

Courthouse Security—A Direction or a Destination?

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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:

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| 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

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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