

# Personal Safety & Public Justice

By Hon. John Kane

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In twenty-seven years on the federal bench, I have received two threats serious enough to warrant around-the-clock protection. The first was from a woman who offered \$500 to anyone who would kill me because I had affirmed an order deporting her boyfriend. In the second, I was mistaken for another judge who had ordered firearms confiscated.

In both cases, I was protected by the U.S. Marshals Service, and the suspects were prevented from doing any further harm. But like all judges, I know that my job can be dangerous. I was saddened but unsurprised at the murders of a state judge in Atlanta and the husband and mother of a federal judge in Chicago in recent weeks.

The predictable response to these murders will be a demand for more protection for judges: more guns, barriers and electronic paraphernalia. Yet one nation under guard is not the answer. Tying judicial security to the war on terrorism risks destroying the very institution we seek to defend.

The danger that judges face is not

likely to be related to terrorist organizations; there is no tradition of organized groups killing judges in this country. Not even in the 1930s, when the mob was being prosecuted by people like Thomas E. Dewey, did it resort to taking aim at judges. Dewey, for example, was the target of a murder plot, but further attempts—as well as plans to assassinate a state court judge—were scotched by none other than the notorious gangster Louis Buchalter. We leave judges alone, he is reported to have said, because they're the only hope we have. Gangsters lack conscience, not common sense.

Another problem with judicial security is that it is unexpectedly difficult to define. After the shooting in Atlanta, for example, one defense lawyer described security at the courthouse as “absolutely atrocious,” while a judge there said it was “phenomenal.” The lawyer focused on poor training for security officers, while the judge noted that judges have a private elevator and their own parking garage.

The lawyer saw vulnerabilities beginning at the courthouse door. The judge saw security everywhere but the precise location where his colleague was shot: the bench. Under the prevailing mindset, nobody is safe.

The answer is not to convert courtrooms into fortresses or to cloister judges behind barricades. It is to create a sensible state of elevated awareness throughout the judiciary—not only about the need for better security but about the specific nature

of the risk.

Since 1970, ten state and federal judges have been murdered, seven of them in job-related incidents. Those who threaten judges are almost always disturbed individuals seeking revenge. (The murderer of the mother and husband of the judge in Chicago was sadly typical: he was an embittered former plaintiff.) Of the three federal judges killed in the last quarter-century, all were killed by men disgruntled with their treatment from the federal judicial system.

In state courts, violence is more likely to occur over domestic relations matters. In federal courts it is more likely to come from litigants representing themselves, particularly those who have fired their lawyers, in emotion-laden cases alleging violations of civil rights or injuries to self-image, cases that deeply involve notions of personal worth.

Metal detectors at courthouses and beefing up security can thwart impulsive acts, but they are ineffective against long-simmering resentments or the detailed plans of paranoids. For those we rely on intuition.

Judges receive instruction on how to vary their departure time and route between home and chambers, install alarm systems and report threats and suspicious activity to the Marshals Service. But we get no training in analyzing pleadings and correspondence or profiling potentially troublesome personalities—or how to treat such people once they are identified.

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The goal should be to narrow the field of potentially troublesome people to permit the marshals to focus on those who are truly threatening. Doing this would not only make the courts safer, but would also show that the system

is committed to fairness.

When that woman put out a \$500 contract on my life, the Marshals Service suggested I carry a gun. I followed this advice for a while, but then I gave it up. It made me uncomfortable.

Carrying a gun made me look at everyone with an attitude that made fairness and impartiality impossible. This, in the end, is too high a price to pay for judicial security: it cannot come at the cost of justice.