

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**

REFERENCES

Superior Court of Arizona, Maricopa County. Administrative Order No. 2004-031. www.superiorcourt.maricopa.gov/adminOrders/2004/admin2004.asp

— Administrative Order No. 2006-078 www.superiorcourt.maricopa.gov/adminOrders/2006/admin2006.asp

Securing Our Future

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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

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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-