols were limited to a couple of times each day. CCTV was a problem in both courts, as the number and conspicuousness of cameras might lead court users to believe that they are regularly being watched and protected, when many of the cameras still have yet to be set up, and the number of screens and technicians are still too few to provide adequate monitoring.

It could be argued that there is little harm to court staff or users in believing that they are more secure in these courthouses than they really are; in effect, what they do not know cannot hurt them. However, the judiciary, the government branch most concerned with fairness and impartiality, has an obligation to be as honest as possible with its constituencies. That does not mean providing access to the details of security systems, but it may imply the avoidance of giving false impressions.

More critically, there is a policy concern when the implementation of court security does not match the expectations of those who have designed or approved it. Perhaps those plans were overly ambitious and the realities of implementation warrant scaled-back aspirations, but those are facts that individuals responsible for court security protocol must know. Otherwise, a court labors under the significant threat of an unknown security breach, one that could conceivably endanger court facilities and users.

A Misimpression that Security Is Less Effective Than It Is. Both of the observed courts have several layers of security for their buildings and operations. However, while the leaders of these courts are strongly supportive of the security protocols, the failure to emphasize the importance of security routinely and monitor practices

repeatedly unwittingly permits breaches that may lead court users, including litigants, jurors, and even judges, to doubt the effectiveness of security measures.

A good example is in Northville, where, according to many sheriff's deputies and court staff, the interest in court security waxes and wanes with news stories of terrorist attacks and courthouse assaults. At the time of observation, interest was said to be low, and complacency had set in. Researchers received several reports of employees who held the secured door open for others they recognized, although protocol does not permit this practice. Of course, the risk that this behavior will lead to an attack is likely low—provided staff admit only those individuals they recognize as court employees—but when complacency leads to carelessness, a serious security breach may well follow. Perhaps more important, a gradual rise in noncompliance seems to worry those staff members who follow the rules. “Are we really that safe?” was an expression heard several times from court clerks and even sheriffs' deputies in both court systems, who recounted the number of incidents in which they had seen people scurry through open doors. When asked what they did when confronted with the situation, most staff said, “Nothing,” as they believed that it was not their job to “tattle” or get a coworker in trouble. Still, the fact that court employees witnessed such breaches, and that the breaches went unpunished, sowed doubts in their minds about the efficacy of the security measures in place.

Apart from prohibited practice, the Northville court system seems unaware of the signal it sends when, in view of the public, court staff are permitted to pass through the magnetometers while the machines beep. To be sure, court staff are required to wear an identification card to receive this privilege, and sometimes they are directed to their own line a few feet away from the general public; however, the scene still appeared troubling to members of the public observed, who questioned why someone should be permitted to enter the courthouse if the magnetometer detected an irregularity. Their concern was not so much that staff were permitted to enter without enduring the metal detectors—for, as some said, they are accustomed to key-card access in other businesses—but that staff were allowed to pass blithely through, and in full view of the public, if the magnetometers sounded to a possible abnormality. Court users might feel more confident about court security with Southville's method, in which judges, court staff, and other courthouse employees are allowed to bypass the magnetometers but do so outside of public view. This is not to say the buildings are significantly less secure when employees are allowed to bypass the magnetometers, but perimeter security may *appear* less safe to other court users when they are confronted with stark examples of the exceptional policy.

In Southville, there was another ironic situation: judges who were unaware of court security measures seemed at times to be paranoid about their own safety in court. Several judges did not know their desks were made of Kevlar, could not explain the roles of the many sheriff's deputies who accompanied custodial defendants to their courtrooms, and did not know whether the deputies were armed in court. By and large, these were also the judges who worried most about their person-

al security in the courtroom. Members of the court's security committee said that judges were regularly briefed on these matters, but the chair of the committee reported that many of his colleagues "do not take the time" to pay attention to these issues. It is unclear whether this results from apathy on the part of some judges or a failure of the security committee to communicate on these matters. Among other things, the committee meets Wednesdays at noon at the county's main courthouse, about a forty-five-minute drive from one end of the county, where judges who participate in the committee must return by 1:30 p.m. for afternoon court. Yet the lack of information and understanding seemed to feed the security worries of some judges.

Expectations for Heightened Security but Limited Resources to Do So. In both court systems, the sheriffs' offices have been asked to increase courthouse security substantially over the last decade, but other than a one-time allocation from their county governments, judges and sheriffs' deputies say that resources are still inadequate to staff the courthouses as fully as they think appropriate. Of course, there are always questions about appropriate staffing levels, and it is possible that these court systems seek more positions than they need to cover their buildings properly. However, observations confirm the multiple assignments expected of sheriffs' deputies and help to explain why the courts and sheriffs' offices believe their security units are understaffed.

In Southville, the state has recently cut the court's security budget, requiring the sheriff's office to rotate and share deputies between positions in the courthouse. As a result, some responsibilities like outside patrols are left undone when the courts are busy. In Northville, the reliance on bailiffs in district court, who cost less than a sworn deputy, shocks many of the sheriff's deputies, who believe the state has traded a small cost savings for a more significant threat to courthouse security. Interviews regularly found security personnel who believed they were overworked, especially as compared to the same assignments five years ago, and who said their morale had dropped as a result. Perhaps their previous assignments were too comfortable, but courts ought to be aware that in seeking to "do more with less," there are repercussions among the personnel assigned to provide security.

Remaining Security Risks. Although this study was not intended to assess the efficacy of security measures employed in both courts, several serious security risks remain in these courts. These deficiencies are troubling on three levels. First, even after the emphasis given to security over the last decade, it is disturbing that these court systems—two of the most respected in the nation—still have yet to address obvious, and in some cases known, threats. Second, the fact that these risks are conspicuous, particularly to the public, may lead some court users to doubt the competence of the judiciary to protect them while in court. Finally, where the risks are known, they create greater anxiety for those charged with security, because in many cases these officials lack the appropriate resources to address the problems.

Two examples warrant mention. At one Southville courthouse, custodial defendants are paraded outside in a daisy chain from the court's sally port to the main lobby. As many as seven defendants are accompanied by one or two officers, who are

outside of plain sight and CCTV for about ten yards when walking around the side of the building, and whose appearance in the main lobby surprises and in some cases worries other court users, who are suddenly confronted with a chain of orange-clad inmates in handcuffs. In another Southville courthouse, as many as fifty custodial defendants are brought into a single courtroom for arraignment with as few as four deputies present. To be sure, the charges are misdemeanors, and the most violent defendants are in handcuffs and sometimes in leg irons. However, defendants sit in rows by classification level, meaning that someone who is in protective custody in the jail can be seated twenty feet away from the very person he is supposed to avoid. This is particularly problematic when an interpreter must be used and all the people who speak that language are moved to a separate row.

Southville officials profess awareness of these security risks, but they do not have the resources to address them, whether by retrofitting courthouses or hiring more deputies. Northville officials, too, complain of limited resources that prevent them from improving court security, including regular perimeter patrols of the courthouse during daylight hours. Although trade-offs may be inevitable with resources that are limited, the growing emphasis on security seems to have attuned officials in these two court systems to deficiencies in their protective schemes, while simultaneously worrying them about the ability to correct these weaknesses. Barring the provision of additional resources for these purposes, the emphasis on heightened security may actually have raised anxieties about courthouse security.

CONCLUSION

Northville and Southville are two modern, well-respected court systems. They have been leaders in a number of areas of court administration, from technology to training to caseload management. Each has also undertaken a number of measures to protect its facilities, staff, and users and has a long experience with security systems and procedures.

Leaders of both courts profess concern for the experience of those who work in or interact with their courts, and their emphasis appears genuine. Indeed, each court has been responsive to organized complaints from court staff and users about the effects of courthouse security. As much as these courts have emphasized the need for heightened security measures, evaluative research suggests there is more each court can do to ensure that the security protocols enacted neither send unintended, unfavorable messages to court staff and users, nor fail to take account of the special circumstances of those who enter court facilities to do business with the judiciary. Safety measures are undoubtedly important, but the judiciary—perhaps more than the other branches of government—has an obligation to ensure that the externalities of security do not mar the courts' sense of openness and impartiality.

Although the research is based directly on the two courts studied, the implications of the study's findings likely extend to other court systems. Northville and Southville are courts of high repute, with leaders who were willing to open up their

doors to outside researchers. If even these courts presented issues of concern, there are likely other court systems that warrant greater attention to the effects of security. Additional evaluation research is needed, whether using quantitative, qualitative, or observational methods, lest potential problems go undiagnosed and ferment. The courts have made great strides over the last decade in securing their facilities. It is equally as important now to consider the effects of those measures on court operations and constituencies and to make modifications where appropriate. **jsj**

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