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COURT SECURITY IMPROVEMENT ACT OF 2007

HEARING

BEFORE THE

SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

ON

H.R. 660

MAY 3, 2007

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COURT SECURITY IMPROVEMENT ACT OF 2007

THURSDAY, MAY 3, 2007

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME, TERRORISM,
AND HOMELAND SECURITY
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to notice, at 10:02 a.m., in Room 2237, Rayburn House Office Building, the Honorable Robert C. "Bobby" Scott (Chairman of the Subcommittee) presiding.

Present: Representatives Scott, Forbes, Coble, and Lungren.

Staff present: Bobby Vassar, Subcommittee Chief Counsel; Gregory Barnes, Majority Counsel; Caroline Lynch, Minority Counsel; and Veronica L. Eligan, Professional Staff Member.

Mr. SCOTT. The Subcommittee will now come to order.

I am pleased to welcome you today to the hearing before the Subcommittee on Crime, Terrorism, and Homeland Security on H.R. 660, the "Court Security Improvement Act of 2007."

This is a bill that was introduced by Chairman Conyers, Representative Gohmert from Texas, and myself back in January of this year. The legislation is identical to a court security bill that was introduced in the Senate and recently passed by that body by unanimous vote.

The importance of judicial security has been underscored by recent murders: the family members of a Chicago Federal judge in 2005, and the killings less than 2 weeks later of a State court judge, a court reporter, and a sheriff's deputy in an Atlanta courthouse.

Surprisingly, these acts of violence also make their way to our Nation's highest court, whereby Supreme Court justices as of late have also been the intended targets of violence, threats and other forms of intimidation.

For example, in March of last year, the public learned about death threats made against Supreme Court justices back in 2005. More than a few months ago it was revealed that home-baked cookies infused with rat poison had been mailed to all nine justices in 2005. And, according to media reports, Justice Sandra Day O'Connor was quoted as saying, "Each one contained enough poison to kill the entire membership of the Court."

These acts of violence, along with numerous others, led to the introduction of H.R. 660, which, among other things, seeks to improve judicial security for court officers and safeguards judges and

their families at home. The legislation achieves these objectives by making several noteworthy changes in existing law.

For example, it calls for an increase in consultation between the U.S. Marshals Service and the Judicial Conference of the United States to ensure that the Conference's views on security requirements for the judicial branch are taken into account when determining staffing levels, setting priorities for security programs, and allocating judicial security resources.

In addition, to guaranteeing that the Marshals Service will have adequate resources to carry out their newfound responsibilities, the legislation authorizes an additional $20 million per year over the course of the next 5 years for the purpose of hiring new marshals to investigate threats and to provide protective details to judges and assistant U.S. attorneys.

The measure authorizes $100 million in grants to States and local government to expand and create witness protection programs that will have as their primary focus preventing threats, intimidation and retaliation against witnesses of victims of violent crimes.

In closing, I look forward to the testimony of our witnesses on the aforementioned set of issues, as well as their thoughts or concerns that may relate to any other topic that may fall within the scope of this bill.

With that said, it is now my pleasure to recognize my colleague from Virginia, the Honorable Randy Forbes, who represents Virginia's 4th Congressional District, for his comments.

[The bill, H.R. 660, follows:]

110TH CONGRESS
1ST SESSION

H. R. 660

To amend title 18, United States Code, to protect judges, prosecutors, witnesses, victims, and their family members, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 24, 2007

Mr. CONYERS (for himself, Mr. GOHMERT, and Mr. SCOTT of Virginia) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Ways and Means and Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

A BILL

To amend title 18, United States Code, to protect judges, prosecutors, witnesses, victims, and their family members, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Court Security Improvement Act of 2007".

TITLE I—JUDICIAL SECURITY IMPROVEMENTS AND FUNDING

SEC. 101. JUDICIAL BRANCH SECURITY REQUIREMENTS.

(a) ENSURING CONSULTATION WITH THE JUDICIARY.—Section 566 of title 28, United States Code, is amended by adding at the end the following:

"(i) The Director of the United States Marshals Service shall consult with the Judicial Conference of the United States on a continuing basis regarding the security requirements for the judicial branch of the United States Government, to ensure that the views of the Judicial Conference regarding the security requirements for the judicial branch of the Federal Government are taken into account when determining staffing levels, setting priorities for programs regarding judicial security, and allocating judicial security resources. In this paragraph, the term 'judicial security' includes the security of buildings housing the judiciary, the personal security of judicial officers, the assessment of threats made to judicial officers, and the protection of all other judicial personnel. The United States Marshals Service retains final authority regarding security requirements for the judicial branch of the Federal Government.".

(b) CONFORMING AMENDMENT.—Section 331 of title 28, United States Code, is amended by adding at the end the following:

"The Judicial Conference shall consult with the Director of United States Marshals Service on a continuing basis regarding the security requirements for the judicial branch of the United States Government, to ensure that the views of the Judicial Conference regarding the security requirements for the judicial branch of the Federal Government are taken into account when determining staffing levels, setting priorities for programs regarding judicial security, and allocating judicial security resources. In this paragraph, the term 'judicial security' includes the security of buildings housing the judiciary, the personal security of judicial officers, the assessment of threats made to judicial officers, and the protection of all other judicial personnel. The United States Marshals Service retains final authority regarding security requirements for the judicial branch of the Federal Government.".

SEC. 102. PROTECTION OF FAMILY MEMBERS.

Section 105(b)(3) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in subparagraph (A), by inserting "or a family member of that individual" after "that individual"; and

(2) in subparagraph (B)(i), by inserting "or a family member of that individual" after "the report".

SEC. 103. FINANCIAL DISCLOSURE REPORTS.

(a) EXTENSION OF AUTHORITY.—Section 105(b)(3) of the Ethics in Government Act of 1978 (5 U.S.C. App) is amended by striking "2005" each place that term appears and inserting "2009".

(b) REPORT CONTENTS.—Section 105(b)(3)(C) of the Ethics in Government Act of 1978 (5 U.S.C. App) is amended—

(1) in clause (ii), by striking "and" at the end;

(2) in clause (iii), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(iv) the nature or type of information redacted;

"(v) what steps or procedures are in place to ensure that sufficient information is available to litigants to determine if there is a conflict of interest;

"(vi) principles used to guide implementation of redaction authority; and

"(vii) any public complaints received in regards to redaction.".

SEC. 104. PROTECTION OF UNITED STATES TAX COURT.

(a) IN GENERAL.—Section 566(a) of title 28, United States Code, is amended by striking "and the Court of International Trade" and inserting ", the Court of International Trade, and any other court, as provided by law".

(b) INTERNAL REVENUE CODE.—Section 7456(c) of the Internal Revenue Code of 1986 (relating to incidental powers of the Tax Court) is amended in the matter following paragraph (3), by striking the period at the end, and inserting "and may otherwise provide for the security of the Tax Court, including the personal protection of Tax Court judges, court officers, witnesses, and other threatened person in the interests of justice, where criminal intimidation impedes on the functioning of the judicial process or any other official proceeding.".

SEC. 105. ADDITIONAL AMOUNTS FOR UNITED STATES MARSHALS SERVICE TO PROTECT THE JUDICIARY.

In addition to any other amounts authorized to be appropriated for the United States Marshals Service, there are authorized to be appropriated for the United States Marshals Service to protect the judiciary, $20,000,000 for each of fiscal years 2006 through 2011 for—

(1) hiring entry-level deputy marshals for providing judicial security;

(2) hiring senior-level deputy marshals for investigating threats to the judiciary and providing protective details to members of the judiciary and assistant United States attorneys; and

(3) for the Office of Protective Intelligence, for hiring senior-level deputy marshals, hiring program analysts, and providing secure computer systems.

TITLE II—CRIMINAL LAW ENHANCEMENTS TO PROTECT JUDGES, FAMILY MEMBERS, AND WITNESSES

SEC. 201. PROTECTIONS AGAINST MALICIOUS RECORDING OF FICTITIOUS LIENS AGAINST FEDERAL JUDGES AND FEDERAL LAW ENFORCEMENT OFFICERS.

(a) OFFENSE.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following:

"SEC. 1521. RETALIATING AGAINST A FEDERAL JUDGE OR FEDERAL LAW ENFORCEMENT OFFICER BY FALSE CLAIM OR SLANDER OF TITLE.

"Whoever files, attempts to file, or conspires to file, in any public record or in any private record which is generally available to the public, any false lien or encumbrance against the real or personal property of an individual described in section 1114, on account of the per-

formance of official duties by that individual, knowing or having reason to know that such lien or encumbrance is false or contains any materially false, fictitious, or fraudulent statement or representation, shall be fined under this title or imprisoned for not more than 10 years, or both.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 73 of title 18, United States Code, is amended by adding at the end the following new item:

"1521. Retaliating against a Federal judge or Federal law enforcement officer by false claim or slander of title.".

SEC. 202. PROTECTION OF INDIVIDUALS PERFORMING CERTAIN OFFICIAL DUTIES.

(a) OFFENSE.—Chapter 7 of title 18, United States Code, is amended by adding at the end the following:

"§ 118. Protection of individuals performing certain official duties

"(a) IN GENERAL.—Whoever knowingly makes restricted personal information about a covered official, or a member of the immediate family of that covered official, publicly available—

"(1) with the intent to threaten, intimidate, or incite the commission of a crime of violence against that covered official, or a member of the immediate family of that covered official; or

"(2) with the intent and knowledge that the restricted personal information will be used to threat-

en, intimidate, or facilitate the commission of a crime of violence against that covered official, or a member of the immediate family of that covered official,

shall be fined under this title, imprisoned not more than 5 years, or both.

"(b) DEFINITIONS.—In this section—

"(1) the term 'restricted personal information' means, with respect to an individual, the Social Security number, the home address, home phone number, mobile phone number, personal email, or home fax number of, and identifiable to, that individual;

"(2) the term 'covered official' means—

"(A) an individual designated in section 1114; or

"(B) a grand or petit juror, witness, or other officer in or of, any court of the United States, or an officer who may be serving at any examination or other proceeding before any United States magistrate judge or other committing magistrate;

"(3) the term 'crime of violence' has the meaning given the term in section 16; and

"(4) the term 'immediate family' has the meaning given the term in section 115(c)(2).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of title 18, United States Code, is amended by adding at the end the following new item:

"118. Protection of individuals performing certain official duties.".

SEC. 203. PROHIBITION OF POSSESSION OF DANGEROUS WEAPONS IN FEDERAL COURT FACILITIES.

Section 930(e)(1) of title 18, United States Code, is amended by inserting "or other dangerous weapon" after "firearm".

SEC. 204. CLARIFICATION OF VENUE FOR RETALIATION AGAINST A WITNESS.

Section 1513 of title 18, United States Code, is amended by adding at the end the following:

"(g) A prosecution under this section may be brought in the district in which the official proceeding (whether pending, about to be instituted, or completed) was intended to be affected, or in which the conduct constituting the alleged offense occurred.".

SEC. 205. MODIFICATION OF TAMPERING WITH A WITNESS, VICTIM, OR AN INFORMANT OFFENSE.

(a) CHANGES IN PENALTIES.—Section 1512 of title 18, United States Code, is amended—

(1) so that subparagraph (A) of subsection (a)(3) reads as follows:

"(A) in the case of a killing, the punishment provided in sections 1111 and 1112;";

(2) in subsection (a)(3)—

(A) in the matter following clause (ii) of subparagraph (B) by striking "20 years" and inserting "30 years"; and

(B) in subparagraph (C), by striking "10 years" and inserting "20 years";

(3) in subsection (b), by striking "ten years" and inserting "20 years"; and

(4) in subsection (d), by striking "one year" and inserting "3 years".

SEC. 206. MODIFICATION OF RETALIATION OFFENSE.

Section 1513 of title 18, United States Code, is amended—

(1) in subsection (a)(1)(B)—

(A) by inserting a comma after "probation"; and

(B) by striking the comma which immediately follows another comma;

(2) in subsection (a)(2)(B), by striking "20 years" and inserting "30 years";

(3) in subsection (b)—

(A) in paragraph (2)—

(i) by inserting a comma after "probation"; and

(ii) by striking the comma which immediately follows another comma; and

(B) in the matter following paragraph (2), by striking "ten years" and inserting "20 years"; and

(4) by redesignating the second subsection (e) as subsection (f).

SEC. 207. GENERAL MODIFICATIONS OF FEDERAL MURDER CRIME AND RELATED CRIMES.

Section 1112(b) of title 18, United States Code, is amended—

(1) by striking "ten years" and inserting "20 years"; and

(2) by striking "six years" and inserting "10 years".

TITLE III—PROTECTING STATE AND LOCAL JUDGES AND RELATED GRANT PROGRAMS

SEC. 301. GRANTS TO STATES TO PROTECT WITNESSES AND VICTIMS OF CRIMES.

(a) IN GENERAL.—Section 31702 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13862) is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) in paragraph (4), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(5) by a State, unit of local government, or Indian tribe to create and expand witness and victim protection programs to prevent threats, intimidation, and retaliation against victims of, and witnesses to, violent crimes.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 31707 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13867) is amended to read as follows:

"SEC. 31707. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $20,000,000 for each of the fiscal years 2006 through 2010 to carry out this subtitle.".

SEC. 302. ELIGIBILITY OF STATE COURTS FOR CERTAIN FEDERAL GRANTS.

(a) CORRECTIONAL OPTIONS GRANTS.—Section 515 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3762a) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking "and" at the end;

(B) in paragraph (3), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(4) grants to State courts to improve security for State and local court systems."; and

(2) in subsection (b), by inserting after the period the following:

"Priority shall be given to State court applicants under subsection (a)(4) that have the greatest demonstrated need to provide security in order to administer justice.".

(b) ALLOCATIONS.—Section 516(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3762b) is amended by—

(1) striking "80" and inserting "70";

(2) striking "and 10" and inserting "10"; and

(3) inserting before the period the following: ", and 10 percent for section 515(a)(4)".

(c) STATE AND LOCAL GOVERNMENTS TO CONSIDER COURTS.—The Attorney General may require, as appropriate, that whenever a State or unit of local government or Indian tribe applies for a grant from the Department of Justice, the State, unit, or tribe demonstrate that, in

1 developing the application and distributing funds, the
2 State, unit, or tribe—
3 (1) considered the needs of the judicial branch
4 of the State, unit, or tribe, as the case may be;
5 (2) consulted with the chief judicial officer of
6 the highest court of the State, unit, or tribe, as the
7 case may be; and
8 (3) consulted with the chief law enforcement of-
9 ficer of the law enforcement agency responsible for
10 the security needs of the judicial branch of the
11 State, unit, or tribe, as the case may be.
12 (d) ARMOR VESTS.—Section 2501 of title I of the
13 Omnibus Crime Control and Safe Streets Act of 1968 (42
14 U.S.C. 3796ll) is amended—
15 (1) in subsection (a), by inserting "and State
16 and local court officers" after "tribal law enforce-
17 ment officers"; and
18 (2) in subsection (b), by inserting "State or
19 local court," after "government,".

20 # TITLE IV—LAW ENFORCEMENT
21 # OFFICERS

22 **SEC. 401. REPORT ON SECURITY OF FEDERAL PROSECU-**
23 **TORS.**

24 (a) IN GENERAL.—Not later than 90 days after the
25 date of enactment of this Act, the Attorney General shall

1 submit to the Committee on the Judiciary of the Senate
2 and the Committee on the Judiciary of the House of Rep-
3 resentatives a report on the security of assistant United
4 States attorneys and other Federal attorneys arising from
5 the prosecution of terrorists, violent criminal gangs, drug
6 traffickers, gun traffickers, white supremacists, those who
7 commit fraud and other white-collar offenses, and other
8 criminal cases.

9 (b) CONTENTS.—The report submitted under sub-
10 section (a) shall describe each of the following:

11 (1) The number and nature of threats and as-
12 saults against attorneys handling prosecutions de-
13 scribed in subsection (a) and the reporting require-
14 ments and methods.

15 (2) The security measures that are in place to
16 protect the attorneys who are handling prosecutions
17 described in subsection (a), including threat assess-
18 ments, response procedures, availability of security
19 systems and other devices, firearms licensing (depu-
20 tations), and other measures designed to protect the
21 attorneys and their families.

22 (3) The firearms deputation policies of the De-
23 partment of Justice, including the number of attor-
24 neys deputized and the time between receipt of

1 threat and completion of the deputation and training
2 process.
3 (4) For each requirement, measure, or policy
4 described in paragraphs (1) through (3), when the
5 requirement, measure, or policy was developed and
6 who was responsible for developing and imple-
7 menting the requirement, measure, or policy .
8 (5) The programs that are made available to
9 the attorneys for personal security training, includ-
10 ing training relating to limitations on public infor-
11 mation disclosure, basic home security, firearms
12 handling and safety, family safety, mail handling,
13 counter-surveillance, and self-defense tactics.
14 (6) The measures that are taken to provide at-
15 torneys handling prosecutions described in sub-
16 section (a) with secure parking facilities, and how
17 priorities for such facilities are established—
18 (A) among Federal employees within the
19 facility;
20 (B) among Department of Justice employ-
21 ees within the facility; and
22 (C) among attorneys within the facility.
23 (7) The frequency attorneys handling prosecu-
24 tions described in subsection (a) are called upon to
25 work beyond standard work hours and the security

1 measures provided to protect attorneys at such times
2 during travel between office and available parking
3 facilities.
4 (8) With respect to attorneys who are licensed
5 under State laws to carry firearms, the policy of the
6 Department of Justice as to—
7 (A) carrying the firearm between available
8 parking and office buildings;
9 (B) securing the weapon at the office
10 buildings; and
11 (C) equipment and training provided to fa-
12 cilitate safe storage at Department of Justice
13 facilities.
14 (9) The offices in the Department of Justice
15 that are responsible for ensuring the security of at-
16 torneys handling prosecutions described in sub-
17 section (a), the organization and staffing of the of-
18 fices, and the manner in which the offices coordinate
19 with offices in specific districts.
20 (10) The role, if any, that the United States
21 Marshals Service or any other Department of Jus-
22 tice component plays in protecting, or providing se-
23 curity services or training for, attorneys handling
24 prosecutions described in subsection (a).

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. EXPANDED PROCUREMENT AUTHORITY FOR THE UNITED STATES SENTENCING COMMISSION.

(a) IN GENERAL.—Section 995 of title 28, United States Code, is amended by adding at the end the following:

"(f) The Commission may—

"(1) use available funds to enter into contracts for the acquisition of severable services for a period that begins in 1 fiscal year and ends in the next fiscal year, to the same extent as executive agencies may enter into such contracts under the authority of section 303L of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253l);

"(2) enter into multi-year contracts for the acquisition of property or services to the same extent as executive agencies may enter into such contracts under the authority of section 304B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254c); and

"(3) make advance, partial, progress, or other payments under contracts for property or services to the same extent as executive agencies may make such payments under the authority of section 305 of

the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 255).".

(b) SUNSET.—The amendment made by subsection (a) shall cease to have force and effect on September 30, 2010.

SEC. 502. BANKRUPTCY, MAGISTRATE, AND TERRITORIAL JUDGES LIFE INSURANCE.

(a) IN GENERAL.—Section 604(a)(5) of title 28, United States Code, is amended by inserting after "hold office during good behavior," the following: "bankruptcy judges appointed under section 152 of this title, magistrate judges appointed under section 631 of this title, and territorial district court judges appointed under section 24 of the Organic Act of Guam (48 U.S.C. 1424b), section 1(b) of the Act of November 8, 1877 (48 U.S.C. 1821), or section 24(a) of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1614(a)),".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to any payment made on or after the first day of the first applicable pay period beginning on or after the date of enactment of this Act.

SEC. 503. ASSIGNMENT OF JUDGES.

Section 296 of title 28, United States Code, is amended by inserting at the end of the second undesig-

1 nated paragraph the following new sentence: "However,
2 a judge who has retired from regular active service under
3 section 371(b) of this title, when designated and assigned
4 to the court to which such judge was appointed, shall have
5 all the powers of a judge of that court, including participa-
6 tion in appointment of court officers and magistrates,
7 rulemaking, governance, and administrative matters.".

8 **SEC. 504. SENIOR JUDGE PARTICIPATION IN THE SELEC-**
9 **TION OF MAGISTRATES.**

10 Section 631(a) of title 28, United States Code, is
11 amended by striking "Northern Mariana Islands" the first
12 place it appears and inserting "Northern Mariana Islands
13 (including any judge in regular active service and any
14 judge who has retired from regular active service under
15 section 371(b) of this title, when designated and assigned
16 to the court to which such judge was appointed)".

17 **SEC. 505. REAUTHORIZATION OF THE ETHICS IN GOVERN-**
18 **MENT ACT.**

19 Section 405 of the Ethics in Government Act of 1978
20 (5 U.S.C. App.) is amended by striking "2006" and in-
21 serting "2011".

○

Mr. FORBES. Thank you, Chairman Scott.

And thank all the witnesses for being here. We look forward to your testimony today.

I appreciate your holding this legislative hearing, Mr. Chairman, on H.R. 660, the "Court Security Improvement Act of 2007."

In the last few years, we have seen unprecedented levels of violence involving judges, prosecutors, defense counsel, law enforcement officers and courthouse employees who play a critical role in our judicial system.

The killing of family members of United States District Judge Joan Lefkow and the brutal slayings of Judge Roland Barton, his court reporter, a deputy sheriff and a Federal officer in Atlanta, and the cold-blooded shootings outside the Tyler, Texas, courthouse all underscore the importance of protecting judges, courthouse personnel, witnesses, law enforcement and their family members.

This is a problem that is threatening the very integrity of our judicial system. According to the Administrative Office of the United States Courts, there are almost 700 threats a year made against Federal judges. And in numerous cases, Federal judges have had security details assigned to them for fear of attack by members of terrorist associates, violent gangs, drug organizations, and disgruntled litigants.

Federal prosecutors and defense counsel face similar threats and challenges. The problem of witness intimidation and threats has continued to grow, particularly at the State and local level, where few, if any, resources are available to protect witnesses, victims and their families.

The bill before the Subcommittee includes some of the judicial security provisions which were passed last Congress as part of H.R. 1751, the "Secure Access to Justice and Courthouse Protection Act," which passed the House 375 to 45, and H.R. 4472, the "Child Safety and Violent Crime Reduction Act," which passed by a voice vote. Unfortunately, the Senate did not enact H.R. 1751, despite the strong pressure to do so.

While I support H.R. 660 because it includes provisions we already passed, I am concerned that the bill omits protection of a key player in the judicial system: our Nation's law enforcement officers.

According to the Bureau of Justice Statistics, 55 law enforcement officers were feloniously killed in the United States in 2005. The previous year, 57 officers were killed in the United States. In the 10-year period from 1996 to 2005, a total of 575 law enforcement officers were feloniously killed in the line of duty in the United States, 102 of whom were killed in ambush situations, in entrapment or premeditated situations. If not for the advent of bulletproof vests, an additional 400 officers would have been killed over the last decade.

More than 57,000 law enforcement officers were assaulted in 2005, or one in every 10 officers serving in the United States. And the numbers have been increasing since 1999, even as other crime has decreased or held steady.

As the executive director of the Fraternal Order of Police noted, "There is less respect for authority in general and police officers specifically." The predisposition of criminals to use firearms is probably at the highest point in our history.

If we are going to protect judges, courthouse personnel and witnesses, we need to protect the most important witness, in many cases: the police officer. We can pass all the laws we want, but without effective law enforcement there will be no trial and no justice.

H.R. 1751 included an important provision to protect the safety of our law enforcement officers, and these provisions, unfortunately, are not in this bill. I know that my colleague, Representative Gohmert, is working on legislation to address law enforcement officers' concerns, and I am hopeful that the Subcommittee will address these important issues.

We must continue to work together in a bipartisan effort to ensure that our judicial system operates in a safe environment. Judges, witnesses, courthouse personnel and law enforcement must not have to face threats and violence when carrying out their duties.

At the State and local level, there is dire need to provide basic security services in the courtroom and for witnesses, and H.R. 660 represents a good first step in that direction. But, in my view, there is more we can and should do to address this problem.

Mr. Chairman, I look forward to today's hearing. I yield back.

Mr. SCOTT. Thank you. Thank you, Mr. Forbes.

We have a distinguished panel of witnesses here to help us consider the important issues that are currently before us.

Our first witness will be Chief Judge Robert M. Bell. He began his tenure on the bench in 1975 as a District Court judge for the city of Baltimore, Maryland. He next served as a judge in a Circuit Court for Baltimore until 1984, when he was appointed the judge of the Court of Special Appeals in Maryland. In 1991 he was appointed to the Court of Appeals in Maryland, and 2 short years later he was elected to serve as Chief Judge of the Maryland Court of Appeals, the State's highest court.

He is the only active judge in the State to have served at least 4 years at all four levels of Maryland's judiciary, and the first African-American to be named the State's chief jurist. He received his Bachelor of Arts degree from Morgan State Universitye and his J.D. from Harvard University Law School.

Next we have John F. Clark, the current director of the U.S. Marshals Service. Prior to his employment as director, Mr. Clark served as U.S. Marshal for the Eastern District of Virginia, which includes Alexandria, Richmond and Norfolk, Virginia. Throughout his career, he held numerous senior management positions in the Marshals Service, including serving as chief of the Internal Affairs Division and chief of the International Fugitive Investigation Division. Before joining the U.S. Marshals, he was employed by the United States Capitol Police and the U.S. Border Patrol. He holds a Bachelor of Science degree from Syracuse University.

Finally, we will have Judge David B. Sentelle. He was appointed to the United States Court of Appeals for the District of Columbia Circuit. He also serves as chairman of the United States Judicial Conference Committee on Judicial Security. Throughout his career, he has held numerous positions in the legal profession, including serving as an assistant U.S. attorney in Charlotte, North Carolina, and teaching at the law schools of the University of North Carolina

and Florida State. He had the honor of serving as the presiding judge of the Special Division of the Court of Appointment of Independent Counsel. He is an honors graduate from the University of North Carolina Law School.

Each witness has introduced a written statement already, which will be made a part of the record in its entirety, so I would ask that each witness summarize your testimony in 5 minutes or less.

To help you stay within the time, there is a timing device right in front of us. When 1 minute is left, the yellow switch will go on and, finally, to red when the 5 minutes are up.

We will begin with Judge Bell.

TESTIMONY OF THE HONORABLE ROBERT M. BELL, CHIEF JUDGE, MARYLAND COURT OF APPEALS

Judge BELL. Thank you, Mr. Chairman, Ranking Member Forbes and Members of the Committee. It is my privilege to be here today to provide testimony for consideration by this Subcommittee, and I do so on behalf of the Conference of Chief Justices and the Conference of State Court Administrators.

The Conferences' membership consists of the highest judicial officers and State court administrators in each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands and the territories of American Samoa, Guam and the Virgin Islands.

The National Center for State Courts serves as the secretariat for the two conferences, and it provides supportive services to State court leaders throughout the country, including original research, consulting services, publications and national education programs.

I am pleased that here today with me are Jose Dimas and Kay Farley of the National Center staff. I mention them because they will be providing you with any follow-up information that you may need, any answers to questions that I am not able to provide.

Ours is a democratic republic, the foundation for which is the rule of law. The rule of law, of course, requires a strong and independent judiciary. And that, of course, depends in turn upon full and fair dispensation of justice, as well as the full and complete access to justice by the citizens. And if those two things are produced, it will result in the citizens having trust and confidence in the courts, the judiciary.

To be sure, the Federal courts are critical actors and must obtain complete resources for the benefit of which they will be able to pursue their function. But it cannot be gainsaid that so, too, are the State courts. They touch huge numbers of people, indeed 95 or more percent of the total litigation in the country.

We believe that Congress has an opportunity now to make an important and tangible difference in improving the safety of our courts and upholding the fundamentals of our democratic society.

Today thousands of judges, prosecutors, public defenders, law enforcement officers, court personnel, court reporters, jurors, witnesses, victims, members of the general public, went into a courtroom. They came and they come for one purpose: They come to seek that full and fair justice, and they seek it in a safe and a neutral forum.

It is critical, indeed vital, that we ensure the public's ability to resolve their disputes, to receive that justice, to present their evidence and expect judges to rule solely on the basis of the law, uninfluenced by outside influences or by intimidation. To accomplish this, we must provide a forum free from fears, threats and violence.

It cannot be doubted that people will hesitate or refuse to bring their disputes to courts if a likely consequence is intimidation or physical harm. Judges and jurors, of course, cannot pursue the trust if they or their families are threatened.

We have provided in the written statement some examples from our constituents, States such as Alaska, Arizona, California, New Mexico, Maryland, about incidences of threats to judges. And I urge your consideration of that.

With those things in mind, we are urging that you consider, in addition to the provisions already in the bill, including provisions that would create a new Federal grant program specifically targeted to assess and enhance State court security, a program that would assist States to conduct assessments and implement court security improvements deemed necessary based on those assessments.

We ask that the highest State court in each of these States and territories be eligible to apply for the funds. Federal funds are, of course, valuable seed money for State courts.

We are also asking that you ensure that State and local courts are eligible to apply directly for discretionary Federal funding. State and local courts have not been able to apply directly for some Department of Justice Administrative programs because of the definition of unit of government. The result of this language is that the State and local court is not able to apply directly for discretionary funds but must ask an executive agency to submit an application on their behalf.

As you provide oversight role to the DOJ and as grant programs are revisited, we ask that the definition of eligible entities be broadened so that State and local courts can apply directly for discretionary Federal grant funds.

And, finally, we ask that you ensure that State courts are included in the planning for disbursement for Federal funding administered by State executive agencies. Statutory language for grant programs that impact the justice system should include specific language requiring consultation and consideration of State court needs. We have provided some language we would urge you to include, in the written testimony. And I will not repeat it here.

State courts of this country welcome the Subcommittee's interest in the security of the courts. We look forward to working with the Subcommittee to develop legislation that addresses State court security needs and takes into account the varied needs of the State courts of this country.

We commend the Subcommittee for holding this hearing and for recognizing the national interest in ensuring that our judiciary and courts must operate in a safe and secure environment.

We thank you.

[The prepared statement of Judge Bell follows:]

PREPARED STATEMENT OF THE HONORABLE ROBERT M. BELL

CONFERENCE OF CHIEF JUSTICES
CONFERENCE OF STATE COURT ADMINISTRATORS

WRITTEN TESTIMONY

by

Chief Judge Robert M. Bell
President
Conference of Chief Justices

On

Improving the Security of Our State Courts

Submitted to the

JUDICIARY SUBCOMMITTEE on CRIME, TERRORISM, and HOMELAND SECURITY
UNITED STATES HOUSE OF REPRESENTATIVES

Subcommittee Hearing
Thursday, May 3, 2007
2237 Rayburn House Office Building
10:00 a.m.

Chairman Scott, Ranking Member Forbes, and Members of the Subcommittee,

On behalf of the Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA), it is a privilege to provide testimony for consideration in the Subcommittee's hearing examining judicial security and independence in the Nation's state and federal courts. The Conferences' memberships consist of the highest judicial officers and the state court administrators in each of the fifty states, the District of Columbia, the Commonwealth of Puerto Rico, and the Northern Mariana Islands and the Territories of American Samoa, Guam and the Virgin Islands. The National Center for State Courts (NCSC) serves as the Secretariat for the two Conferences and provides supportive services to state court leaders including original research, consulting services, publications, and national education programs.

We believe that Congress has an opportunity to make an important and tangible difference in improving the safety of our courts and upholding the fundamentals of our democratic society.

INTRODUCTION

This morning thousands of judges, prosecutors, public defenders, lawyers, law enforcement officers, court personnel, court reporters, jurors, witnesses, victims, and members of the general public entered a courthouse. They come for one purpose – to seek justice in a safe and neutral forum. It is vital that we ensure that the public's ability to resolve their disputes, present evidence before a judge or jury, and expect a judge to rule solely based upon the law uninfluenced by intimidation. To accomplish this, we must provide a forum free from fear, threats, and violence. People will be hesitant or refuse to bring their disputes to courts if a likely consequence is intimidation or physical harm. Judges and jurors cannot pursue the truth if they or their families are threatened.

A democracy cannot long endure if those entrusted with resolving disputes are targets of violence and become enmeshed in an environment of fear and intimidation, if officers responsible for security do not have the resources to detect and respond, and if lawyers, parties, and the public must evaluate their own personal safety in deciding whether to participate in the process. Freedom from such an environment and the ability to carry out the judicial responsibilities in an open and accessible manner are fundamental components of the exercise of the rule of law.

We appreciate the problem of violence in the workplace. Indeed, if there is any workplace in America where the potential for violence is great, it is the judicial workplace. With the exception of marriage and adoption ceremonies, people generally are not appearing in court voluntarily, but are appearing because they are legally required to attend court. Jurors are summoned to court. Witnesses are subpoenaed to court.

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Defendants are compelled to go to court to face criminal charges or civil actions. People who have given up on resolving their disputes – disputes with their neighbors, disputes with their children, disputes with their families, disputes with their employers – go to court as a last resort. Emotions can run high because these disputes invariably involve human relationships, and human relationships can evoke strong feelings. Also, there is confrontation – the right to confront your accusers. Although most of us spend a lot of time trying to avoid problems, in court a person often must directly confront an adversary.

Consequently, in the judicial workplace, there is confrontation between people under highly charged sets of emotional circumstances regarding disputes that they have been unable to resolve on their own. Also, by the nature of the adversarial process, there are winners and losers in court. Not only is there confrontation and emotion, but at least one of the parties will often leave feeling angry that they have lost – and that they may have lost in some sort of a final, binding way. Despite the fact there is no workplace with greater potential for violence, it is also true that there is no workplace in America where it is more critical that the workplace be free of violence.

Access to peaceful resolution of disputes is fundamental to our system of government. Coupled with the principle of judicial independence these concepts are the envy of the world. Neither access to justice nor judicial independence can exist in an environment of intimidation, fear or violence. Under the rule of law, court proceedings are supposed to be open and public. How long will court proceedings be truly open to the public if members of the public fear that they are going to become embroiled in some sort of a threatening, fearful, or violent situation?

Mr. Chairman, recent incidents of courthouse violence underscore a disturbing pattern of how some people view the security of courthouses and the risks of public service. These attacks and threats towards members of the judiciary are rapidly reaching a crisis point for us. Let me recount just a few recent examples of security threats and incidents that have been provided by our members:

- Alaska - Many judges in this state have received threatening communications with repeated references to the Chicago murders. Last year, a serious communication to one judge required the intervention of the Federal Bureau of Investigation (FBI). Also during this past year, large numbers of weapons have been confiscated as a result of magnetometer screenings.

- Arizona - In the past year, there has been a suicide outside a divorce court, the firebombing of a Justice of the Peace Court, death threats towards judges, a visit by a disturbed litigant to a judge's home, explicit communications with pictures and diagrams to the homes of judges on pending cases, and threats by

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constitutionalists to "arrest" and execute a judge. Finally, there was a threat against a judge that mentioned death utilizing a high powered rifle.

- California - Various bomb threats have been received in the past 2 years, including an incident in which law enforcement was able to arrest the perpetrator before he was able to carry out the actual bombing, an incident in which a firebomb was discovered in a courthouse before it went off, and an incident in which a litigant came into a clerk's office with a small home-made bomb. Explicit threats have been made against judges to carry out violence against them. Graffiti has been painted on underpasses and buildings detailing threats against the court system. A court received correspondence that contained a vial of blood that tested positive for HIV and Hepatitis C. A wallet was found in a courtroom with a description of a judge's car and license plate number. An individual with a pending court case was recently arrested videotaping the judges' parking lot.

- Maryland - Several threats against judges have been received in the past year. Several of these have required additional home protection patrols to be done on our judges. In addition, there have been attacks on hearing officers, especially on those officers assigned in juvenile courts. Finally, bomb threats are a constant problem requiring local law enforcement to assist in building evacuations and implementation of prevention measures.

- Mississippi - Death threats have been made against several trial courts judges. Threats of destruction of property (buildings) and physical attacks on justices of the Supreme Court have been made.

- New Hampshire - There was a recent incident where an individual entered a courthouse and attempted to assault a court security officer during the screening process. A recent threat to "shoot up" one of the courthouses was also made.

- Pennsylvania - Several serious threats against judges, and court officers were reported. Numerous confiscations of weapons from individuals attempting to bring them into the courthouse were catalogued. Finally, Molotov cocktails were thrown at a magisterial judge's office that, thankfully, did not start a fire. Both the FBI and the federal ATF helped us investigate this incident.

- New York - The New York State court system receives approximately 140 death threats against judges a year.

Even though we do not have quantitative data, it is the perception of the state court leadership that the number and severity of these threats and security incidents have been

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increasing in recent years. Furthermore, given that the state courts try approximately 96 million cases per year, the opportunities for incidents and the magnitude of the problem cannot be overstated. Also, let me emphasize that while judges and court personnel are seriously at risk during any incident, the risk to the public is also significant.

THREATS AGAINST JUDGES

Since the Fulton County (Atlanta), Georgia incident and the murders of U.S. District Judge Lefkow's husband and mother, we have been inundated with requests for information about threats that state court judges receive on the job. The simple fact of the matter is that, because of the cost of compiling such a large amount of data, we do not know the full extent of the problem.

In a survey by the family law section of the American Bar Association, 60 percent of respondents indicated that an opposing party in a case had threatened them. From the U.S. Marshals Service, we know that they record an average of 700 inappropriate communications and threats each year against federal judicial officials. This is a marked increase from the 1980s when the average was closer to 240 per year. If you compare the number of federal judges to the approximately 32,000 state court judges, there is the possibility that we may find a large number of judges that face or have faced some sort of physical threat.

Naturally, we must always remember that the potential for violent attacks on judges is not limited to the courtroom. An aggressor who targets a specific judge may attack the weakest security link in that judge's world – most likely the home. While more difficult, this area of protection cannot be overlooked.

FUNDING CHALLENGES

Perhaps the greatest challenge facing state courts wishing to implement enhanced security measures is the issue of resources. The majority of courts depend on local law enforcement for the personnel to operate the equipment, provide adequate response, and run security operations in a courthouse. As you know, most local governments struggle to meet day-to-day operations of running their governments and have little options to improve or implement new security measures in courthouses. Because there is no adequate funding source, many courts report that they have no formal security plan.

CCJ, COSCA, and NCSC have been disseminating promising practices for court security. Our efforts in this area have been well received. For example, we developed and have circulated the "Ten Essential Elements for Courtroom Safety and Security." NCSC also has compiled a wealth of information for state courts looking to upgrade their court security. Materials range from sample local court security plans to specific

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recommendations in courthouse architectural design, computer disaster recovery, and equipment.

While we have made progress, I must caution you that there is only so much that can be achieved by streamlining and refocusing present resources. State courts need resources to fund enhanced security measures. We hope that you will favorably consider our recommendations to allow state courts greater access to federal funds for much needed security improvements.

THE NEW DIMENSION - COURTHOUSE TERRORISM

On September 11, 2001, terrorist attacks threw New York City's court system into disarray because many court buildings and other criminal justice offices were located near the site of the World Trade Center. Three court security officers perished when they tried to assist in the rescue efforts. The Court of Claims Courthouse, located at Five World Trade Center was destroyed. Other courthouses were deep within the so-called "frozen zone", an area that city officials ordered off-limits to all but essential personnel.

The New York state court leadership, however, moved quickly to ensure that the disruption did not last more than one day. Under the leadership of New York State Chief Judge Judith Kaye, the focus of the hours following the attacks was to do everything possible to reopen all the courts.

The threat of terrorism has created a new dimension in courthouse security. The courthouse is a visible, tangible symbol of government. The September 11th attacks painfully showed that government and other prominent buildings are targets. Thus courts, being a core function of American government, now suffer increased exposure to attacks from those external to the court process. They must be provided the same protection that is being provided to other government institutions in order to keep state courts open, accessible, and safe for the public. The state courts are dealing with the threats posed by terrorism. We, however, need more assistance from the federal government. This is no longer an issue that states can cope with alone, but is an issue that requires state and federal collaboration and cooperation. The needs of state courts must be considered in the plans for distributing federal funds.

In order to better position state courts and judges to address and respond to security threats and incidents, we ask your consideration of the following provisions. The first three items were included in HR 1751, which was approved by the House of Representatives in the 109th Congress.

- **Establish a Critical Incident Reporting and Threat Assessment Databases -** Establish a web-based site where critical incidents can be reported and local

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action taken in each state. Federal dollars would support each state in establishing web-based sites. This coordinated effort would result in: 1) establishing and defining a core set of data elements used by each state and 2) obtaining data from states for analysis of trends and patterns. This information could then be used to assist states in preventing acts of domestic terrorism and crime and in enhancing their security procedures. By having the information from this critical incident reporting database, we can target our resources where they will be most needed. Under the current system, most courts are taking an all or nothing approach with virtually no information to guide them in overall security planning.

- **Create a New Federal Grant Program Specifically Targeted to Assess and Enhance State Court Security** – This program would assist states to conduct assessments and implement court security improvements deemed necessary based on the assessments. We ask that the highest state court in each state or territory be eligible to apply for the funds. Federal funds would provide valuable seed money for state courts.

- **Ensure that State and Local Courts Are Eligible to Apply Directly for Discretionary Federal Funding** - State and local courts have not been able to apply directly for some Department of Justice (DOJ) administered programs because of the definition of "unit of local government" that has been included in the enabling legislation for the various programs. The result of this language is that state and local courts are not able to apply directly for these discretionary funds, but must ask an executive agency to submit an application on their behalf. As you provide oversight role to the DOJ and as grant programs are revisited, we ask that the definition of eligible entities be broadened so that state and local courts can apply directly for discretionary federal grant funds.

    - As an example, when the Violence Against Women Act (VAWA) was reauthorized in 2001, the reauthorization legislation contained specific language authorizing, "State and local courts (including juvenile courts) …" to apply directly for VAWA funds.

    - Clarification is particularly needed in relation to the Omnibus Crime Control and Safe Streets Act of 1968, the Edward Byrne grants, Armored Vests grants, and the Child Abuse and Prevention and Treatment Act (CAPTA).

- **Ensure that State Courts Are Included in the Planning for Disbursement of Federal Funding Administered by State Executive Agencies** – Statutory language for grant programs that impact the justice system should include specific

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language requiring consultation and consideration of state court needs. The language that we have suggested is as follows:

> "An assurance that, in the development of the grant application, the States and units of local governments took into consideration the needs of the state judicial branch in strengthening the administration of justice systems and specifically sought the advice of the chief of the highest court of the State and, where appropriate, the chief judge of the local court, with respect to the application."

CONCLUSION

The state courts of this country welcome the Subcommittee's interest in the security of courts. We look forward to working with the Subcommittee to develop legislation that addresses state court security needs and takes into account the varied needs of the state courts of this country. We commend the Subcommittee for holding this hearing and recognizing the national interest in ensuring that our judiciary and courts must operate in a safe and secure environment.

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Mr. SCOTT. Thank you.
Mr. Clark?

TESTIMONY OF THE HONORABLE JOHN F. CLARK, DIRECTOR, UNITED STATES MARSHALS SERVICE, UNITED STATES DEPARTMENT OF JUSTICE, WASHINGTON, DC

Mr. CLARK. Thank you, Mr. Chairman, Representative Forbes and Members of the Subcommittee. I am pleased to appear before you today to answer your questions on H.R. 660, the "Court Security Improvement Act of 2007."

I am also pleased and honored to appear today and be seated between two distinguished Members of the judiciary.

This bill, among its many provisions, authorizes needed additional resources for the Marshals Service to continue to meet our judicial security responsibilities.

It would also allow us to enhance the services of the Office of Protective Intelligence, our core operational unit charged with analyzing and disseminating threat information so that all threats can be mitigated before harm comes to members of the judicial family.

Resources would also go to hiring more Deputy U.S. Marshals, not only to investigate threats, but to provide for the protection so often needed for judges, prosecutors and their families.

This bill also helps judges better protect themselves by allowing them to continue to redact personal information from their financial disclosure reports.

The bill acts to defer threats by adding more Federal penalties for threatening court officials.

The bill also finally closes a long-existing loophole that did not classify certain weapons as dangerous weapons prohibited inside a courthouse.

Passage of this legislation would go a long way in helping the Marshals Service provide the absolute best security for our judicial families. And I appreciate you giving me the opportunity to provide whatever input I can to assist in this process.

Thank you very much, and I look forward to your questions.

[The prepared statement of Mr. Clark follows:]

PREPARED STATEMENT OF THE HONORABLE JOHN F. CLARK

Department of Justice

STATEMENT

OF

JOHN F. CLARK
DIRECTOR
U.S. MARSHALS SERVICE

BEFORE THE

COMMITTEE ON THE JUDICIARY
U.S. HOUSE OF REPRESENTATIVES

CONCERNING

"H.R. 660, COURT SECURITY IMPROVEMENT ACT OF 2007"

PRESENTED ON

MAY 3, 2007

STATEMENT OF JOHN F. CLARK
DIRECTOR
U.S. MARSHALS SERVICE
U.S. DEPARTMENT OF JUSTICE
HOUSE JUDICIARY COMMITTEE
MAY 3, 2007

Mr. Chairman and Members of the Committee, I am pleased to appear before you today to discuss issues related to H.R. 660, "the Court Security Improvement Act." Since my appointment as Director of the United States Marshals Service (USMS) in March 2006, I have made it my first priority to instill public confidence in the nation's judicial process by ensuring its security and integrity. I am proud to say that we have undertaken a number of initiatives to address the judicial security concerns previously expressed by both the Judicial Conference and this Committee during hearings on the subject in 2005. I would like to take this opportunity to provide you with some specifics on those initiatives, and discuss how passage of H.R. 660 would benefit the mission of the USMS.

- Restructuring of the Judicial Security Division (JSD): This Division was reorganized on November 1, 2006. A new Assistant Director was appointed to lead it, and a significant number of senior field operational personnel were brought to USMS headquarters to assist in managing the Division's core functions. It is now comprised of two mission-oriented components, Judicial Operations and Judicial Services. The Judicial Operations component includes the greatly expanded Office of Protective Intelligence (OPI), which brought ten new criminal investigators and one intelligence research specialist on board in 2006 alone, to provide 24-hours-a-day/7-days-a-week threat response capabilities, and to analyze and investigate all threats to the Federal judiciary and others for whom USMS

has protective responsibility. Additional hiring is expected throughout 2007, and we appreciate the continuing support this Committee can give us to reach our staffing goals. Section 105 of H.R. 660, in particular, would authorize significant staffing increases for the USMS in the area of judicial protection.

In FY 2006, JSD investigated over 1,100 judicial threats, safely handled 230 Personal Protection Details, provided security for nearly 200 judicial conferences, protected Supreme Court Justices while on travel around the nation, responded to numerous bomb and hazardous material threats, and improved interior and exterior security at numerous courthouses. JSD is also in the final stages of constructing its Threat Management Center, which will function as the nerve center for the analysis of threats and inappropriate communications against judicial officials and other USMS protectees.

- Home Intrusion Alarm Initiative: By the end of 2006, 1,616 federal judges had requested or expressed interest in having a home intrusion alarm installed in their residence. Working in conjunction with the Administrative Office of the U.S. Courts (AOUSC), the USMS has scheduled or completed Pre-Installation Plan surveys for **all** of those residences. Installation has been completed in 1,477 of the 1,616 residences, or 92 percent.

- Training of Court Security Officers (CSOs): Within the new Judicial Services component, a more aggressive approach is now being taken to CSO training and in exploring new screening technologies that CSOs can use in their efforts to secure federal

courthouses. The CSO Orientation Curriculum has been completely updated, and training which formerly occurred on an annual basis is now being conducted quarterly at the Federal Law Enforcement Training Center in Glynco, Georgia. Hands-on training is being conducted on new and current screening equipment, with added emphasis on detecting disguised weapons and explosives, and response plans for dealing with weapons of mass destruction.

With regard to advances in screening equipment technology, selected judicial districts are being asked to test next generation technologies, and the data obtained from these tests will assist the USMS in selecting and procuring the best possible screening equipment in support of our judicial protection mission.

- Communication with the Administrative Office of the U.S. Courts: I have personally met with the Chief Judges and Judicial Security Inspectors in many of the 94 judicial districts around the country to discuss courthouse and residential security needs in each district. As part of our commitment to providing the highest level of protection possible to the federal judiciary, senior-level JSD staff regularly meets with the AOUSC to ensure ongoing dialogue and communication on security issues. I have had many productive meetings and conferences with AOUSC Director James Duff, and recently hosted the Judicial Conference Committee on Judicial Security at our Regional Technical Operations Center in Houston, Texas. There, we highlighted USMS improvements in tracking, investigating and deterring persons who threaten the judiciary.

- Improvements in the Protective Investigations Program: During FY 2006, the USMS conducted training in behavioral methodologies of investigation for 190 Deputy U.S. Marshals (DUSMs) and Judicial Security Inspectors (JSIs) at the Federal Law Enforcement Training Center. A Judicial Protective Training Conference for 210 DUSMs and JSIs was also held in Baltimore, Maryland. These training seminars were conducted by experts within the USMS, as well as the United States Secret Service, United States Attorney's Office, Diplomatic Security Service, Bureau of Alcohol, Tobacco, Firearms, and Explosives, and the Federal Bureau of Investigation.

- National Center for Judicial Security (NCJS): During FY 2007, the USMS has begun to establish the NCJS - operated, staffed and managed by members of the Judicial Security Division. It will provide a wide range of services and support to federal, state, local and international jurisdictions as they seek advice and assistance on questions of judicial security. It will initiate programs and activities directly related to threat assessment, training, information sharing, and technology review.

I trust you will find this information useful. I assure you that the USMS will continue to work diligently to prevent, detect, deter and disrupt threats to the judiciary, and provide an environment where judges, court employees and the public feel safe. Thank you for considering these issues, and I look forward to working with you to accomplish the important objective of judicial security.

Mr. SCOTT. Judge Sentelle?

TESTIMONY OF THE HONORABLE DAVID BRYAN SENTELLE, CHAIR, JUDICIAL CONFERENCE COMMITTEE ON JUDICIAL SECURITY, WASHINGTON, DC

Judge SENTELLE. I, too, want to thank the chair and Ranking Member of the Committee and the Members of the Committee. As a resident of Virginia, I especially thank the Chairman and the Ranking Member.

And I must say it is good to see my long-time friend—I shouldn't say old friend, but certainly long-time friend and fellow Tar Heel, Congressman Coble. We were assistant U.S. attorneys together 30-and-some-odd years ago.

I am very honored to be here.

In the last year of his life, Chief Justice Rehnquist became very concerned about judicial security by reason of the kinds of incidents to which the Chairman alluded. He created a new committee with the responsibility for judicial security, which had previously been adjunct to the Facilities Committee. I was honored when he made me the chair just before he passed away.

During the past year and a half, or almost a year and a half, we have made great strides, working with and through the U.S. Marshals Service, in obtaining for every judge in the country the opportunity to have home intrusion detection devices. I called those burglar alarms before I got on the committee. [Laughter.]

Now I have that available for every judge in the country.

Working with and through the U.S. Marshals Service, we have taken the technology developed for fugitive pursuit and analysis and helped the Marshals Service in adapting it for use also in support of judicial threat investigation.

All of this has been with the priceless support of the legislative branch in giving us what we need to get these things done. Our presence here doesn't mean we are complaining about anything going on in the legislative and executive branches. It is just that we think we can all work together to do more.

For example, in 101, the Consultation Provision, our asking that the Marshals Service and Judiciary be required to consult does not mean we are not consulting now. Director Clark and I are on the phone or in person together, sometimes several times a week, sometimes for days at a time, and in remote locations and technical centers in other parts of the country.

What we want to do is ensure by statute that this kind of relationship can be continued no matter who is the director of the Marshals Service or who is the chair of the Judicial Security, so that each branch can rely on the other in the future without having to hope that personal relationships hold up.

Similarly, the redaction is working well now, but we do want to urge the Committee and the Congress to continue the redaction authority. That is to say, when judges file financial statements, we don't like the disgruntled litigant of the sort who has threatened or shot judges in the past to be able to look down on that report and see where the judge's children go to school or where the judge's spouse is employed.

We do want to provide the kind of information the public needs in order to ask for refusal from litigation, but we do not want the judges to endanger themselves or their families by the information that is disclosed.

And then on another front of security is the harassment to which judges, jurors and witnesses have been subjected in some parts of this country by groups that are anti-government in general, anti-courts in particular, who go into State courts and file fictitious liens against the property of judges, prosecutors, jurors, in order to threaten and harass, much in the same way that identity theft works.

And so, we are asking for an expansion of the already-beneficial authority that exists to punish the filer of the false lien, the threatener of that sort against judicial and other courthouse security.

So thanking the Congress for what you have done for us already and thanking the Marshals Service for their continuing good efforts and good results in judicial security, we would hope for this judicial security improvement bill to be enacted into law.

Thank you very much.

[The prepared statement of Judge Sentelle follows:]

PREPARED STATEMENT OF THE HONORABLE DAVID BRYAN SENTELLE

JUDICIAL CONFERENCE OF THE UNITED STATES

STATEMENT OF
THE HONORABLE DAVID B. SENTELLE

CHAIR, JUDICIAL SECURITY COMMITTEE
OF THE JUDICIAL CONFERENCE OF THE UNITED STATES

FOR THE
COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON CRIME, TERRORISM,
AND HOMELAND SECURITY
UNITED STATES HOUSE OF REPRESENTATIVES

HEARING ON H.R. 660, THE "COURT
SECURITY IMPROVEMENT ACT OF 2007"

MAY 3, 2007

Administrative Office of the U.S. Courts, Office of Legislative Affairs
Thurgood Marshall Federal Judiciary Building, Washington, DC 20544, 202-502-1700

STATEMENT OF JUDGE DAVID B. SENTELLE
ON BEHALF OF
THE JUDICIAL CONFERENCE OF THE UNITED STATES
BEFORE THE COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY
UNITED STATES HOUSE OF REPRESENTATIVES
HEARING ON H.R. 660, THE "COURT
SECURITY IMPROVEMENT ACT OF 2007"

Thank you for the opportunity to present the views of the Judicial Conference of the United States on H.R. 660, the "Court Security Improvement Act of 2007." Let me first express appreciation to Chairman Bobby Scott, Ranking Member J. Randy Forbes, and the other members of the subcommittee for taking time to address seriously the security issues facing the federal judiciary.

The murder of Judge Joan Lefkow's husband and mother in her Chicago home in February 2005 sent shockwaves throughout the judicial branch. Following this terrible tragedy, Congress quickly approved funding for home intrusion detection systems which have since been deployed throughout the federal judiciary by the U.S. Marshals Service. These systems are an important improvement in how security, especially off-site security, is provided to federal judges. The current director of the U.S. Marshals Service, John F. Clark, played a key role in making the program operational.

Since that time, numerous other incidents have occurred in places such as Atlanta, Georgia and Reno, Nevada where judges have been seriously threatened due to compromises in their security. While these events occurred in state courts, they highlight security breaches that cause all judges to be concerned for their safety and well-being.

During the 109th Congress, Congressmen Louie Gohmert together with several other members cosponsored H.R. 1751, the "Court Security Improvement Act of 2006," which passed both houses of Congress in differing versions but never went to conference. This bill addressed

several key security issues facing the federal courts. These issues included the authority of the Judicial Conference of the United States to redact sensitive information from judges' financial disclosure forms, the creation of a criminal offense for malicious filing of fictitious liens against federal judges, and a requirement that the U.S. Marshals Service consult with the federal judiciary in the development of judicial security policies. The judicial security issues contained in the Act continue to be critically important to the federal courts, and we are pleased that a comparable bill has been introduced in the 110th Congress. H.R. 660, the "Court Security Improvement Act of 2007," is an extremely important bill. On behalf of the judicial family, I thank the sponsor of the bill, Chairman Conyers, and the bill's cosponsors, Congressmen Gohmert and you, Mr. Chairman. We are also appreciative that the Senate recently passed its version of the "Court Security Improvement Act of 2007," S. 378, that is also pending before the House.

When enacted, this bill will contribute significantly to the security of federal judges and their families. I would like to discuss the provisions of the bill that are of interest to the federal judiciary.

SECTION 101: REQUIREMENT THAT THE UNITED STATES MARSHALS SERVICE CONSULT WITH THE JUDICIAL CONFERENCE OF THE UNITED STATES ON THE SECURITY REQUIREMENTS OF THE JUDICIAL BRANCH

Section 101 of H.R. 660 is a very important change that will formalize the positive relationship between the federal judiciary and the U.S. Marshals Service under the exceptional leadership of Director John Clark. The primary statutory mission of the U.S. Marshals Service is to provide security to the federal courts and we believe this section will contribute to that end. By requiring the U.S. Marshals Service to "consult" with the judiciary, this provision will ensure that the judiciary has greater input into those programs and policies of the U.S. Marshals Service

that pertain to personnel, equipment, and other resources used in performing the important mission of providing security to the federal judiciary. We believe it is important to formalize the relationship between these two institutions and support this section of the bill with two minor changes.

The current language of section 101 in the bill calls for the U.S. Marshals Service to "consult on a continuing basis," with the "Judicial Conference of the United States" on the security requirements of the judicial branch of government. The Administrative Office of the United States Courts already provides direct liaison, on a continuing basis, with the U.S. Marshals Service. Because the Director of the Administrative Office also provides support to the Committee on Judicial Security of the Judicial Conference, it would be more appropriate that the "Director of the Administrative Office of the United States Courts" be substituted for the "Judicial Conference of the United States" in the bill. Such a change would require that the conforming amendment be placed in section 604, "Duties of Director generally," of title 28, United States Code, rather than section 331, "Judicial Conference of the United States," of title 28. These are minor changes but ones that will more accurately reflect the existing relationship between the U.S. Marshals Service and the judiciary and will allow for easier implementation of the legislation.

SECTION 102. PROTECTION OF FAMILY MEMBERS

This section corrects an omission in the provision of the Ethics in Government Act that authorizes the Judicial Conference to redact sensitive information from financial disclosure reports of judges and judiciary employees (see section 103). As the tragedy involving Judge Joan Lefkow demonstrated, members of a judge's family may be attacked as readily as a judge. The current language of the redaction statute considers only whether the release of the

information would endanger the individual who has filed the report, even though the Ethics in Government Act requires the disclosure of information that creates risks for the safety of family members as well as the filing individual.

Section 102 ensures that members of a filer's family are provided the same protection that the current law provides for the individual who files the report. This modest expansion of the scope of protection is urgently needed to fulfill the purpose of preventing attacks or the threat of attack.

SECTION 103: AUTHORITY TO REDACT SENSITIVE INFORMATION FROM FINANCIAL DISCLOSURE FORMS

Many judges experience a unique security risk in the form of personal contact with violent offenders or other disgruntled litigants every day in which they preside over a trial or sentence a convicted person. This close contact can result in animosity directed toward the judge who is personally identified with the laws being enforced against a particular individual. Congress recognized the distinctive risks faced by judges and amended the Ethics in Government Act in 1998 to authorize the Judicial Conference to redact from a financial disclosure report sensitive information that could endanger the judge. This authority expired on December 31, 2005. The judiciary is thankful that the House and Senate have passed H.R. 1130, which provides redaction authority until December 31, 2009. This bill is awaiting the President's signature. I am hopeful that this Subcommittee and the full Committee will consider amending H.R. 660, and/or S. 378, to provide permanent redaction authority for the judiciary. This change would be consistent with the position of the Judicial Conference of the United States. The permanent authority will provide added security to judges and their families.

Included in H.R. 660, the authority to redact would terminate on December 31, 2009, consistent with H.R. 1130 that is awaiting the President's signature. As a practical matter, however, this expiration date will give the Judicial Conference of the United States authority to redact sensitive information from financial disclosure forms for only two-and-one-half years. If the House and Senate cannot agree to give the judiciary permanent authority, we respectfully request that the sunset on redaction authority be extended permanently or at a minimum to December 31, 2011, thereby giving the Judicial Conference four-and-one-half years to exercise this important authority.

There are several reasons this change is important. Financial disclosure reports reveal several types of information that can endanger the filer or members of the filer's family. Filers are required to enumerate the specific items that they request be redacted from their reports, and those requests are reviewed by the Judicial Conference Committee on Financial Disclosure. In determining whether to redact information from a report, the Committee consults with the U. S. Marshals Service. As required by the statute, the Director of the Administrative Office has provided an annual report on the number of redactions approved by the Committee in the preceding year.

All judges' financial disclosure reports for calendar year 2005 and several previous years are already posted on several Internet websites. Without the permanent authority to redact sensitive information, it will be much harder to maintain the minimal zone of security that has helped in the past to shield judges from personal attacks by disgruntled litigants and anti-government organizations.

SECTION 104: PROTECTION OF UNITED STATES TAX COURT

The intent of this provision is to expand the duties of the U.S. Marshals Service to cover the protection of the U.S. Tax Court, an Article I court that is not a part of the judicial branch. While the judiciary takes no position on whether the U.S. Marshals Service should be required to cover these additional duties, we are concerned that such expansion, without the accompanying necessary funding to provide these new services, will strain the already limited resources of the U.S. Marshals Service and, in turn, hinder its primary statutory mission to protect the federal judiciary. Therefore, we suggest that language be included to require that the U.S. Tax Court reimburse the U.S. Marshals Service for the protection it provides, as is the current practice with regard to funding for protection of the U.S. Tax Court. I would note that the Senate version of this bill, S. 378, was amended to require this reimbursable arrangement.

We would also note that the provision includes the phrase "any other court" to refer to the U.S. Tax Court. This phrase is unnecessarily broad and could be misconstrued to expand the duties of the U.S. Marshals Service beyond the protection of the U.S. Tax Court. If the Committee believes it is necessary to provide expanded protection to the U.S. Tax Court, we respectfully request that the provision be more narrowly tailored, replacing the phrase "any other court" with "U.S. Tax Court," as was done when the Senate amended its version of the bill, S. 378.

SECTION 105: ADDITIONAL AMOUNTS FOR UNITED STATES MARSHALS SERVICE TO PROTECT THE JUDICIARY

Section 105 would authorize the appropriation of $20 million for fiscal years 2007 through 2011 to allow the U.S. Marshals Service to hire additional deputy marshals and additional personnel for its Office of Protective Intelligence. Although the judiciary fully

supports this provision and is grateful to the bill's sponsors for including it, the Committee might wish to consider authorizing additional funds to ensure that the U.S. Marshals Service has adequate and appropriate resources to fulfill its statutory mandate to protect the federal judiciary. We certainly appreciate any support that the Committee might give to ensure that the authorization is fully funded. We suggest that the Committee consult with the U.S. Marshals Service about an appropriate dollar amount.

SECTION 201: PROTECTION AGAINST MALICIOUS RECORDING OF FICTITIOUS LIENS AGAINST JUDGES AND FEDERAL LAW ENFORCEMENT OFFICIALS

This provision would create a criminal offense for the recording of malicious liens against federal judges. In recent years, members of the federal judiciary have been victimized by persons seeking to harass or intimidate them by the filing of false liens against the judge's real or personal property. These liens are usually filed to harass a judge who has presided over a criminal or civil case involving the filer, his family, or his acquaintances. These liens are also filed to harass a judge against whom a civil action has been initiated by the individual who has filed the lien. Often, such liens are placed on the property of judges based on the allegation that the property is at issue in the lawsuit. While the filing of such liens has occurred in all regions of the country, they are most prevalent in the state of Washington and other western states.

SECTION 502: BANKRUPTCY, MAGISTRATE, AND TERRITORIAL JUDGES' LIFE INSURANCE

The Judicial Conference supports section 502 that would address certain inequities in the way that Federal Employees' Group Life Insurance (FEGLI) is made available to bankruptcy, magistrate, and territorial judges.

In 1998, the Office of Personnel Management (OPM) launched an effort to increase premium rates significantly for Federal Employees' Group Life Insurance (FEGLI) for employees over age 65, including federal judges. Previously, Article III judges were authorized to carry full FEGLI coverage into retirement by continuing to pay the premium in effect when they turned age 60, in recognition of their life tenure. On April 24, 1999, OPM put into place the higher premium rates, which would have been applicable to federal judges. These changes threatened the financial stability and estate plans of judges. Congress responded by enacting a law, Pub. L. No. 106-113, to authorize the Director of the Administrative Office, pursuant to the direction of the Judicial Conference, to pay the increases in the cost of the premiums imposed after April 24, 1999, for Article III judges. In addition to Article III judges, Congress established similar authority in 2000 to cover increases in FEGLI premiums for judges of the U.S. Court of Federal Claims, who are appointed for 15-year terms, and, in 2006, for U.S. Tax Court judges, who also are appointed for 15-year terms. Extending these payments to bankruptcy, magistrate, and territorial judges would address an inequity in the costs of FEGLI coverage between them and Article III judges and these other fixed-term judges.

The Senate amended the language of this provision in its bill, S. 378, to correct the inequities in the costs of FEGLI coverage among federal judges more effectively than the bill's original language. The Judicial Conference prefers the language adopted by the Senate, and respectfully requests that the House adopt the language that passed the Senate.

SECTIONS 503 AND 504: ASSIGNMENT OF JUDGES AND SENIOR JUDGE PARTICIPATION IN THE SELECTION OF MAGISTRATE JUDGES

Section 503 of H.R. 660 would create a statutory right for senior district judges to participate in the appointment of court officers and magistrate judges, rulemaking, governance,

and administrative matters in their respective district courts. Section 504 would amend the Federal Magistrates Act specifically to mandate that senior judges have the right to vote on candidates for magistrate judge positions, along with the active district judges of the court.

The judiciary is deeply grateful to the judges who choose to extend their judicial service beyond retirement by taking senior status. Unquestionably, these judges should be recognized for the significant and valuable work they do in the district courts, on a voluntary basis. The statutes governing court administration, however, place the responsibility for appointments of court officials and other administrative matters on the active district judges of the court and do not appear to give automatic voting rights to senior judges in these matters. Similarly, the Federal Magistrates Act, at section 631(a) of title 28, has been construed as giving voting rights on the selection and appointment of magistrate judges solely to the active judges of the district court. The Judicial Conference has taken the position since 1959 that a district court, for purposes of appointing court officials, should be defined as consisting of only active judges and not senior judges. At its September 2006 session, the Judicial Conference considered the same amendment to the Federal Magistrates Act as that presented in section 504 of H.R. 660, and voted to oppose the amendment, noting that the current method of appointing magistrate judges is effective. At the same time, while senior judges do not have a statutory right to vote on these matters, some district courts follow a local custom of allowing senior judges to participate in these decisions. The current arrangement functions effectively and permits local variations that reflect differing conditions around the country. It appears that the proposed changes in the law to create statutory rights for senior judges to participate in court administrative decisions may unduly restrict the flexibility of district courts in this area. The Conference opposes section 504.

Mr. SCOTT. Thank you, Judge.

I want to recognize the gentleman from California, Mr. Lungren. The gentleman from North Carolina, who has already been identified, is also joining us today.

We will now begin the rounds of questions from the Members, 5 minutes each, and I will begin.

Judge Sentelle, you mentioned fictitious liens. I thought we passed legislation fixing that a couple of years ago?

Judge SENTELLE. You did. You did. And we thank you for what you have done.

This expands its coverage a bit as far as other court personnel involved, and it enhances the penalty so that the persons that are involved—there is a greater incentive not to commit this under the bill than what has been done in the past.

Congress has already helped us a great deal on that. We are asking for a refinement. As I say, we are not dissatisfied with anything the Congress or the executive are doing now. We just want to get all of us together to do things a little better.

Mr. SCOTT. No problem with being dissatisfied. Everybody else is dissatisfied.

Judge SENTELLE. Well, for once in my life I am not all that dissatisfied. [Laughter.]

Mr. SCOTT. You mentioned financial disclosures. We passed those stop-gap measures a couple of months ago.

Judge SENTELLE. Yes, and what we want to do is extend the time on that to make it—we would like for it to be a permanent authority.

Mr. SCOTT. Is there anything in that little stop-gap measure that we left out? Did we do everything we needed to do?

Judge SENTELLE. Other than the time element, I don't recall anything. I would like the opportunity to take that for the record and consult with the administration office staff and give you a more detailed answer later.[1]

Mr. SCOTT. That will be fine.

Judge Bell, if States had more money for courtroom security, what would you do with it?

Judge BELL. What we are trying to do now is to upgrade the security in the courthouses throughout the State. We have taken it upon ourselves in Maryland, for example, to start the process.

But if we had the money, we could put into place some security measures that would ensure that we would capture all of the bad things that come into the courthouse, keep them out. We would then be able to start some programs which could perhaps help us in protecting witnesses and protecting others who would be involved in the process of the case.

Mr. SCOTT. You also mentioned assessing security. I would assume that as you are building courthouses from time to time or trying to renovate them, how criminals are transferred, where jurors are and that kind of thing——

Judge BELL. Those kinds of things.

Also making sure that our buildings are up to modern standards. We have a lot of old courthouses in Maryland. I am sure that is

[1] See Appendix for information provided by the Honorable David Bryan Sentelle.

the case all over the country. We have a lot of substandard buildings. They need a lot of improvement. We need to do improvement with an eye toward security needs of that particular court.

Mr. SCOTT. Mr. Clark, when witnesses are threatened, does that come under your bailiwick?

Mr. CLARK. Yes, it does, Mr. Chairman.

Mr. SCOTT. What do you do to protect witnesses? You are just in Federal court?

Mr. CLARK. Yes. I would address it from the Federal court level. And, of course, we handle and manage the Federal Witness Protection Program, which, of course, in a broad context is used in more of a prosecutorial role.

But also, in many of our high-threat trials or high-threat cases, where witness intimidation may be a factor, we make every effort to make sure those witnesses are protected when they are coming to or from court or when they are in court or appearing in court. And so, we would very much appreciate the support that this bill offers to enhance anything to do with witness protection and prevent any intimidation.

Mr. SCOTT. Thank you.

Mr. Forbes?

Mr. FORBES. Thank you.

I would like to echo what the Chairman said, first of all, by thanking you all for what you do, Judge Bell and Judge Sentelle, for your work, and, Mr. Clark, for the great job that the marshals do. I never want to miss an opportunity to thank you and tell you how much we appreciate that.

As we talked about, we have a lot of threats. They come in a lot of different sizes, different packages. We are concerned about the individuals that most of us in laymen's terms would just say are crazy individuals and, you know, very unpredictable.

But how would you break it down in your threats between an individual threat and the ones that Judge Sentelle kind of alluded to, that might be organizational-type threats that might expand their capability, especially in gangs and organizations like that? Do you see that number growing? Is that a major concern? Because that is something that seems like it is even more difficult to maybe get a handle on.

Mr. CLARK. Yes, Congressman, you are correct. We see a wide variety of threateners out there.

Last year, in fiscal year 2006, the Marshals Service investigated and reviewed over 1,100 threats to the judiciary and U.S. attorneys, assistant U.S. attorneys and others who are involved in the judicial process. And all of those threats come in various sort of shapes and sizes.

We have seen trends where some individuals, to use that term, are a little mentally disturbed or, as you say, crazy. But they are nonetheless making threats that we have to investigate.

We also see more organized threats from gang members, often members of the same gang as those being prosecuted in a Federal court and who have the capability and the means to certainly pull off a threat if they wanted to. And so we take them all very seriously and we look at them and try to mitigate them as quickly as we can.

But there is quite a range of threateners. Just as an example, just this last week in our Houston office, deputy marshals went to interview an individual who had threatened a Federal judge there in Houston, and in the context of interviewing the suspect, he came to the door with a weapon in hand. Fortunately, our deputies were able to retreat and were able to fire a shot to hit the suspect and be able to handle that confrontation, fortunately, very successfully without any harm to our deputy marshals.

But that individual had been deemed by somebody a little bit mentally unstable, who had threatened, in addition to judges, I understand, Members of Congress. So we have an individual out there who says and does these things and, obviously, by what he did to our deputy marshals, with the intent to possibly carry them out.

So there is a wide range of individuals out there.

Mr. FORBES. The Chairman raised concerns about buildings and structures and what we need to do in there, but one of my concerns for all of you is your families as well and when you are outside those buildings.

How do you track these individuals? When you get an individual that you think could be a potential threat, do we have the resources to be able to track them and make sure that we are monitoring what they are doing so that they are not an actual threat to perhaps the families?

Mr. CLARK. Yes, Congressman. We have made substantial improvements to how we collect, analyze and track data and threateners—the individuals themselves. We have enhanced our Office of Protective Intelligence and the data-collection means that we use there to track them, to make sure that those who gave threatened a judge in previous years, can be tracked. If they threaten somebody again in a subsequent year, we would know about that and have a case history on that individual.

So we want to make sure we are doing a good job to keep records on it and to maintain that tracking system. We are doing that very successfully.

We are also working with our State and local counterparts to see if we can better track those individuals who threaten State and local judges as well, so that we can share that information and be able to know who is threatening who out there.

We found that, in some cases, those individuals who had threatened a State judge, for example, also might threaten a Federal judge. And so, we want to be able to connect the dots and be able to know who out there in the world is doing that.

Mr. FORBES. Judge Bell, my time is about up, but if you perhaps would have someone on your staff get back to me. How uniformly do the State courts implement the 10 essential elements for courtroom safety and security that your organization has developed?

And can you point to any specific outcomes to help us in which a threat or action was deterred as a result of this plan? That could be useful information if you could supply it to us.

And, once again, thank you all for your time.

Judge BELL. We will be happy to do that. Thank you, sir.

Mr. SCOTT. I will now recognize Judge Sentelle's old friend from North Carolina, the gentleman from North Carolina, Mr. Coble.

Mr. COBLE. Mr. Chairman, you didn't need to emphasize the word "old." [Laughter.]

Thank you, Mr. Chairman. I appreciate the good job the two Virginians are doing on this Subcommittee, you and Mr. Forbes.

It is good to have the panel with us, especially the alumnus from the Great Smoky Mountains, Judge Sentelle. Good to see you again.

Mr. Clark, a friend of mine once told me that the success of being a popular speaker was to practice the "three be's": be bold, be brief, be gone. [Laughter.]

Now, I am not suggesting that Judge Sentelle and Judge Bell abused the 5-minute rule, but you gave new meaning to brevity in this place, and we embrace that very warmly. [Laughter.]

Gentlemen, as you all know, the House approved the Committee of Judicial Security provisions during the last Congress. I understand that several key provisions from that bill have been omitted from the bill before us. They include allowing law enforcement, Federal prosecutors and judges to carry firearms, and increasing penalties for assaulting, killing or kidnapping a Federal officer.

While I supported all of these provisions in the 109th Congress, I would like to hear your thoughts on why or why not permitting law enforcement and other courthouse officials to carry firearms would help secure our courthouses.

Let me start with you, Judge Sentelle, and work to my left.

Judge SENTELLE. Congressman Coble, the Judicial Conference of the United States has taken a position in favor of the legislation allowing judges and some others to carry firearms. We have not retreated from that position.

However, we hope that this bill now in front of Congress will not be bogged down by provisions that might be more controversial than what is in there now. We would rather see that dealt with in a separate bill, where the question could be examined by itself without clouding the provisions on which there might be more consensus.

But, no, we have not retreated from that position. The Conference still stands in support of the legislation you are talking about.

Mr. COBLE. Thank you, sir.

Mr. Clark?

Mr. CLARK. Congressman, it would be my position that, at least speaking from the Federal system, in the courthouse itself and in the courtroom, often there are deputy marshals who are armed. There are court security officers who are armed. And on any given day there are a few folks, at least, in every courtroom who are carrying firearms.

So while we would certainly see the benefit perhaps of having judges and others that might be armed, we feel like there is an adequate armed presence now in the courtroom and would not necessarily think that adding to that number would necessarily benefit security.

We would also say that, I guess, in terms just of the logistics of carrying this out, to make sure that the individuals would be qualified with their weaponry and able to use them, that we would want

to work with the Judicial Conference to sort of think out and talk out how that could be done.

With regard to raising the penalties for those who threaten judges or others in the law enforcement realm, I would certainly support that. I think any time we can deter effectively those who threaten the judiciary by raising the penalties and sending a good message that we are very serious about anybody who threatens a Federal judge, would be well worth it. So I would certainly support that.

Mr. COBLE. Judge Bell?

Judge BELL. Yes, sir. By the way, I suppose I shouldn't say this, but I will. I suppose that one of the reasons that Judge Sentelle and I went on a little longer is that we are both from North Carolina. [Laughter.]

Mr. COBLE. Judge, I was not admonishing. I don't dare admonish judges. [Laughter.]

Judge BELL. The position about which you speak is one that would have to be taken by the Government Relations Committee of the Conference of Chief Justices and the COSCA. I am not aware that we have taken a position on it nor that it was necessary to do so for this bill.

Last time, I do know that we were in favor of a court security bill. But, as Judge Sentelle mentioned, I don't want any discussions about provisions where there may be some controversy to affect the positive action on this bill.

Now, we can, if you would like, we can have the Government Relations Committee look at the issue and provide you with information with regard to it.

Mr. COBLE. That would not be a bad idea.

Chairman, let me ask one more question.

What prompted my saying this, Mr. Scott and Mr. Forbes, is a Federal prosecutor from my district back home told me recently that it is not uncommon for him to be the recipient of threats in an ongoing way, and that is what prompted the question.

Mr. Clark, let me ask you this. Do you all in the Marshals Service have authority to issue administrative subpoenas?

Mr. CLARK. No, Congressman, we don't at this point in time, although it is something that we have in the past sought to obtain. And we would hopefully find in the future, with congressional support, the ability to obtain it.

Mr. COBLE. Well, that was my follow-up. I was going to say, would this authority enhance the ability of your agency to carry out your mission in a more fulfilling way?

Mr. CLARK. Most definitely.

And if I can just give you a brief example how: Under the current context of judicial security, when we are investigating individuals who have threatened a prosecutor, a Federal judge, a local judge, whoever the case may be, time is of the essence to be able to quickly gather investigative information and particularly those who we know have the means and the capability to carryout a threat.

So we would absolutely use the administrative subpoena authority to be able to do that. Not to mention in the other various missions that we have where we already have known criminal defendants who are wanted, who actually have an outstanding warrant

for them, that, again, timing and being able to gather information quickly and effectively is of the essence.

So we feel like administrative subpoena authority would be of great value to the Marshals Service. And we are one agency that, I believe, needs it and should have it and would be very responsible if we did have it.

Mr. COBLE. Mr. Chairman, I don't presume to tell two Virginians how to run their agenda, but this is something that may warrant the attention of the Subcommittee as we move along into this session.

I yield back.

Mr. SCOTT. Thank you.

And I want to thank our witnesses for your testimony. It has been very helpful. This is obviously a priority of the Committee, and we will get working on it and hopefully we can get this through. The Senate has already taken action, so we will take action too.

Thank you very much.

[Whereupon, at 10:42 p.m., the Subcommittee was adjourned.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

ANSWER TO QUESTION POSED BY THE HONORABLE ROBERT C. "BOBBY" SCOTT TO THE HONORABLE DAVID BRYAN SENTELLE

We are in the process of expanding and elaborating on each of the Ten Essential Elements for Courtroom Safety and Security. Each Element will become a written chapter in a large printed document, which we hope will become a compendium of best practices in each of these ten areas. For example, we have recently finished Essential Element #1, "Operational Security: Standard Operating Procedures;" #2, "Facility Security Planning: The Self Audit Survey of Court Facilities;" #3, "Emergency Preparedness and Response: Continuity of Operations;" #4 "Disaster Recovery;" #5 "Threat Assessment;" #6 "Incident Reporting;" and #7 "Funding." The Conference of Chief Justices/Conference of State Court Administrators Security and Emergency Preparedness Committee are the primary authors of these ten chapters. They are currently reviewing Elements 8, 9 and 10. The Committee is planning to complete this project by the end of 2007. Final ratification by both Conferences is expected in early 2008.

In terms of state adoption of the Elements, we can report that the following states have adopted the recommendations or are in the process of adoption:

1. Operational Security: Arizona, Delaware, Michigan, New York, Ohio, Pennsylvania and Wisconsin.
2. Facility Security Planning: California, Florida, Indiana, New York, Pennsylvania and South Carolina.
3. Emergency Preparedness and Response: California, Florida, Minnesota, Pennsylvania and Virginia
4. Disaster Recovery: California, Florida, Minnesota, Pennsylvania and Virginia
5. Threat Assessment: Michigan, New Jersey and New Mexico
6. Incident Reporting: Hawaii, New Jersey, Ohio, Pennsylvania, Rhode Island and Wisconsin
7. Funding: California, Missouri and Pennsylvania
8. Security Equipment and Costs: drafting of chapter in progress
9. Resources and Partnerships: drafting of chapter in progress
10. New Courthouse Design: drafting of chapter in progress

U. S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

June 12, 2007

The Honorable John Conyers, Jr.
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This letter sets forth the Justice Department's views on an Amendment ("Amendment") to the "Court Security Improvement Act of 2007" (H.R. 660). It is our understanding that this Amendment will be offered by Representative Chabot during the Judiciary Committee's June 13, 2007, markup of this legislation. The Amendment would allow media coverage of court proceedings. We strongly oppose the Amendment to H.R. 660 and we note that the Judicial Conference has opposed similar proposals regularly. To the extent that we are able, we propose modifications to address some of the amendment's infirmities. However, the modifications we propose would not eliminate the Department's strong opposition to the Amendment's main purpose.

The Amendment would authorize the presiding judge of an appellate court of the United States, including the Supreme Court of the United States, or a district court of the United States to, "in the discretion of that judge, permit the photographing, electronic recording, broadcasting, or televising to the public of court proceedings over which that judge presides." The Amendment would also authorize the Judicial Conference of the United States to "promulgate advisory guidelines to which a presiding judge, in the discretion of that judge, may refer in making decisions with respect to the management and administration of [the] photographing, recording, broadcasting, or televising" of court proceedings.

Policy Concerns

First, we believe that broadcasting court proceedings often will lead to grandstanding and other inappropriate behavior by lawyers, judges, jurors, court security officers, and others, which would diminish the quality of justice administered in Federal courts. We note the real possibility that with editing, revision, or excerpting, what is broadcast as "truth" could diverge very substantially from the picture painted by the totality of events at trial. As a result, the Amendment would do little, if anything, to advance the interests of the parties in justice or the search for truth.

Second, we appreciate Congress' recognition that protecting witnesses is a high priority, particularly when a witness participates in the Department's witness security program. It is critical to ensure that Federally-protected witnesses are not jeopardized by the broadcasting and potential recording for posterity of their current appearance or voice. We are concerned about the lack of adequate safeguards in the Amendment to protect a witness' identity from being disclosed, even if the broadcast of the proceeding obscures a witness' voice and image. Merely obscuring the image and voice of a witness is no guarantee that, at a later date, technology will not become available that allows individuals the ability to "unobscure" via technological devices. In fact, the Department is aware that such devices and technology already may exist. Further, not filming only certain witnesses in court proceedings likely would draw unnecessary attention to protected witnesses. Broadcasting court proceedings could also have a negative impact upon protected and non-protected witnesses, in terms of both their willingness to testify and become well-known in a notorious case, and the attendant increased safety risks. Additionally, it likely would affect victims through the exposure of embarrassing episodes.

Third, in addition to potentially compromising the security of protected and non-protected witnesses, we are concerned that cameras in the courtroom could hinder the ability of the United States Marshals Service to protect other participants in the Federal justice system, including judicial officers, jurors, witnesses, and defendants. The Department would not want its witness security personnel, who are called upon to testify, identified by such broadcasts; nor would the Department routinely want to broadcast Federal agents, particularly those agents working undercover who may have to return to those duties or be assigned similar undercover duties in the future. Similarly, as recent episodes have demonstrated tragically, threats to Federal judges and their families are particularly acute, and any proposal such as the proposed Amendment that results in making judges more readily identifiable by the general public holds the potential for increasing their vulnerability.

Fourth, we have particular concerns about the privacy implications of televising Federal judicial proceedings, from a Government information perspective. Currently, we are able to use information protected by the Privacy Act in court. The dissemination of that information via full scale media coverage, including photographic images and voice reproduction, would completely change the balance between privacy protection and the administration of justice. The privacy considerations that routinely arise in litigation would become much more serious, and the balance more often would be struck on the side of not being able to use the information at all if that use resulted in widespread media exposure with little control over future use. This could affect our litigation in areas such as employment or other discrimination cases.

Fifth, the experience of those United States Attorneys who were judges in State court systems where proceedings were televised is that it takes a tremendous amount of time and resources for already burdened court personnel to arrange the positions of the cameras and outlets, and facilitate the press getting equipment into the building. Additionally, on many occasions the media violated the restrictions the judge gave them by going beyond what they were allowed to film or attribute.

Constitutional Analysis

While we believe that this Amendment is not facially unconstitutional, it is susceptible to being applied in an unconstitutional manner. We therefore would urge that certain safeguards be included in the Amendment. To begin with, television coverage of court proceedings in certain criminal cases may endanger the due process rights of defendants. We note that most States permitting the broadcast of court proceedings explicitly preclude, at a minimum, "the audio pickup or broadcast" of conferences in a court proceeding between attorneys and their clients and between co-counsel. *See, e.g.*, South Carolina Appellate Court Rule 605(f)(2)(ii). We suggest that this safeguard be added to the Amendment as well. In addition, we recommend that a provision be added to the Amendment explicitly confirming a presiding judge's discretion to limit or terminate the photographing, electronic recording, broadcasting, or televising of a court proceeding at any time. For example, even after a presiding judge makes an initial determination permitting a trial to be televised, that judge should retain the discretion to end or limit such coverage at any time to protect an individual's right to a fair trial or as a result of changed circumstances.

Other Concerns

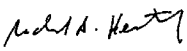
We also wish to comment on other features present in the Amendment. First, the Amendment nowhere sets forth factors or criteria to guide the exercise of a judge's discretion in deciding whether to permit the broadcast of court proceedings. Neither does the Amendment require judges to refer to the "advisory guidelines" that may be promulgated by the Judicial Conference of the United States "in making decisions with respect to the management and administration of [the] photographing, recording, broadcasting, or televising" of court proceedings. However, most States do set forth, either by statute or by court rule, factors that a judge must consider in determining whether to permit the broadcast of court proceedings. *See, e.g.*, Ga. Code Ann. § 15.1-10.1. The provision of such factors either in this Amendment or by court rule would likely be helpful at the Federal level as well and guard against the unconstitutional application of the Amendment. (To be clear, however, we are not recommending that the "advisory guidelines" of the Judicial Conference of the United States referenced in this Amendment be made binding.)

Second, we also query whether a decision to allow media access should be appealable or just an interlocutory and discretionary decision related to control of the district court's docket. The Amendment is silent on the question of relief.

Third, we would suggest changing the wording in section b(2)(A)(ii)(I), Obscuring of Witnesses. The changes are in capital letters: b(2)(A)(ii)(I) . . . the court MAY order the face and voice of the witness to be disguised; b(2)(A)(ii)(II) . . . the witness has the right to request that the image and voice of that witness MAY be obscured during the witness' testimony, AT THE DISCRETION OF THE COURT."

Thank you for the opportunity to present our views. Please do not hesitate to call upon us if we may be of additional assistance. The Office of Management and Budget has advised us that from the perspective of the Administration's program, there is no objection to submission of this letter.

Sincerely,



Richard Hertling
Principal Deputy Assistant Attorney General

cc: The Honorable Lamar Smith
Ranking Minority Member
Committee on the Judiciary

The Honorable Steve Chabot
Committee on the Judiciary

STATEMENT OF

NATIONAL ASSOCIATION OF ASSISTANT UNITED STATES ATTORNEYS

REGARDING

THE COURT SECURITY IMPROVEMENT ACT H.R. 660

BEFORE THE COMMITTEE ON THE JUDICIARY SUBCOMMITTEE ON CRIME, TERRORISM AND HOMELAND SECURITY

UNITED STATES HOUSE OF REPRESENTATIVES

MAY 3, 2007

Mr. Chairman and Members of the Subcommittee. On behalf of the National Association of Assistant United States Attorneys (NAAUSA), thank you for holding the this hearing to consider H.R. 660, the Court Security Improvement Act of 2007. Our Association – which represents the interests of the 5,500 Assistant United States Attorneys employed by the Department of Justice – urges the Subcommittee and the Congress to act expediently in improving the security and protection of federal prosecutors, as well as federal judges, courthouse personnel, law enforcement officers, and others critically involved in our federal justice system. The tragic murder of Tom Wales, an Assistant United States Attorney in Seattle Washington in 2001, the unsolved murder of Jonathan Luna, another federal prosecutor in Baltimore, Maryland in 2005, and many other threats and assaults against AUSAs underscore the need for renewed commitment to protect Assistant United States Attorneys.

As the Government's principal litigators, the 93 United States Attorneys and 5,400 Assistant United States Attorneys risk their lives every day in their service on the front lines of justice. AUSAs zealously prosecute the most dangerous criminals in our society, including terrorists, gang and organized crime members, violent gun offenders, international drug traffickers and major white collar criminals. Sadly, death threats and assaults against AUSAs are far too common, not only upon AUSAs, but their families as well.

The administration of justice requires that prosecutors discharge their responsibilities without fear of violence or reprisal. Yet Tom Wales, an Assistant United States Attorney in Seattle Washington, was murdered in October, 2001, as he sat in

front of a computer in the basement office in his home. His murder yet remains unsolved. Similarly, the mysterious death in December, 2003 of Jonathan Luna, an Assistant United States Attorney in Baltimore, Maryland, remains unsolved.

Department of Justice statistics demonstrate that AUSAs are among the most frequently assaulted and threatened group of employees within the Department. Moreover, the number of threats and assaults against Assistant United States Attorneys continues to escalate. In 2002, according to the Executive Office of United States Attorneys, there were 65 reported threats against AUSAs. Within the next three years, the number of reported threats against AUSAs had risen to 105, an increase of nearly 70 percent. The dangers to AUSAs prosecuting criminal matters, as well as those defending the interests of the United States against disgruntled civil litigants, make clear that changes in the law, as well as additional resources and changes in Department of Justice policies and procedures, are necessary to guard against intimidation, retaliation and revenge against AUSAs.

If anyone harbors any doubt of the seriousness of the threats and assaults against AUSAs, they should review the Appendix attached to this statement, which presents a sampling of the personal, first-person accounts of the serious threats and assaults that AUSAs have encountered. Upon reading these accounts, one cannot but be impressed by the deep courage and dedication that AUSAs bring to their jobs, as well as the unrelenting need for decisive and expanded action by the Congress and the Department of justice -- statutorily and administratively -- to improve the safety of federal prosecutors.

Advancements in AUSA Security in the Court Security Improvement Act, H.R. 660

The Court Security Improvement Act of 2007, H.R. 660, proposes to advance the safety and security of AUSAs in several respects. Section 105 would authorize $20 million annually for increased efforts by the U.S. Marshals Service to investigate threats and provide protective details to members of the federal judiciary and AUSAs. Sections 201 – 207 would install or expand penalties against those who seek to intimidate or endanger the lives of judges, prosecutors and witnesses. In particular, Section 201 would prohibit the filing of false liens against AUSAs and others, and Section 202 prohibits the public disclosure or dissemination (including on the internet) of personal information about judges and prosecutors. Each of these provisions is well-warranted.

Additional Protective Actions for AUSAs Are Called For

Section 401 requires the Department of Justice to report on the actions being taken to improve the security of AUSAs in a number of areas. However, that a Congressionally-mandated report from the Department of Justice on actions to improve the security of AUSA is necessary, rather that the Department's own voluntary initiation of sensible and necessary AUSA security improvements, describes the gravity of the current situation. In July 2005, representatives of our Association met with Attorney General Gonzales and advised him of the significant security-related concerns that many AUSAs across the country shared. In late 2005 and again in January 2006 we reiterated our concerns to the Attorney General and others in the Department. The negligible response from the Department to date represents a breach of trust and support for its employees. Human lives are at stake. Just as the Administration is

rightfully dedicated to preventing the occurrence of another 9/11, we believe that it is critical that the Department undertake initiatives to preclude the occurrence of personal tragedies among its most dedicated and loyal employees.

These called-for actions, described briefly below, include improvements in:

- Personal security training to AUSAs
- Availability of home security systems to AUSAs
- Availability of secure parking for AUSAs
- Improvement in the Marshals Service threat assessment protocol
- Greater authority of AUSAs to carry firearms

Each of these actions is described further below.

Personal Security Training for AUSAs

Many Assistant United States Attorneys regularly subject themselves to the same dangers that law enforcement agents, deputy marshals, and probation officers face. There is a critical difference, however. Most agents and deputy marshals toil anonymously or semi-anonymously, while AUSAs are fully identified in courtroom proceedings, pleadings filed, and media coverage. Thus the identities of AUSAs are well known to their defendants, which heightens the potential for intimidation or reprisal against them.

In view of these increased risks, the Department of Justice should regularly provide personal security training to all AUSAs, just as it provides to law enforcement agents and others. The training should cover a wide variety of proactive and defensive practices, including basic home security measures, family safety, mail handling,

counter-surveillance and self-defense tactics. NAAUSA has requested the Department to provide such training, to no avail. Congress should require the Department to provide such training to AUSAs if the Department continues to refrain from providing it.

Home Security Systems

AUSAs are away from their homes and families for long hours, especially during trials and contested sentencing hearings when the threat level presented by criminal defendants often reaches its highest point. During such times, as well as after the conclusion of a trial, the families and residences of AUSAs become potential targets for retaliation. Protection against this threat – through the use of home security systems -- should be a priority in the protection of AUSAs.

Yet, under current procedures, the Department of Justice provides for the installation and maintenance of home security systems for AUSAs under very narrow criteria, with procedures that are far too bureaucratic. Our calls upon the Department to broaden the availability of home security systems have gone unanswered. Congress should insist upon the authorization and funding for monitored home security systems for all AUSAs, just as they have been made available to federal judges.

Secure Parking for AUSAs

As criminals become increasingly sophisticated and as widening federal prosecutions focus upon terrorists, hate groups, and violent criminal organizations, the parking lot becomes a point of significant vulnerability to AUSAs. The need to secure the safety of vehicles driven by AUSAs thereby increases. One of the most effective

ways to guard against the placement of car bombs or shootings of AUSAs while entering or leaving their cars is through secure parking.

Yet the Department of Justice makes secure parking available to AUSAs on a far, far too limited basis. Congress should require the Department, if secure parking is not sufficiently available to all employees in a United States Attorney's Office, give AUSAs priority for available secure parking.

Improvement in the Marshals Service Threat Assessment Protocol

Whether accurate or not, there is a widely-held perception among AUSAs who have been threatened that the threat assessment process undertaken by the Marshals Service is far too slow and inadequate. Congress should require the Marshals Service to undertake a more thorough review of its protocols, and the feedback of AUSAs should be solicited during that review.

Firearms

The use of firearms by trained law enforcement personnel is widely recognized as an effective personal defense tool. For this reason, many AUSAs already obtain state permits to carry firearms. Every AUSA who carries a firearm – at their own cost -- also undergoes the requisite training attendant to the safe and proper carrying use of a firearm, again at their own expense.

Current Department of Justice policies and procedures authorizing an AUSA to carry firearms – through a special deputation process -- are entirely too slow and ineffective. Obviously, carrying firearms requires sound judgment, but DOJ does not

appear to trust the judgment of its AUSAs as much as its law enforcement officer employees in other DOJ components, who are authorized more widely to carry firearms. The Department should be required to undertake a far more permissive approach toward the carrying of firearms by duly permitted and properly trained AUSAs.

Once again, thank you for the Subcommittee's efforts to improve the security of Assistant United States Attorneys and others integrally involved in our federal courts system. The administration of justice and the rule of law require that AUSAs discharge their responsibilities without fear of violence or reprisal. The National Association of Assistant United States Attorneys pledges its continued support to work with the Subcommittee and others to reduce as much as possible the incidence of the threats against their security.

APPENDIX

PERSONAL ACCOUNTS OF ASSISTANT UNITED STATES ATTORNEYS OF THREATS AND ASSAULTS TAKEN AGAINST THEM

I was recently assigned to handle a RICO case against several members of a white supremacist prison gang. During the proceedings, the U.S. Marshal intercepted a letter which spelled out a directive to kill the "tall, bald prosecutor who runs a lot, goes to the airport a lot, and drives a silver Honda." Clearly, these were all things that could not have been learned through public domain, but were learned through surveillance or informant information about me. They were all accurate.

As a result of the threat, I was deputized as a special deputy marshal, and a closed-circuit TV camera was placed on a light pole outside of my home. Due to an earlier threat resulting from my prosecution of members of an outlaw motorcycle gang, my house had already been equipped with an ADT security system. In the case, I was escorted to trial by the FBI, and deputy marshals often followed me in their vehicles while I ran.

These threats are only two of the most recent and relevant examples of many I have received and witnessed during my 17 years as an AUSA. I consider my job to place me in as great a risk as any agent, as I am usually the most visible and vocal representative of the prosecutorial effort. The efforts that I have to go through to continue my status as a deputy are cumbersome and time-consuming, and personal firearms training of any value comes only because of a close working relationship with the marshal's office in my district.

I think my experiences exemplify and, unfortunately, typify those of AUSAs in many districts and in many areas of prosecutorial expertise.

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I had a serious incident just last year - an inmate threatened to kill my children. The threat was deemed serious and marshals lived in my home for about 3 weeks to protect us. Marshalls then made an assessment that, although the threat had actually been made, they decided that the defendant (who was incarcerated) lacked the wherewithal or intent to carry it out. (I strongly disagreed with this assessment.) My children (13 and 10) were terrified, and they are now never left alone in our home. (The threat was to get them as they left the school bus and went into the house or get them in the house before we arrived home, making it look like a robbery gone bad.) The year since has required that we completely change our routine to accommodate this fear. The school re-routed their bus outside district lines so that they could be taken two days to a relative, and they returned two other days to an after-school program (that they have very much outgrown). Then another day they go to a friends. This threat came in the midst of a five-month death penalty trial and as I was being diagnosed with cancer. Needless to say it has been a difficult year. PLEASE do not use my name - I still remain terrified that this defendant will come to know the fear that he instilled in us, thus being encouraged to repeat the threats - or worse, carry them out.

We now have firearms in our home and licenses to carry (something that my office seems to be appalled by, for reasons that completely confound me - I think they thought I would carry it to

work and misfire it during working hours.) I also remain convinced that we inadequately prepare prosecutors for this potential threat and inadequately make provisions for advance planning so that dealing with an actual threat is less traumatic - that is, we should insist that all new AUSAs have unlisted numbers, have alarm systems, and are properly trained to be prepared for this eventuality.

I am a career prosecutor, in my 21st year. I - and my husband who is also a career prosecutor - have been threatened before - and dealt with it in stride. It was the threat to my children that made me want to quit my job for the first time ever. And I was not impressed by what little resources there are to help us when a threat does come. The funding is all for short-term fixes - relocating you to a hotel for a short period of time or guarding you in your home for a short period of time. But once the marshals make their decision -into which you have no input and from which there is no appeal - all support is withdrawn. The people in my office were as helpful as they could be, but the institutional set-up is horrible. I have spent thousands making my home safer, only a small portion of which was assisted by DOJ - and I had to fight to get that.

==========

I'm currently under a death threat by a 23-time hit man for indicting his wife and the rest of his organization for distributing 2,137 kilos of cocaine into the United States. I requested that my office issue me a firearm and bullet proof vest which they denied. I ask what I should do if fired upon since I had been followed home on 2 occasions. I was told to duck and call 911! The ATF agent who was also threatened with me was moved, along with his family, out of the state at government expense.

I was given 5 jury trials in a row with my name and date and time I would be report to each of the trial locations posted on the courtroom doors. My wife, a Circuit Court Judge in [Location Redacted], was recently followed home by the same black truck that was seen following me home. She reported it to the local Sheriff's Office and officers were assigned to her and the house immediately. The Marshal's Service and the US Attorney's Office did nothing to my knowledge. They did send two agents out and they had me cut down two trees near the front door, which I did. Upon removal I noticed that I now have a completely unobstructed shot from the street to the door.

==========

In 1993, I prosecuted a local resident for threatening a federal witness and for mail fraud. His family had been involved in fraud schemes for years (sort of their version of a cottage industry). Approximately one year after the jury conviction, I was notified by the FBI agent I had worked with that the father of my defendant was conspiring to have me, the FBI agent, the witness who was threatened in my original case, and a former insurance company investigator killed. I was provided with 24 hour marshal service protection for approximately 2 weeks while the case was investigated (one of the conspirators had gotten nervous and contacted the FBI). After the father was arrested, marshals service protection was lifted. I was soon designated as a Special Deputy US Marshal (SDUSM) and permitted to carry concealed weapons for personal protection. The father, who had offered money for the killings, was tried and convicted. He received a 405 month sentence which amounts to a life sentence for him. Family members of this defendant have continued to complain about the injustice of this conviction, in particular, defendant's daughter, who as recently as 6 months ago was attempting to contact the US Attorney to demand that I be required to take a polygraph examination.

Local law enforcement is well aware of this family and its predilection towards criminal activity. Despite what I view to be a continuing, albeit diminished, threat to my safety and the safety of my family, I no longer carry the SDUSM designation. In part, this ending of status stems from the difficulties I encountered in attempts to secure renewal of this status each year. It has been my experience that somewhere between the reviewing officials at main justice and the corresponding officials at the US Marshals headquarters, the process gets delayed to the point that it became almost pointless to pursue. Even after approval, getting range time with a firearms instructor to qualify was difficult. In fairness, in the first couple of years following the threat, the response and approval times were satisfactory. Subsequent years were not. Based upon my experiences, I would support a program in which any interested AUSA could qualify for concealed carry protection in advance of a specific threat by undergoing safety and proficiency training. Renewals would be based on periodic requalification similar to that undertaken by members of the US Probation office.

I offer a recent experience as an illustration of why this would be beneficial. Just last week, I convicted a man for lying about material matters in connection with his top secret security clearance at a DOE facility where nuclear materials are stored and processed. Just this week, this defendant showed up at our reception area seeking to serve me with some form of legal papers. According to the investigative agents and the defendants ex-wife, this defendant is hot-tempered. While the matter did not escalate into a confrontation (I requested that our security guards escort the defendant from the building), I had no assurance that this defendant might not be waiting outside the building on the street. As it turned out, he was trying to serve a pro se motion for a new trial. None of us knew, however, what his intent was other than he wanted to serve me personally, and he was a bit belligerent with our receptionist.

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A defendant attempted to hire several different people to kill my kids and husband in front of me, myself, and IRS agent and his family and a district court judge. One of the individuals who had been asked and attempted to be hired to kill us, called me at the office and told me, which started an investigation. The defendant is now in a super maximum security prison serving a very long sentence as he was convicted of the underlying offense and this offense.

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I have been an AUSA for 24 years. I served as the District's Criminal Chief for eight years and as Senior Litigation Counsel for eight years. I have handled threats as a supervisor by providing the AUSA's with immediate protection including the installing of home security devices and arranging for USMS escorts and security. I have forwarded matters to the Department for prosecution. To say the least, that is not uniformly done.

I think that because most of the defendants who have threatened me have received such long sentences that these threats have been generally discounted by law enforcement and supervisors within my office. Even those people who have the ability to carry out the threats have generally been set aside by law enforcement if they get long sentences since there is a feeling that not much can be done. In general, it is my impression that threats to judges are acted upon promptly and that most threats to AUSAs, if not ignored, are put on the back burner, or are not viewed as serious enough to justify the expenditure of resources.

Having said that, we just recently received authorization for a guard and he is now working at our branch office. Prior to a year ago, the Department would not pay for a guard because we

were in a branch office and there were not enough AUSAs to justify the expenditure. This decision was made despite being informed of all of the high risk cases being handled by this office as a result of the narcotics prosecutions and the prosecutions arising at the nearest federal prison. At the same time, the courthouse, right across the street has had a full contingent of guards and US Marshals to handle the cases which AUSAs in our branch office brings.

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An FBI agent and I were threatened by a defendant, who in our opinion had the means to carry it out, during a debriefing. Prior to that I was threatened by another defendant who was convicted of murder. It was reported and an assessment was done. I installed a burglar alarm at my home, but had to pay for it myself. I was given the right to carry a pistol which I retained for several years. It was taken away for me a couple of years ago with no explanation or process of protest. This made little sense to me since, I will probably need to be able to defend myself more when this guy gets out of prison that while they are in. I am an organized crime prosecutor and deal with some not so nice individuals, including the MS-13 gang. Having the right to carry a firearm, especially at night when I am out with my family, gave me peace of mind which I no longer have. The fact that the folks in Washington don't seem to understand or care doesn't help much either.

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I am the AUSA who was the lead prosecutor in a Border Patrol shooting case. Since June I have received a steady stream of the ugliest, most vituperative garbage, from "we have a rope, and we are looking for a good cottonwood tree." Other threats have been made to me and the US Attorney which are unprintable, disgusting and bigoted accusations. I have been under a Marshalls Service threat watch since June. The local police department drives by my house once an hour. One blogger even offered $75 for a good photo of me and listed my work address and how I could be caught walking to the courthouse. I have been an AUSA almost 20 years. The invention of the internet, with the ability to quickly disseminate hate and lies to so many so quickly has made our safety an even bigger concern. Not only is this an example of the need for security, it testifies to the dangers that AUSAs face equal to that faced by law enforcement officers. Co-counsel, our office chief, and I have had to work hundreds of overtime hours to respond to Department and Congressional inquiries.

==========

Several years ago I tried a defendant for mailing threats to federal judges, and soliciting the murder of an FBI agent. The defendant's threats to the female magistrate judge were particularly graphic and included detailed descriptions of how he would arrange for her to be raped and tortured. At the time I tried the defendant, he was serving a state sentence for murdering his grandfather. Following his conviction in the federal case, I sent a letter to the state department of corrections suggesting that they consider whether mailing threats to federal judges provided a basis for revoking the defendant's gain time. The DOC revoked his gain time, lengthening his state sentence by many years. The defendant was displeased and began mailing threats to me. At one point he used a ruse to obtain my driver's license information (dob, driver history, home address) from the Department of Motor Vehicles. Although I had a block on release of the information, the defendant was able to get around this by telling the clerk that he was my brother and in need of a kidney transplant. (No. I'm not making this up). The defendant mailed a piece of paper with an X in the center of it to my home address. He has at

various times since then sent additional threats and solicited an inmate in a local jail to arrange for my murder. The marshals conducted an investigation and essentially concluded that the defendant was sincere in his threats but had limited ability, due to his imprisonment, to carry them out. Although he lacks the financial means to pay for a third party to carry out the threats, he continues to solicit others to do so by offering to do legal work, such as filing habeas petitions, for them.

==========

I am an AUSA in the [district name redacted]. As an AUSA, I have been the target of three death threats in the past few years. (I was a state prosecutor in [location redacted] and never had any problems) I know from three personal experience that the threat of physical danger to AUSA's is escalating.

1. The defendant was a pro se bank robber. He threatened to kidnap, torture me with acid, murder me and bury me in the desert. All this information reached me two days prior to trial. Defendant had made the threats to his cell mate who contacted the FBI. Subsequent search of defendant's cell revealed a map to a medical supply store that stocked acid and numerous documents downloaded off the Internet pertaining to me - published cases, bar information, etc. I also received a letter from a second person incarcerated with the defendant (on an unrelated crime). The letter informed me that the defendant was using the prison Internet to look up my home address and had ordered a report (I believe from Zaba) to gain information on my home, phone number, etc. A U.S. Marshal sat next to me at the prosecution table and a U.S. Secret Service agent sat behind me during the subsequent trial. U.S. Marshal came to my home and conducted security review, parking arrangements changed to allow me to park inside a garage, security alarm activated in my home. I declined the offer to apply for a carry gun permit. My desire to have the defendant subjected to a separate indictment based upon the threats was not granted. The defendant subsequently received a three-level enhancement for the threats at his sentencing on a related wire fraud.

2. I had prosecuted a defendant [name redacted] on two cases (a revocation of supervisory release and an escape case) [Second name redacted] was the lover/roommate of [name redacted] while they were both in federal psychiatric facility. [Name redacted] told authorities at the facility (after [second name redacted] had just been released) that the defendant was going to locate me and kill me to show his devotion to [name redacted]. [Name redacted] reported that the "hit" date on me was 7/14/04. I reported the incident to my criminal chief.
The USMS confirmed that [name redacted] was out of custody and they did not know his whereabouts, but did not consider the threat to be serious
.
3. Received a phone call from a federal defense counsel in California who informed me that his client has made threat to him regarding me. Following his conviction for bank robbery, the defendant had been placed on supervised release but never arrived at the half-way house. I met with the USMS who confirmed that the defendant was out of custody and they did not know his whereabouts. However, they did not consider this threat to be serious. The defendant was later captured and indicted for escape. The prosecuting AUSA joined the defense in requesting that the Court order a redaction of the factual portions of the Presentence Report that addressed his threats to me. The Court granted the joint motion.

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Our US Attorney's Office is moving to a new building and AUSAs and staff are not afforded

parking with close access to the building. The parking is very expensive, scarce and those buying spaces behind the building (there is a waiting list) must walk out of the lot and up a block down a steep hill to enter in the front door. In other words, the office site was selected and accessible parking for employees was never even so much as a consideration. Those persons who approved the plans were assured of parking. Many of us park in a lot, behind a building and surrounded by trees, that is unsafe after dark.

==========

Two prominent hit men for the [name redacted] prison gang killed 2 prison guards at the U.S.P. [name redacted] on two consecutive days. I tried both cases and was threatened in court by both individuals. Both were convicted and are serving life sentences. Both are still members of the A.B. [Name redacted] was at one point one of the Commissioners of the gang and could direct "hits. It is well documented that the gang's have influence and members who have been released from prison who work for them. The FBI agent in charge of the case suggested that I change my route on the way home periodically and that I have an unlisted phone number. Nothing was ever done by my office on any of this.

==========

I am presently the Deputy Chief of the Criminal Division in our USAO. Earlier this week, a defendant attempted to sneak into the courtroom a plastic shank (broken off from a plastic tray) from inside his legal papers. This was after two failed attempts to sneak in sharpened pencils inside his socks into the courtroom.

In 1996, when the verdict of two defendants in series of violent carjackings involving sexual assaults was read announcing their guilt, one of the defendants got up and started coming towards me and started yelling "he hoped I had a heart attack," and was forcibly escorted from the courtroom by the Marshals. (The defendants each received 117 years imprisonment.)

In 1999, when the guilty verdict of a Police officer for conspiracy to commit money laundering was announced, the defendant's wife came at me and tried to kick me, and was whisked away by the Marshals. According to a reporter for [name redacted] radio in [location redacted], other family members were very angry and looked as if they were also going to come after me.

During the last year, there have been death threats against two AUSAs in my office requiring Marshals to live inside one of AUSAs homes for a week and the other having a police car in the driveway. Because of the nature of the defendants and their crimes, these threats were deemed very serious and application was made to EOUSA for funds to provide security upgrades at their homes.

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An inmate I convicted in a drug case, attempted to take out a "contract" on my life while he was in prison. We were alerted by a prison informant. The inmate related to the prospective hit man detailed information about my home, automobiles and family. This happened some years ago and I do not know whether it was reported to EOUSA. I was made a Special Deputy U.S. Marshal for the purpose of carrying a firearm and Deputy Marshals briefed me about how to check my car for a possible bomb, which I did each day for more than a year.

==========

I am an OCDETF attorney in [USAO district redacted]. Over the years I have received numerous threats to myself and my family. Recently during a large scale RICO gang investigation we learned of a threat to myself, my family and the US Attorney. The Marshals and the FBI were notified and investigated proactively. Ultimately I received a special deputation to carry a firearm. The Marshals increased their security for the pending trial. EOUSA fairly quickly processed my gun permit application. In all the response was satisfactory. We are not located at the courthouse so there is not protected parking but there is secured access. I have an alarm system in my house that I pay for. The local police department increased patrols by my house and the Marshal sent a deputy to brief my family on security issues.

==========

In the spring, 2005, a witness in a case I was prosecuting reported that the terrorism/drug defendant awaiting trial was discussing my murder with his brother from jail.

Later that September, 2005, the defense attorney for the same defendant reported to me and to the court on the record that his client stated that he could have witnesses and me killed. EOUSA was contacted. My house was alarmed; USMS began escorting me from door to door on work days. My car also was alarmed. The trial was moved from the border to Houston. The defendant wore a stun belt during trial. USMS had police department start making drive by checks of my home. The grade school where our child attended was notified. Inside parking was provided. I began altering work hours and work locations, which continue to this day. I sold my work vehicle and changed to a different one, at considerable personal expense. I should point out that many "hit" type killings occur in and around cars of victims. More important than carrying a gun, in my view, is changing cars. Exterior lighting around house was improved based on USMS recommendation, again at our expense. More lights burn at night, again at our expense. We discussed moving with EOUSA and the US Attorney.

In 2006, a state prison inmate reported that a group was stalking federal judge and a prosecutor "from Brownsville" (referring to the judge hearing the case and myself) to have us killed. EOUSA contacted the USMS, and again the FBI notified.
==========

I received a death threat that a Police Officer I convicted wanted to have me murdered. It was reported to EOUSA. The Marshal's and FBI have had it under investigation for approximately 3 months. Nothing was done to increase my security other than for me to fill out the Marshall's information and get their phone numbers in case I had a problem. The office views it as a not a valid threat.

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Following a 15 week jury trial against principal administrators of what was the largest marijuana conspiracy in U.S.A. history (300,000 tons of marihuana imported during 6 years in ocean barges from Columbia, resulting in forfeiture verdicts of $180,000,000), one of the principal defendants threatened to kill me as he was being led back to his cell. The threat occurred in the presence of numerous witnesses, the USM and attorneys. After sentencing, the defendant was sent to prison where, while waiting for a related trial, he attempted an escape. He paid a

helicopter pilot to land at the prison and tried to escape. The chopper crashed in the yard and the escape was foiled. To say the least, this was a matter of considerable media attention. He is in maximum security. This person later plead guilty in the [district redacted] to having [name redacted] killed in a drive by shooting in [location redacted]. The defendant's enormous wealth and ability to order hits have been documented in numerous newspaper and magazine articles since the trial. He was convicted in [state redacted] of a massive money laundering and Rico conspiracy relating directly to the drug case which I prosecuted. He is still a major source of concern because of his enormous wealth and connections. The case revealed others who had been "hit" by this organization for cooperating. Over 150 defendants were convicted in that group of cases. Nothing other than a directive from my office that I should not to handle his sentencing, was ever done to further protect me.

==========

A cooperating witness disclosed to the USM that defendant was going to have the judge and me killed. Taken from his cell were cartoon-like drawings showing a person sitting in a chair with a bomb attached to him being tortured. The picture had my name as the person tied up. There were notes indicating that when he got out, he intended to kill me by blowing me up. He was being prosecuted by me for possession of a destructive device. In that case, Police went to his home and found a home made bomb which had been discovered by his girlfriend, who called police. According to her, the defendant made the bomb and threatened to blow her up. A one block square area in [location redacted] was evacuated to remove the bomb. The underlying case had revealed that the defendant had made other bombs in the past.

Supervisors in my office indicated that the matter had been reported to the USM and that they did not believe that he had the ability to carry out this threat in light of his sentence. I told the U.S.M. that I did not agree. The defendant was sentenced and has now been released on supervised release. He now lives within 15 miles of my home and is on pretrial supervision.

==========

I prosecuted a case in 2006-7 in another district because that district recused itself, since the defendant sent a letter to its office with what was claimed to be Anthrax inside the envelope. In the letter, the defendant threaded to kill the AUSA who had prosecuted him previously for sending a threatening letter to the President. The AUSA was told in the letter to send $250,000 to another person and not to tell anyone or she and members of her family would be killed by his connections on the outside. She was also told to write a letter to the sentencing judge explaining that she had lied about matters relating to his prosecution. The powder turned out to be a hoax, but not before the U.S. Attorney's office had been invaded by law enforcement emergency personnel and disrupted for hours until the substance could be examined.
After the defendant was indicted, he stabbed another inmate five times because that inmate received a fifteen cent raise for kitchen work at the same prison where the defendant was housed. The defendant felt that his work in the kitchen had been overlooked and responded by stabbing his fellow worker and inmate.

==========

Between December of 2005 and March of 2006, the FBI conducted an investigation of threats made against me by an incarcerated defendant in one of my cases. The defendant, a cooperator, was planning to have me killed because I would not agree to depart from the plea

agreement and file a motion for departure below the 10 year mandatory minimum.

The FBI thoroughly investigated the case and recruited two inmates to record conversations with the threatening inmate. The Marshal Service sent a marshal to my house to conduct a security survey and arranged for the local police to assign officers to guard my home for two days. EOUSA was informed and offered to provide any assistance that was needed. The U.S. Attorney's Office took the threats very seriously and was very supportive.

==========

I've had two incidents -- first in March, 1996, when I was a trial attorney in [location redacted]. An angry citizen called the office while I was on vacation, and threatened to fly to [location redacted] from Colorado (where he was) because he was "going to kill" me (and my paralegal, too) because he was mad his claims that his mother had been murdered 30 years earlier by someone and nothing had been done were not being addressed. (I in fact tracked down the local prosecutor, and found out a man had been prosecuted and convicted. I think my caller was just mental...) Anyway, my own office did nothing-- didn't even warn me when I got back. the paralegal told me a day or two later, and I demanded a threat assessment. My former boss (who has since been broomed into obscurity by DOJ) only THEN contacted the security staff at [location redeacted], who had the FBI look at it. FBI didn't do much-- they never even called me, interviewed me or contacted me in any way! My boss told me several weeks later that FBI determined the man was just a nut. HOW they made that determination was never shared with me... (and let's keep in mind, it's usually the nuts who DO act!)

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The week before Thanksgiving 2006 a letter addressed to me was received at this office. The letter reads as follows:

MIKE [Skull & Crossbones drawing]
WE DONT LIKE YOU FROM THE EAST SIDE OR WEST SIDE
WE ARE GOING TO SHOW YOU WHAT IT FEEL LIKE TO BE FUCK OVER IN A BLACK SIDE OF TOWN
YOU ARE GETING OUT OF CONTROL WITH YOUR POWERS YOU ARE NOTHING BUT A BITCH THAT IS GOING TO DIE
A LIKE US YOU MOTHER FUCKER DO YOU HERE US. THE BLACK MOB. YOU SEND YOUR WHITE MOTHER FUCKER IN OUR HOODS FOR US TO KILL EACH OTHER
I HOPE YOU DIE BITCH. WE ARE GOING TO SEE TO IT WHAT HELL REALLY IS FOR YOU. FUCK YOU FOR EVER.
WHEN YOU WALK DOWN TOWN MAKE SURE YOU = FOUR EYES ON = HAVE YOUR HEAD. BECAUSE YOU ARE GOING TO BE KILLED
FROM BLACK MOB
BITCH [Skull & Crossbones drawing] 666

It is believed that the letter was related to a sentencing that I had that day of a drug dealer. The office offered me secure parking in the basement of our building for several weeks. The Marshals came to my house and did a survey and offered a detail (I declined). The local Sheriff's Office and Police Department sent patrols to my neighborhood throughout the day for about one month. The office, with permission from EOUSA offered to put my family up in an out of town hotel for a short period of time (I declined). The office, with approval of EOUSA, has

since paid to update and reactive my house alarm system and pay for a year of monitoring by ADT. I have qualified by and been deputized by the Marshals to carry a gun. The local police department has loaned me a Glock nine millimeter handgun. Several agencies have permitted me to participate with them in qualifying at the firing range. The FBI has pursued an investigation of the matter. We have a suspect who has been interviewed and who denied sending the letter. DNA of the suspect has been taken to compare with DNA from the licked envelope sent to the office. We are awaiting the results.

In February 2005, we received information from two inmates that a defendant who I had tried and convicted was planning to attack me at sentencing that month. That inmate was confronted with the information by the Marshals. That inmate was sentenced in shackles. That inmate has a criminal history which includes six felony convictions, one of which was a homicide.

==========

A few years ago, I was informed by a law enforcement agent that a confidential informant had received information that a defendant whom I had prosecuted for importing and possessing with intent to distribute several hundred pounds of marijuana, had stated to the informant that when the defendant was released from prison he intended to harm me and the assigned case agent (this information was documented in a law enforcement report).

I provided this information to the U.S. Marshals Service and to our office security manager--I believe that this information was forwarded to EOUSA. No extraordinary steps were taken to provide protection for me, although I was advised by our office security manager and the USMS to keep an eye out for any suspicious activity around my residence and office.

Some of the precautions that I take include having an alarm system at home and maintaining an unpublished home telephone number. Of concern to many of us in this branch office is that we are housed in a bank building of which the first floor is vacant. Our security guard is able to observe any activity in our front parking lot and is able to monitor any persons entering the second floor elevator; however, he has no way of observing any suspicious traffic in the rear parking lot of the building or even on the first floor of the building.

==========

During a 14 year career as an AUSA, I have handled primarily violent crime and firearms prosecutions. During my career, I requested special deputy status in order to carry a firearm due to the ongoing danger presented to me and my family by the nature of cases and defendants I have handled. The request was denied. Here are some of the issues and defendants I have dealt with in the past. Of particular interest to me is the fact that many violent criminals have a history of escape. Therefore, incarceration does not completely eliminate the threat.

1. Defendant #1 – Armed Career Criminal sentenced for felon in possession of a firearm and two counts of Hobbes Act robbery. Defendant #1 had at least six prior felony convictions including convictions for robbery (with a knife), robbery (with a straight razor), aggravated assault (with a knife), burglary (Defendant #1 attempted to shoot a victim but the gun did not fire), escape (Defendant #1 attempted to flee law enforcement officers by jumping into and floating down the Colorado River while handcuffed). Defendant #1 attempted to flee prior to his arrest in my case by kicking out a rear wall in a motel room, escaping from the motel and then attempting a car jacking. Defendant #1 was sentenced to 235 months of incarceration.
2. Defendant #2 – Armed Career Criminal convicted of felon in possession of a firearm.

Defendant #2 had eight prior felony convictions including assault of a police officer (with a roofer's hatchet), endangerment (Defendant #2 shot a police officer with a rifle) and escape. Defendant #2 verbally threatened me immediately prior to sentencing and challenged me to a fight in the courtroom. Defendant #2 was restrained by the Marshals. No report was made. Defendant #2 received a sentence of 228 months.
3. Defendant #3 – Armed Career Criminal convicted of felon in possession of a firearm. Defendant #3 had three prior residential burglary convictions. Defendant #3 verbally threatened me at sentencing. Defendant #3 received a sentence of 180 months. Defendant #3 was in custody at the time of the threats. No report was made.
4. Defendant #4 – Armed Career Criminal convicted of felon in possession of a firearm. Defendant #4 had over twenty prior felony convictions including assault of a police officer (Defendant #4 attempted to run over a police officer with a car) and escape. State charges for escape, assault of a prison guard during a successful escape and rape were pending sentencing in 1996. Defendant #4 attempted to move towards and confront me during sentencing. Defendant #4 received a sentence of 264 months.
5. Defendant #5 – Convicted of dealing in over 400 firearms without a license and possession of an unregistered machinegun. A prisoner incarcerated with Defendant #5 advised me that Defendant #5, two years later, remained upset over his convictions. Defendant #5 received a sentence of 41 months which included an upward departure due to the number of guns.
6. Defendant #6 – Career Offender convicted of two counts of bank robbery. Defendant #6's escape plans from a federal pretrial detention facility were foiled by the FBI prior to sentencing. I assisted the FBI in foiling Defendant #6's elaborate escape plans. Defendant #6 received a sentence of 262 months.
7. Defendant #7 – Pro se defendant on pretrial release was convicted of felon in possession of firearms and unlawful possession of six machineguns. After the verdict, Defendant #7 was taken into custody by the Marshals Service. As he was lead away, he looked directly at me and the case agent, and stated "What goes around comes around." Defendant #7 was later convicted of plotting to kill the federal judge in the case. This conduct was reported to the prosecutors in the subsequent case. The Marshals were aware of the threat at the time it was made.
8. Defendant #8 – A member of a "police watch" group was convicted of unlawful possession of a machinegun and a pipe bomb. After Defendant #8's sentencing, the case agent and I walked through a large gauntlet of supporters who whispered threats in such a manner that we could not identify who was making them. At least two of the supporters appeared to have rolled in horse manure before the sentencing. No report was made.
9. An 11 Defendant Militia Case – Eleven individuals were convicted of a total of thirty-three felonies. All eleven militia members received sentences of imprisonment and lost their firearms rights. On militia member had made a detailed video tape describing how to attack and blow up federal law enforcement and military facilities. I was taunted verbally and in writing by the father of one defendant. Another defendant received an upward departure due to the use of armed sentries during explosives and machinegun training. A security system was installed in my residence as a result of his participation in this prosecution. Similar actions were either taken or offered to two co-counsel.
10. Citizen #1 – I originally met this mentally ill woman when she came to our office with a citizen's request for assistance. The contact resulted in an unending stream of phone calls, faxes and verbal threats. Her conduct was referred to the FBI and Marshals Service on two occasions. In both instances, the agents determined that she had outstanding misdemeanor warrants and she was taken into custody. The threats and calls stopped for a significant period of time after each arrest.

Particular Policy Considerations –
1. Lack of a Specific Threat. I acknowledge that there was no specific ongoing threat pending

against me. However, the general and ongoing nature of the threat was obvious. In conversations with federal special agents, local police officers and citizens, many of them expressed surprise that I was not automatically armed by my employer. I believe that the nature of the threat is ongoing and unpredictable. I cannot keep track of the whereabouts of all of the individuals I have prosecuted, nor do I have the means to maintain current information regarding their present appearance. If some of these defendants were to walk up to me on the street today, I would not be able to recognize them.
2. Availability of the State CCW Permit. I acknowledge that a CCW permit is helpful but the permit does not authorize possession of a firearm in establishments where alcohol is served (I do not drink), stores or public establishments forbidding firearms, airports, out of state locations, on Indian reservations (where I travel for business), and in school zones (where I travel to pick up one of my children). Moreover, DOJ policy forbids the carrying of personal firearms, even with a CCW, while at work. Therefore, I am not permitted to carry my own firearm with a CCW when I walk back an forth to court on regular basis.

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Over the past two years, I have received threats from individuals I have prosecuted. I am a sworn Special Deputy US Marshal, and have received firearms training from the US Marshal and the FBI. In addition, the US Marshal has conducted a threat assessment of my home. As a result, the alarm system has been upgraded and DOJ now pays for the monthly fees to ADT. In addition, the USA has sent in 3-4 Urgent Memorandums to EOUSA. EOUSA has been very responsive, although it was a lengthy process to get my first Special DUSM authorization. However, the second one was easier.

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I have personally been the target of an attempted drive by shooting by one of my defendants who was later successfully prosecuted for that offense as well as his original offense of felon in possession of a firearm. Because there is reason to believe that some defendants in another of my cases are responsible for setting my horses and dogs loose onto the public roadway, the FBI has installed surveillance cameras at my residence. Yet another of my defendants has threatened to blow me up when he finishes serving his sentence, which would be consistent with the nature of his offenses of conviction, though I hope to be living in anonymity by the time he has served all of his very lengthy but well-deserved federal sentence. The point of these examples is that it is often unavoidably dangerous to be an AUSA and the more time one spends in the position the more danger the position entails. In recognition of the dangers associated with their jobs, law enforcement agents and probation officers are under an enhanced retirement system. This same recognition should be extended to Assistant United States Attorneys.

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The following incidents have occurred in the last three years and all were reported to EOUSA Security Programs Staff.

-- An AUSA (who has since retired) threatened by a defendant she prosecuted for obstruction. Defendant was incarcerated and actively planning to hire someone to kill her and the presiding district court judge in his case and kidnap the children of the FBI agent who investigated his case. FBI had a cooperating inmate, housed in the same institution as the defendant, wear a wire into the area of the prison where the defendant was jailed. Conversation on the wire

confirmed the allegations and that the defendant claimed he had substantial assets to fund the crimes. The U.S. Marshals were notified, along with EOUSA, and the FBI and the USAO where the defendant was incarcerated intended to pursue the case. All victims were notified and were satisfied the way things were handled.

-- AUSA received information from an FBI agent that a defendants he had prosecuted a few years ago had obtained her home address from the daughter-in-law of another defendant the AUSA had prosecuted (totally different case). The information was given to the FBI by a CI incarcerated with the defendant. The CI also sent a handwritten letter to the AUSA with the information outlined above. EOUSA and the US Marshal were notified. The Marshal completed a threat assessment. The FBI was asked to follow up to see if, in fact, anything was going on. The AUSA was satisfied with the action taken.

-- The FBI received information that a defendant prosecuted by the AUSA in #3 was preparing to kill her. The defendant, along with other family members, was prosecuted by this office for operating a large money laundering operation. The defendant is currently under indictment by this office for the homicide of two federal witnesses and has been convicted of murder in the past. He is a dangerous individual. The Marshals were informed as well as EOUSA. The defendant is expected to go trial on the federal murder charges in June, 2007.

-- A man made threatening remarks to an AUSA OCDETF attorney outside on the street in front of a rental property the AUSA was remodeling and refurbishing. The man stated he knew the AUSA was a "fed" and that he was going to kill him "this summer". (The statement was made in May, 2005) The man walked toward the AUSA and was reaching his hand into a plastic bag as he continued to make threatening remarks. Believing his life to be in danger the AUSA called 911 on his cell phone and the police arrived within a few minutes and arrested the man. He was transported to the hospital for a psychological evaluation. The US Marshals were notified as well as EOUSA. The Marshals Service and FBI arrested the man after his release from the hospital and he is being prosecuted (federally) for making threats.

-- AUSA, as well as the judge, were the targets of an outburst of a defendant being sentenced on federal gun charges. The defendant did not like his sentence and when he was being led out of the courtroom he made a statement that when he got out he was going to get another gun. Both the AUSA and judge viewed the comment as a threat. The Marshals were notified as well as EOUSA. No further action was taken.

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During a Court hearing on September 20, 2006, I was threatened by Defendant [Name Redacted]. I was representing the government in a supervised release revocation hearing against the defendant in [location and name redacted]. During the hearing, [Name Redacted] told the Court he wanted to address me personally. Then went on a 20 minute tirade concerning [Name Redacted] holding me responsible for his problems, how he knew where I lived because he said he had laid carpet at my residence, and how he was at "his breaking point."

I prosecuted [Name Redacted] previously for a drug offense and following his release from prison he had been connected to a string of home burglaries. All the burglaries occurred while homeowners were home and residents were assaulted (at least two involved aggravated sexual assaults). [Name Redacted] is considered to be a local mob leader. Law enforcement

officers made arrangements to interview [Name Redacted]'s live-in paramour in 2006 concerning the burglaries and she never appeared for her interview or was seen alive again—and was found murdered two months later. Two cooperators involved with the home burglaries stated that [Name Redacted] gave the green light for the murder of his paramour, so that she would not talk about the home burglaries.

I did have new carpet installed in 2005 by the same company that installed carpet in at least one of the homes of a burglary victim. We could not verify that [Name Redacted] had any connection with that company, however. The lead investigator of the home burglaries stated that I should consider [Name Redacted]'s threat seriously as he is a very violent criminal and at least one of the home burglaries was considered a "revenge burglary."

The US Marshal were notified of this threat and conducted a threat assessment. The EOUSA Security Programs funded a security system for my home.

The defendant will be released in about 6 months. I am very familiar with [Name Redacted]. I concur with other law enforcement agents who also know [Name Redacted] very well. [Name Redacted] is an intelligent, articulate and violent person with a pension for revenge and who has the charisma to persuade and manipulate other criminals. When [Name Redacted] is released, I fear from myself and my family. The home security system provides comfort for me and my family ONLY while at home.

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I have a couple of instances of my own to report. From 1986 through 2006, I served as our district's lead OCDETF AUSA. I have been warned numerous times by defense attorneys, informants, and cooperating defendants that, due to my reputation, I would be in danger if I encountered friends or family members of many whom I have prosecuted. I take those warnings seriously.

=========

Several years ago, I was with my young children in a Mall when I saw a defendant who I prosecuted who I thought had mental problems. I left the mall immediately avoiding contact with him. I did not file a report.

On the street, a defendant started yelling from a car that I had sent him to prison. I didn't file a report.

I have had to be escorted from the Court house many times because of concerns about unhappy family members.

I have an alarm system at my house because of my work. I specifically had an outside light put on the house and taught my kids not to enter the house if the light was on. I also had an alarm system added to my car for security.

I had tried to keep my professional name unavailable to the public but the internet has foiled my attempts.

=========

In one of my pending OCDETF cases, the lead defendant was attempting to hire a hitman to kill the DEA case agent and a cooperating witness. He told an informant that he did not want to have me killed because it would be to easily traced to him, but that he wanted my wife (he had developed information on her identity somehow) and me harassed. This threat was reported to EOUSA and the USMS. I have since been deputized through the USMS, I have received a secure parking space, and my home alarm is paid for by my office.

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I am a criminal AUSA, where I prosecute many drug and gun cases. I have had two incidents:

First, in approximately 2001, I prosecuted 36 drug defendants. One night during a heated time in the case (we had recently offered the ringleader's girlfriend witness protection if she cooperated), somebody ran onto my porch, and off, and waited in a car until I opened the door and looked out. After seeing me, the car sped away. It appears they were attempting to clarify they were at the right house. I reported this incident to the FBI and to my office. As a result, FBI and USMS agents moved into my house and lived with me and my family for 3 weeks, taking my kids to school, etc.

Second, in approximately, 2005, a jail informant, through his lawyer, warned me that a methamphetamine laboratory defendant I was prosecuting, and who was seeking bond, wanted to "shoot me in the head." The FBI investigated (and it was reported to EOUSA) but found insufficient evidence. Bond was denied and he is serving 60 months - but he'll be out and back in my community in about 3 years. I *hope* it was not true, or that he's changed his mind.

Finally, I work in a rural branch office. I travel 22 miles on a lightly traveled 4-Lane road to and from work. I don't think, under present policy and law, I can leave my house in the morning headed for work with a firearm, even though I travel alone in rural [location redacted], because I can't even leave it in my car in the federal building/courthouse parking lot. If you look at the firearms statute, there is an exception for hunting and sporting (i.e., you can leave your gun in the car after hunting if you stop by the post office/federal building to check your mail), but not for personal defense. And USAO policy is no guns related to work, absent a specific exception for deputizing. The USMS and FBI can come to my door *after* the bad guys make the first move, but they can't be there to help me at home until something happens.

I would appreciate an office sponsored, appropriate firearms safety program.

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I am a supervisor of a branch office. There have been two instances of concern that have arisen in my office within the last several years.

1. One of the AUSAs in our office was prosecuting several members of the same family for crop insurance fraud. Several acts of vandalism were committed against her house at various times that coincided with hearings in court on that case. These individuals were at the top of the suspect list. The incidents were reported to the main office and to the FBI who installed surveillance cameras at her residence but no evidence was obtained from that effort and nothing has happened recently. I have no idea if it was reported to EOUSA.

2. A second more recent incident involved a trial I conducted within the last few weeks relating

to drug and gun charges against a defendant who is a member of an outlaw biker gang. During the trial one of our witnesses was followed home by a gang member who sat through the trial wearing a shirt with gang letters on it. Some time before the trial one of the investigators had his trash taken from his house. Also during the trial, the same individual who followed the witness home commented to the case agent, in the courthouse bathroom, that he had followed the agent as the agent came to court that day. While I have not noticed that anyone has followed me I have become concerned (this same defendant is charged in a drug related homicide case which is scheduled for trial within the next few months) and looked into the procedure for obtaining authority to carry a handgun. I have reviewed the procedure that DOJ provides for AUSAs to carry firearms as well as the state procedure for carrying a concealed weapon (I had a state permit for a long time but let it lapse). I have taken steps to obtain the state permit (it will take about two months) but have not decided on the DOJ route due to its cumbersome procedure.

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In November-December 2003, another AUSA and I received a threat from members and associates of the Outlaw Motorcycle Club, the upper echelon of which were tried and convicted in two trials in 2004. The OMC threatened to kill the Magistrate Judge, both AUSA's, and two main cooperating witnesses. The AUSA's were placed on a 24-hour Marshals security detail for a period of time; the incident was reported to EOUSA.

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About a year ago, apparently a man followed me as I left my building and was taking pictures of me as I walked down the street. The Security guards at the Courthouse saw this and confronted him after he had followed me for a block. I was unaware of the situation until then. I did not know the man. They took info from him and detained him while I left but there was nothing more they could do. I did not report the incident to my office and never saw the man again. I became more aware of my surroundings.

About 5 years ago I was grabbed, hands on each of my forearms, by a deranged man, as I walked from my parking lot. I pulled away and ran. I called to report the matter to the Police Department. They said they would send a car but they never did. I did not report it to my office.

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I am an AUSA in [location redacted], reported to be the 19th most violent city in the country. As a result, EOUSA has authorized parking for all USAO employees inside the current courthouse. In addition, a new courthouse is being built in which the USAO will be located. Due to the violence in the city and the location of the new courthouse, EOUSA has authorized the installation of ballistic glass throughout the new offices. However, there have been no specific threats.

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1. April 2, 2004, An AUSA received an unsigned letter threatening his life and those of his family because the attorney in question "seriously altered the life" of a defendant. The defendant in question was a LCN associate who was convicted in a murder for hire scheme. The defendant is serving a life sentence. The incident was reported to EOUSA. The letter was sent

to the FBI for forensic analysis. Nothing else come of the incident nor the investigation.

2. On March 3, 2005, the USA received a letter threatening to kill him. The defendant in question was awaiting sentencing for making threat against a federal judge. The incident was reported to EOUSA and additional charges were ultimately filed against the defendant for threats to other judges etc.

3. On March 15, 2005, an inmate conveyed information to his attorney that another inmate was making threat regarding the AUSA who was handling his case and the judges involved in the case as well. The threats involved killing the AUSA and selling drugs to his children. The defendant stated that he would wait the "10, 20 or 30 years" he would serve before making good on the threat. The incident was reported to EOUSA. Investigators interviewed the cooperating inmate and confronted the other defendant. No other action was taken.

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I prosecuted a case in which the defendant directly threatened my co-counsel and an AUSA who was formerly on the trial team. The FBI learned that the defendant was planning the killing of witnesses as well as the prosecutors. The agent obtained jailhouse telephone calls of the defendant in which he mentioned the plot to kill witnesses. Documents were given to another inmate, who gave them to the FBI, confirming the defendant's intentions. The defendant further identified to the other inmate the names, physical descriptions, and where the AUSAs lived as well as "notice" that one AUSA had a son. Most chilling, he set up code words for the AUSAs so that the "hit man" would know which one to kill. I do not know whether EOUSA was notified, but the Marshal Service had previously installed an alarm system in the home of my co-counsel because her spouse is also an AUSA who was targeted by MS-13. The defendant was convicted of interstate kidnapping resulting in the death of his ex-wife. He was sentenced to life in prison. He was not prosecuted for the plot to kill AUSAs or witnesses.