

Federal Courts Adapt for Maximum Security

By Lisa Novak

Although courthouse security is always a serious concern, incidents within the past few years have reinforced the fact that security takes many forms. The overall security program for federal courthouses is periodically evaluated to ensure that courts adapt to changing standards. Safeguarding courtrooms and lives, however, is not a single step but a combination of factors that requires constant vigilance. Security responsibility for the federal judiciary thus is shared among several government entities: the Marshals Service, court security officers, and the Federal Protective Service.

U.S. Marshals Service

Primary authority for court security, spelled out in 28 U.S.C. 566(a), belongs to the U.S. Marshals Service (USMS), an executive-branch agency within the Department of Justice. Created by the first Congress in the Judiciary Act of 1789, the USMS provides support to the federal courts. The security responsibilities include federal courthouses and personal protection for federal judges, court officials, witnesses, and jurors. Marshals also are responsible for courtroom security and transportation and security of prisoners.

The statute authorizes each U.S. marshal, deputy marshal, and

any other official of the Service as may be designated . . . to carry firearms and make arrests without warrant for any offense against the United States committed in his or her presence, or for any felony cog-

nizable under the laws of the United States if he or she has reasonable grounds to believe that the person to be arrested has committed or is committing such felony.

In addition to filling security needs in courthouses, marshals also gauge the level of threats made against judicial officers. Since 1980 the USMS researchers have studied more than 3,000 threats received by judges and the outcomes of those cases. What they and other researchers learned challenged the conventional wisdom that a direct threat represents the clearest danger. Typically, the person who seriously wants to harm someone will not make the threat known. Therefore the USMS has shifted much of its focus to analysis of inappropriate communications.

Although judges and other members of the judicial family know to relay direct threats immediately to the USMS, deputies emphasize the importance of informing them about any inappropriate behavior or communication, including stalking, pseudo-legal court filings, obsessive admiration, or even references to bodyguards, security, or safety. Although roughly 14 percent of all threats are from habitual perpetrators—who may make forty to fifty threats a year—all threats are taken seriously. Each federal district has a USMS threat investigator to handle dangerous or inappropriate communications. The duties of the threat investigator include records checks and interviews. Information about the perpetrator and the threat is then entered into the nationwide statistical database

of threats and their outcomes. Each entry is cataloged by upward of thirty identifying behaviors and variables, such as date of communication, method of delivery, perpetrator's identity, possible motive, and so on. The majority of incidents in the database did not proceed further, but 3.9 percent had violent outcomes (a somewhat broad designation that includes, for example, a case where a judge received a threat but a witness in the case was harmed).

Another database, MOSAIC 3 (M-3), uses a program originally developed to protect celebrities but customized to fit the particular needs of the judiciary. It analyzes known behaviors and background information about the perpetrator, focusing on assets such as home, family, and job that could be lost if a threat were acted on. These assets could inhibit illegal activity, but they could also spur criminal action if jeopardized through court cases.

Court Security Officers

The USMS also handles the hiring of court security officers (CSOs), contract employees who assist with judicial building security. Among other duties, CSOs screen mail, monitor people at courthouse entrances, control courthouse parking access, and patrol in and around the courthouse. During the past twenty years, the number of CSOs in federal courts nationwide has risen significantly, from 405 in 1983 to 3,797 in 2002.

Although CSOs are used primarily in low-risk proceedings, they do assist the USMS with high-profile, high-risk

cases. CSOs must be graduates of law enforcement training programs certified by federal, state, county, military, or local agencies; have at least three years of experience in law enforcement; and have passed an approved firearms course. Most officers have considerably more experience. According to USMS statistics, CSOs in fiscal year 2001 detected 806,867 weapons and other items that either may have posed a security risk or were prohibited in the courthouses. The USMS and the federal judiciary have initiated several programs to increase the effectiveness of CSOs, including enhanced orientation, upgraded weapons, and stricter medical standards.

Federal Protective Service

The Federal Protective Service (FPS), created by Congress in 1971 and now under the control of the Border and Transportation Security Directorate of the Department of Homeland Security, provides additional security. The FPS originated in 1790 when a congressional commission hired six night watchmen to protect the buildings that became the permanent seat of the federal government in the District of Columbia. Currently, the FPS protects all public buildings and other areas under management of the General Services Administration, investigating thefts and assisting in courthouse protection. FPS officers also sit on committees with the USMS to review the status of existing security throughout their respective judicial districts, discuss new or changing needs, and resolve conflicts.

Incentives for Change

The 1995 bombing of the Alfred P. Murrah Federal Building in Oklahoma City was a major catalyst for changes in security considerations for federal courthouses. New buildings must be set back from surrounding streets, and landscaping designs generally use bol-

lards and planters to augment the security of the setback. These elements are easily incorporated into already-existing designs for older courthouses located close to streets and parking lots. Parking near courthouses is more restrictive and access to underground parking more controlled. Perimeter security cameras are standard equipment, and after-hours security has been enhanced as needed.

The September 11 attacks sparked intense review of security measures and prompted massive changes, both visible and invisible. A higher security level was implemented, and CSO staffing was increased in each district, which allowed more after-hours and weekend security and increased perimeter security patrols. Recommendations by the Administrative Office of the U.S. Courts (AO) and the Judicial Conference Committee on Security and Facilities led to the creation of 106 supervisory-level inspector positions that focus exclusively on court security. They coordinate the on- and off-site safety of judges, oversee work performed by CSOs, conduct security surveys, develop building security plans and policies, and help ensure these guidelines are properly implemented.

The anthrax mailings received at government offices and other locations late in 2001 caused a review of mail-handling procedures at all federal court buildings. As a precautionary measure, court employees routinely wear rubber gloves and filter masks while opening courthouse mail. Any court concerned about contamination by biological agents can request expert scientific service and assistance. To reduce the possibility of contaminated letters, the AO started using e-mail more extensively for time-sensitive information. Construction of new courthouses with dedicated ventilation for mailrooms is also being considered.

To coordinate a nationwide

approach to security issues, the AO Judiciary Emergency Preparedness Office (JEPO) was formed in November 2001 to address the continuity of operations plans (COOPs) and court emergency preparedness for numerous courts. Courts of appeals, which are developing emergency response plans at the circuit level, have also formed committees to work with deputy U.S. marshals and court security committees.

Nationwide, courts were encouraged to explore their options and create plans to best manage operations should human or natural emergencies occur. Short-term occupant emergency response plans were established to safeguard lives and property during emergencies and to coordinate evacuating and securing court facilities, preserving records, and communicating with employees and the public.

The emergency plans also ensure that essential functions can be resumed as quickly and safely as possible. The federal judiciary makes COOP templates available to courts on its internal computer network, specialized for appellate, district, and bankruptcy courts. Building evacuation drills have become more commonplace, as has involving local police and fire authorities in such exercises.

Judge John G. Heyburn II, chair of the Judicial Conference Committee on



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the Budget, stated at a hearing before the Senate last year that the events of September 11 and the anthrax incidents that followed “tested the Judiciary’s ability to maintain the high quality of justice our country deserves. . . . [T]he men and women of the Third Branch came together in a remarkable show of pride, teamwork and patriotism to make certain that the work of the judiciary continued unabated.”

Additional Resources

Courthouse construction has evolved to take into full account the security needs of the modern federal judiciary. The *U.S. Courts Design Guide*, published in 1991, provides comprehensive information on how new federal courthouses should be built and existing courthouses renovated. The guide was developed by a team of experts in space planning, security, acoustics, mechanical-electrical systems, and automation, advised by federal judges and the National Institute of Building Sciences. It provides the support needed to make informed decisions on everything from square footage of courtrooms to surface finishes. This publication is updated as courthouse needs change. “A court system can’t function without safe, well-designed and efficient buildings in which to hold court,” says Judge Jane Roth of the U.S. Court of Appeals for the Third Circuit, chair of the Judicial Conference Committee on Security and Facilities. “Courthouses have been a keystone of many communities and for many people the symbol of our Republic in the community.”

Visitors or employees entering the courthouse are met by CSOs and screened as they pass through a metal detector. Persons setting off a metal detector are scanned by a CSO using a handheld detector. Briefcases, packages, and other items in which danger-

ous or prohibited items might be stored are X-rayed. The CSOs also hand-check any item deemed suspicious or problematic. Policies regarding the use, or even the presence, of cellular and digital phones, personal digital assistants, or other electronic devices are set by each individual courthouse.

Special attention has been given to secure transfers of prisoners to and from courthouses, separating their movements from those of judges, the public, and employees. Many early twentieth-century courthouses used the same circulation paths for judges, prisoners, jurors, and the general public—a design fraught with vulnerabilities. Modern courthouses are designed to eliminate that potential danger, with jurors and witnesses utilizing routes separate from those used by prisoners, who are moved directly to holding facilities without entering public or restricted spaces. Courtrooms may include duress alarms for emergencies as well as closed-circuit security cameras connected directly to the USMS command center. Deputy marshals accompany criminal defendants into courtrooms during hearings and trials, providing additional safeguards.

Informed and vigilant employees play an important role in the overall security of a court, but employee training is all too often overlooked as a security measure. Training employees to handle crisis situations, respond appropriately, and call for emergency help benefits the judiciary and the public. The USMS offers training on handling threatening telephone calls, suspicious mail or packages, emergency evacuations, and individuals who cause disturbances. Court staff members who are familiar with the facility and policies can reassure jurors, researchers, and other members of the general public that proper procedures will be followed in dangerous situa-

tions. Issuing automated external defibrillators, used for heart emergencies in courthouses, gives trained employees options in a crisis-level health situation. If professional assistance is not available, staff trained to use the equipment can aid in resuscitation.

Upgrades in security measures for court technology systems illustrate just how far the federal judiciary has come with going digital. Making personal computers widely available was the initial priority, but these seldom required passwords and often were shared among several people. Today each federal court has its own website within a data communications network; the judiciary is constantly upgrading its use of electronic case filing, virtual libraries, electronic bankruptcy noticing, and information retrieval. Although each court is responsible for its own electronic security, the AO has endorsed five basic guidelines:

1. Assess security risks and determine needs;
2. Establish a central management focal point;
3. Implement appropriate policies and related controls;
4. Promote security awareness; and
5. Monitor and evaluate policy and control effectiveness.

These procedures were established by the AO Computer Security and Independent Testing Office, created to increase federal courts’ focus on computer security.

The possibility of a disaster is always present, but advance planning and the anticipation of potential problems may mean the difference between a disabled court and a court that reacts efficiently, rectifies problems, and returns quickly to normal functioning.