Preliminary Assessment of Judicial Security Needs in the Third Judicial District Court
Austin, Minnesota

TECHNICAL ASSISTANCE REPORT

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Preliminary Assessment of Judicial Security Needs in the Third Judicial District Court Austin, Minnesota

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I. INTRODUCTION

A. Background of this Assignment

During the past eighteen months, Minnesota's Third Judicial District has been the site of the bombing of two different judge's homes, both of which are still under investigation. In addition, several drug raids, incidents of labor unrest and a dramatic increase in the criminal caseload have created substantial security concerns in the District's eleven county courthouses. In response to these problems, Donald Cullen, District Administrator, requested assistance from the Bureau of Justice Assistance sponsored Adjudication Technical Assistance Project (ATAP) at The American University to review the District's security needs and to provide recommendations to improve courthouse security as well as the personal security of the twenty-two judges serving in the eleven counties of the District.

Although the scope of assistance required to adequately address Mr. Cullen's request was beyond ATAP's resources to provide, the ATAP agreed to make available limited assistance to the District to provide a framework for outlining the District's security needs which could be then followed up through local efforts and those of the state court administrator's office which agreed to send a representative to ATAP's site study. In light of the technical issues raised by the request, the ATAP also contacted the Court Security Division of the U.S. Marshals Service to join with the ATAP in providing this assistance. Richard Zurita, Chief of The Marshals Service agreed to assign an inspector to visit the District upon specific request from Mr. Cullen.

The joint ATAP/Marshals service site visit was initially scheduled for September 18 - 21, 1989; however, due to the sudden illness of the inspector assigned by the Marshals Service, that portion of the site study was deferred until December. This report therefore documents the ATAP portion of this assignment; a separate report will be submitted by the Marshals Service.
The ATAP consultant who prepared this report was Larry Siegel, a specialist in court facility planning who has conducted numerous similar studies throughout the United States for both the ATAP and other organizations. The U.S. Marshals Service was represented by Inspector Wes Rife of the Eighth Circuit Office in St. Louis.

B. Focus of the Site Study

While on site, Mr. Siegel visited four of the eleven courthouses in the District: Olmsted County Courthouse in Rochester; Mowrer County Courthouse in Austin; Freeborn County Courthouse in Albert Lea; and Winona County Courthouse in Winona. These courts were selected because they provided a representative picture of the District's court facilities. In addition, Mr. Siegel reviewed plans for a new courtroom in the Olmsted facility, to be built in the current law library space, and offered suggestions on how to improve it. During the course of the site study, Mr. Siegel spoke with the following individuals:

Steve Borkhart, Captain, Olmsted County
Judge Dennis A. Challeen
Chief Judge Lawrence T. Collins
Sally Cumiskey - Court Administrator, Winona County
Donald Cullen, District Court Administrator
George Ellington, Chief Deputy Sheriff - Mowrer County
Julius Gernes, Esquire, Winona County Attorney
Wayne Goodnature, Sheriff - Mowrer County
Jeanne Haben - Court Administrator, Olmsted County
Phyllis Handegard - Court Administrator, Mowrer County
Don Latee, Deputy Sheriff, Winona County
Judge James L. Mork
Judge Ancy L. Morse
Judge Gerard Ring
Gene Smith; Freeborn County Administrator
Steve Van Wald, Deputy Sheriff, Olmsted County
Don Westland, Deputy Sheriff - Freeborn County

On September 20th, a dinner meeting was held for all of the judges of the District at which time Mr. Siegel provided an overview of his observations regarding security needs in the District and answered questions from the attendees.
The report which follows summarizes the major security issues raised during the course of Mr. Siegel's site visit and is designed to serve as a foundation for local and state officials to undertake further study of the District's security needs.
II. OBSERVATIONS AND RECOMMENDATIONS

A. Security Personnel

1. Need to Address Present Lack of Security Personnel

One of the major security issues in the District is the lack of security personnel and defined security responsibilities in the District's courthouses.

Courthouses are places where security problems are likely to occur, primarily because the nature of the business transacted in courthouses is such that tensions and tempers are high. They are places where the safety of all occupants, public and staff alike, is a clear responsibility of government. Courthouse security rests mainly on the shoulders of security officers who exercise that responsibility—and are perceived to do so by all who use the court facility.

In most of the District's courthouses, security officers are not generally present in courtrooms—or elsewhere—except while in charge of prisoners. Deputy Sheriffs are the only authorized security officers available but they are not routinely present in court areas; they are present in the courthouse only when security services are required by the courts. The Sheriff's Departments generally are not staffed to provide court security services although many have requested their county governments to provide funds for such positions. In Olmsted County, for example, the Sheriff's Department, with the unanimous endorsement of the District Court Judges, requested two Deputy Sheriffs for court security duties in their 1988 budget year. This request should be resubmitted and approved. Although it provides for very thin coverage, it is a beginning and is strongly endorsed.
2. Security Officers vs. Bailiffs

   a. Need for sworn officers to provide court security services

   There appears to be some confusion about the duties of deputy sheriffs and special deputy sheriffs, and those of bailiffs in providing court security functions. There are differences of opinion throughout the District as to whether court security personnel should be sworn officers in the Sheriff's Departments or upgraded and better-paid bailiffs.

   Court security officers should be sworn, if at all possible, and the positions should be incorporated into the Sheriff's Departments staffing patterns so that career lines which include these duties are possible. Court security officers must possess certain demonstrated skills and abilities which are not required of bailiffs and which will require training in both the general and the specific duties of the office. In some counties, it might be initially more convenient to appoint special deputy sheriffs to serve as part-time bailiffs, but they should have the authority of full-time deputy sheriffs. Regardless of the approach, however, the position should be defined to have court security responsibilities which do not need to include jury-minding, since that function can be left to current bailiffs.

   Bailiffs, on the other hand, are used only as jury attendants in the Third Judicial District, and are not required to have the skills and abilities of court security officers and are not necessarily capable of being upgraded to serve as such. They are essentially part-time, lower-paid employees of the Sheriff's Office, and not required to demonstrate the skills and training of court security officers. They have neither the compensation, equipment, training, authority or desire for performing security duties.
b. Need for appropriate pay scales

Court security officer positions should have pay scales established, approaching or equaling those for deputy sheriffs, depending on whether court security is one of the normal deputy sheriff duty stations or a separate service. One method of paying for all or part of the cost of security services is through the use of a security fee or surcharge on court costs—a practice used in other jurisdictions. The legality of such a surcharge in the Third Judicial District is a matter of statutory or constitutional law and should be researched. Its practicality and acceptability is more a local question but the overall fee structure could be investigated and a possible fee schedule could be considered in light of caseload and security needs and security costs.

c. Assignment of court security officers

Court security officers should be assigned in such a manner as to provide for at least one officer in each operating courtroom, at least one floor officer, and additional officers in specific circumstances as needed, in addition to the usual custodial officers assigned to handle prisoners. The regular assignment of court security officers should include family, juvenile, commitment and conciliation hearings as well as all criminal proceedings and, if at all possible, all civil proceedings as well.

d. Uniforms of court security officers

Court security officers should be recognizably dressed in the deputy sheriff uniform, or a variant of the same, or a uniform blazer and slacks with an identifying badge or patch.
B. Issues Relating to Facility Design and Traffic

Although a brief report such as this one cannot even scratch the surface of all of the issues bearing upon court security needs in the District, several observations relating to facility design and traffic patterns are pertinent in light of the consultant's on-site study. Extraordinary security measures were being taken in the Olmsted County Courthouse because of the two "sensational" criminal trials in progress during the consultant's visit. These would not be normal procedures in most courthouses, but they highlighted difficulties in the design of the building as well as difficulties noted in the other three facilities visited.

1. Fundamental Principles

Appropriate, cost-effective, and security-conscious courthouse design is premised on certain fundamental principles:

- providing separated circulation and limited access;
- providing a means of controlling the movement of people to allow public access only to those spaces designated for it; and
- preventing unauthorized access to prisoners, evidence, valuables, records, jury deliberations, judges chambers, etc.

Three separate systems of spaces and circulation (corridors, stairs, elevators) are needed to provide the three separate systems of access required in a court facility:

- public space
- restricted space; and
- secure space

The public spaces are those areas which the public uses--from the front doors to the counters of the clerks offices to passages to the various offices providing court services and other groups with which the public has contact, to the bar of the
courtrooms. The restricted spaces are beyond the counters, the clerks office, the chambers, and the areas around the chambers where people can have access if they have business and if they're admitted but otherwise kept out. The secured spaces are just for prisoners and don't cross any other corridors or share any other public space. They don't use public elevators, public stairs, or private stairs.

While there is an expense associated with maintaining the separation of these three space systems in a courthouse, i.e., in providing a separate elevator for prisoners, etc., over the course of a few years it's a great deal cheaper than hiring extra deputy sheriffs or security officers.

These concepts are essential for all new facility designs and, although difficult to incorporate into existing facilities, should provide a framework for security needs assessment.

2. Application in the Third Judicial District

The application of these concepts in the Third Judicial District might focus upon immediate action in two areas:

a. Providing security officer escorts for judges to and from courtrooms as needed

In most of the courthouses, a judge has to walk from the chambers through the public corridors into the courtrooms because the courtrooms and chambers are not adjacent and because private space for corridors doesn't exist. In the Rochester facility, to reach the two (and soon to be three) courtrooms inside the weapons detectors, a judge whose chambers was at the other end of the floor, had to walk, robed, through the public lobby and past the detector station. The judge was not escorted by a security officer. Although undoubtedly commonplace and unremarked in the courthouse, this is a bad practice; it allows a judge to be approached by anyone for any purpose. Jurors are protected against
such interference in the interests of propriety and justice. Judges should also be.

b. **Locking courtrooms**

Other than these two courtrooms, none of those in the facilities visited by the consultant were locked when not in use. If these two courtrooms were important enough to be safeguarded in this elementary manner, the others should also be. Consideration should be given to locking and unlocking the courtrooms at the proper times.

c. **Assessing traffic and circulation patterns**

As facilities in the District are studied for renovation, expansion, or replacement, serious consideration should be given as to how best to realize security and functionality as well as the specific improvements being sought. Specialized, expert assistance should be obtained to assist local officials in exploring possible options before committing to the costs of design and construction. Wherever possible, public circulation patterns should be separated from those of the staff and secure spaces. The privacy of judicial spaces should be assured in the same manner as are jury rooms. Consideration might be given to such as measures as removing identifying signs from chambers which are unavoidably located on public corridors and by moving the chambers to less public and less conspicuous locations, if possible. For example, access to a judge's office could be through the clerks' office, through a different door where somebody could say: Okay, you can get through and: I'll check and see if the judge is in or if the judge is in conference or whatever.

The public circulation patterns should also be examined to determine if they can be redirected to more security-conscious routes, avoiding private rooms, interior portions of clerks' offices, etc. Public courtroom access should be restricted
to one set of doors on a main public corridor rather than encouraging access from the side or through the judicial area.

C. Other Matters

1. Use of Alarm Systems

Consideration should be given to installing some type of alarm system in the courtrooms of all of the courthouses. Such an alarm system should permit the judge to notify the sheriff's office of the need for assistance. Such a system should be activated by the squeeze of a button and should turn on some type of communications device, presumably audio, which would tell a listener within a few seconds whether there was a false alarm or if there were indeed a drastic and dramatic tragedy occurring to give some clue as to what response the sheriff's office should make.

As a rule, the buzzers should be silent so as not to create the atmosphere for spectators that the judge thinks something is wrong.

Judges are frequently locked into closed courtrooms and situations. The doors may not be locked, although sometimes they are, but the judges are in there basically alone. Without security officers in each courtroom and/or an alarm system, there is no way for them to call for help if they need it, no way to signal readily in most of the courtrooms which don't have telephones that something has happened such as a person having a heart attack, or acting up, or the need to have someone from the sheriff's office come simply as a precaution.

2. Use of Metal/Weapons Detection Systems

Due to the special security concerns generated by the current trials in the Rochester Courthouse, a metal detector station has been set up with three deputies manning it to control access to the two major courtrooms. Whether or not these detection
systems should continue after the trials are concluded is a matter which local officials should consider. Maintaining these security checkpoints requires that access be limited since nobody can afford to have security checkpoints set up at every door. The issue is not only one of cost but also related to the image of the court as a place of public justice.

To close access to the courthouse and close down the accessibility of the courtrooms and the judges is a question which has to be solved on the merits of each particular situation. If there's sufficient reason to justify having these measures, then they should be continued as long as it is necessary. In most courts that have instituted these measures on a temporary basis, they have stopped it essentially as soon as the immediate situation was over. Unfortunately, economic issues seem to be the guiding principle. Unless these weapon detection stations and search procedures are turning up weapons, or knives and guns are being dropped outside the courthouse doors, or people are coming up to the search point and turning away and coming back later and checking out okay, unless one gets some feeling that, in fact, people were trying to bring weapons in and perhaps do some damage, then probably the response has been adequate and what was necessary to do was done. The thought is planted, at least for those who are in the courthouse, that this can be done any time that the county decides it is necessary.

3. Development of Security Procedures

Judges and staff should review the range of potential security problems that might occur and work out ways in which those problems which they can anticipate might be responded to. For example, clerks staff may work out a procedure whereby, if a problem occurs at the counter, there is an immediate measure which can be used to summon another clerk, perhaps by a display for picking up a telephone, or some other gesture.
Some on-going liaison should also be made between the court and the Sheriff's Departments regarding court security needs to assist the departments in planning and to better assure that the security needs of the courts are met.

D. Need for On-going Assessment and Reassessment of Security Needs

Based on the consultant's three-day visit, court security needs do not appear to be taken very seriously in the District's courthouses. Of the four visited, the only one in which security principles and measures were evident was in the Rochester facility and these were related to the occurrence of two current notorious trials. There does not appear to be any day to day security presence in the courthouses, apart from the demands of a special situation such as the Rochester proceedings.

A minimum acceptable security personnel, equipment and/or procedural plan is not something which can be developed and endorsed in advance. It is essential that the county governments make an initial assessment of judicial system security needs and then assess periodically how well they are meeting their security responsibilities and act on their findings. Such periodic assessment requires on-going internal assessment of court security needs as well as an on-going campaign of education and persuasion by local courts, sheriffs and the state Administrative Office of the Courts.

Court security in the Third Judicial District is a present need—not a potential one. One should not wait for more problems to develop and to then react to them; security problems should be deterred by good security practices. A major issue which must be recognized in identifying security needs and developing a security program is: if nothing happens, is it because there was no threat? or because the threat was deterred? Security provisions can be expensive measures if viewed on a cost per incident basis and it
must therefore also be viewed in terms of their preventive and
deterrent value.

The institution of a court security program would be a sign
of prudence and strength on the part of the court system and county
government. Everyone benefits. Providing adequate court security
is not simply a service to a special category of citizens, i.e.,
judges and staff, but a responsibility to the public who use—or
may use—the courthouse at some time. It is the local government's
obligation to make sure that when people assemble, especially when
they are required by law to assemble as many of those in court are,
that their surrounding be safe and secure. This obligation is
exercised in terms of fire codes and building codes and should be
exercised with equal vigor in regard to security requirements as
well. The manner in which courthouses are operated and maintained
is evidence of whether the courts and the county governments take
their responsibilities seriously for providing security to the
judiciary, the staff and the public and whether the judicial
process is respected.
Photographs of Sites Visited

1. Olmsted County Courthouse, Rochester, Minnesota

2. Winona County Courthouse, Winona, Minnesota

3. Freeborn County Courthouse, Albert Lea, Minnesota
   a. Exterior
   b. Interior

4. Mower County Courthouse, Austin, Minnesota

5. Site of Judge's House after destruction by fire, Austin, Minnesota
1. Downtown Rochester, centered on the Mayo Clinic, with the Olmsted County Courthouse indicated midway up the left edge.
2. Winona County Courthouse, Winona, Minnesota
3(a). Freeborn County Courthouse, Albert Lea, Minnesota
3(b). Interior of Freeborn County Courthouse, Albert Lea, Minnesota
4. Mower County Courthouse, Austin, Minnesota
5. Site of judge's house, after its destruction by fire, Austin, Minnesota