

**American Judicature Society - Hawaii Chapter  
Committee on Court Security  
Committee Report**

**I. CHARTER**

The Committee on Court Security was established to address whether Hawaii's courts are sufficiently secure to ensure the safety of court personnel and the public when they visit the courts. To the extent the Committee concluded there are shortcomings in court security, the Charter charged the Committee with identifying causes for the shortcomings and suggesting avenues for correcting the deficiencies noted.

**II. MISSION**

Based upon the Charter, the Committee defined its mission elements as follows:

- Assess the status of Court Security in Hawaii;
- If security deficiencies are apparent, define and explain the nature of the shortcomings;
- Identify the agencies or entities with authority to remedy deficiencies and enhance the security status of the courts;
- Develop recommendations for the responsible agencies to address the deficiencies noted; and
- Provide AJS Hawaii Chapter with a report sufficiently documented to allow AJS to:
  - Promote public awareness of court security issues;
  - Enlist support for court security improvements among responsible government agencies, the practicing Bar, and the community at-large; and
  - Encourage continuing efforts to promote court security.

**III. BACKGROUND**

AJS Hawaii Chapter created the Committee because of nation-wide concerns over the adequacy of court security. News reports and articles in professional publications indicate an increase in violence and intimidation in courts across the United States. Security professionals and others warn in their writings that these incidents present risks of injury to court personnel, and the public. They further caution that an environment of violence and intimidation can erode the public's confidence in the

judicial system. A summary of incidents considered in this review is enclosed as Attachment 1.

In light of the nation-wide trend of more frequent violence in the courts and recent reports of threats against at least one Hawai'i State Judge, the Committee conducted its study and prepared this assessment of the status of court security in Hawai'i.

#### **IV. ASSESSMENT**

The Judiciary has established a viable and effective security system. However, shortcomings remain in areas such as staffing, quality of security personnel, and adequacy of physical facilities. These shortcomings present identifiable and continuing security risks, which must be addressed to prevent a future significant security incident within our courts.

Although the Judiciary's security program has addressed a broad range of security issues, the Judiciary alone cannot implement all of the improvements needed to reduce the continuing risks presented. Some security risks arise in areas under the control of other Executive Branch agencies. Of principal importance are the Department of Accounting and General Services (DAGS), which is responsible for buildings and grounds and the Department of Public Safety (PSD), which is responsible for selection, assignment, and training of deputy sheriffs.

These agencies must increase the quality of security provided to the Judiciary by ensuring security enhancements are made to facilities, such as parking areas and court grounds and by improving the staffing levels, professionalism and training of deputy sheriffs. Support must also be developed in the Legislature to obtain funding for the security enhancement requirements identified in the Judiciary's security program.

Accordingly, the Committee's recommendations require:

- a. Multi-agency cooperation and coordination to maximize the effectiveness of the Judiciary's security program; and
- b. Legislative initiatives to authorize and fund such things as purchase of expert security consultant services, facilities renovations, and capital improvements targeting security risk areas.

#### **V. SPECIFIC RECOMMENDATIONS**

The Committee's specific recommendations are grouped into separate areas for implementation by (1) the Judiciary, (2) the Executive Branch, (3) the Legislature, and (4) Non-Governmental Entities.

**A. For Judiciary Implementation:**

- 1. Chair a working group of executive branch and judiciary officials to coordinate and implement security enhancement efforts.**

Effective implementation of security enhancements will require coordinated efforts. The Judiciary should chair and lead a working group of officials from the executive agencies and the courts to direct and control security program initiatives.

- 2. Contract for expert security consultants to review planned construction and renovation projects and advise the Judiciary to ensure effective security program standards are incorporated into the design of new facilities and renovation of existing facilities.**

Creation of long-term security improvements in the design of new construction and renovation of existing facilities should be promoted. Experienced professionals can provide the Judiciary guidance on emerging security systems best suited for incorporation into Hawai'i's future court facilities.

- 3. Engage both the Sheriff and U.S. Marshal to assess security needs, advise on the priority of work to be done, and recommend security enhancements that can be implemented immediately through training, realignment of uses in existing facilities, and installation of security equipment.**

The assistance of state and federal government security experts will allow the Judiciary to improve security without delay using current resources. At a minimum, security improvements should include the following:

- a. Installation of motion sensor alarms and improved outdoor lighting for perimeters of all court buildings and parking areas;
- b. Realignment and restructuring of meeting rooms and similar facilities to provide greater protections for court personnel in circumstances where they will be in close physical contact with litigants in emotion-charged environments, such as occurs in family court proceedings;
- c. Installation of surveillance cameras and security alarm systems for public areas at all courts to protect persons from injury and prevent property damage such as the damage to windows and offices experienced at Second Circuit Court Traffic Violations Section, the thefts of copper drain pipes at Ali'iolani Hale, and vandalism and theft at the Kapuwaiwa Building; and
- d. Scheduling of regular testing of courtroom duress alarms.

**4. Establish standardized security response procedures and implement security training programs with the advice and assistance of both the Sheriff and U.S. Marshal.**

The creation of standardized procedures and targeted security training on such procedures will decrease emergency response time and improve coordination of reaction by security and court personnel in the event of any incident of violence, emergency or natural disaster. At a minimum, these procedures and training should be implemented in a manner that:

- a. Establishes a system-wide court protocol requiring a single designated "point person" or office to address security procedure questions, give direction on court security matters, and follow-up on threats and breaches of security; and
- b. Defines responsibilities for all court personnel and standardizes response protocols for incidents of violence such as fights, commotions, gunshots, medical emergencies, and processing of confiscated contraband firearms and weapons. Although these protocols should be standardized, the procedures and implementing training should be flexible enough to evolve and address changing circumstances, ensure use of emerging best practices, and provide a forum for judges and other court personnel to raise actual experiences that indicate changes in procedures are warranted.

**5. Create a partnership with PSD for the purpose of enhancing the professionalism, training, and prestige of the Deputy Sheriffs serving in the Judiciary.**

The deputy sheriffs serving in the Judiciary must be a professional force capable of maintaining peace in the courts. They must be forceful enough to deter and respond to threats of violence to persons or property, but they must also remain in the background so that Hawai'i's courts remain a place suited to the fair administration of justice and adjudication of disputes. To achieve this standard, deputy sheriffs must be highly motivated, dedicated, and well trained. PSD must attract high quality recruits capable of service in the judiciary, and provide meaningful incentives to retain the best of those serving in the courts. To create the necessary partnership, the Judiciary should:

- a. Update the Memorandum of Agreement (MOA) between the Judiciary and PSD to accomplish the purposes of the partnership. MOA revisions should include collaborative court security training for deputy sheriffs and court personnel. The MOA revisions must also provide for basic medical training for all court personnel to supplement and assist deputy sheriffs in emergencies.
- b. Establish an ongoing teambuilding process to ensure cooperation and effective collaboration with PSD in creating and maintaining the best possible security program in the state's courts.

**6. Implement special protections against disclosures of personal and family information.**

Inadvertent disclosures of confidential personal or family information pertaining to judges and other court personnel must be prevented. Even mundane disclosures, such as the by-name marking of reserved parking spaces, may expose court personnel to violence and intimidation. The Judiciary must review its information handling practices to guard against disclosures. In addition, the Judiciary should periodically remind court personnel of the risks that accompany their disclosure of information related to their residence, their personal routines, and similar information that could endanger them if disclosed.

**7. Address specific concerns and issues raised to the Committee.**

In preparing this report, the Committee met with and obtained comments from judges and other court personnel to incorporate their concerns into the Committee's deliberations. The individual comments from the court personnel may fall within subsets of matters raised above for Judiciary implementation or below for implementation by other entities. However, these comments reflect the thoughts and concerns of those directly affected by security threats. As such, they warrant the attention of the leaders in the judiciary. The leadership should respond by assuring court personnel that their concerns will be addressed and incorporated into security programs and plans.

The comments to the Committee included the following specific security requests and issues:

- a. Deputy sheriffs should remain in the District Court building on Alakea Street. Currently, they are called upon to respond to emergency situations in the court. To be effective, they should be housed in the building. If they are far away, they will not be able to respond in time. Bailiffs cannot fulfill this role because they are not armed.
- b. The courts do not seem to have a clear protocol as to who is to be notified when a threat is received or what action is to be taken. The protocol should ensure the person who has been threatened is kept informed of the whereabouts of the perpetrator. The protocol should include procedures to inform court personnel if and when the perpetrator is released from custody. It should also identify the official responsible for notifying the person who was threatened.
- c. The Judiciary should take advantage of the U.S. Marshal's willingness to train deputy sheriffs and bailiffs concerning security threats and protocols.
- d. Law clerks serving as bailiffs should not escort individuals in custody from cellblock to the courtroom or back. This apparently occurs when the deputy sheriffs are short staffed and the defendants are needed in court.

- e. The judiciary should address concerns that information disclosed on financial disclosure forms will be put on the internet, thereby exposing judges to possible physical threats or other forms of intimidation. For example, there does not appear to be a need to disclose the following information that is currently requested:
  - home address, telephone number, name of spouse and names of dependent children, spouse's business address, names of creditors (which may encourage the filing of bogus liens), and tax map key numbers of real property.
- f. On Kauai, defendants enter the courtroom without handcuffs or wrist restraints. Procedures should be adopted to ensure restraints are available and used to control defendants.
- g. Neighbor Island judges request that two (2) deputy sheriffs be present during proceedings on criminal and TRO calendars.
- h. West Hawaii court personnel are concerned that court facilities are not designed to ensure the protection of court personnel and the public. Specifically, the court facilities provide no separate, secured entrance and exit point for detainees. Presently, the detainees are moved to and from court in the hallways where members of the public, court personnel, and witnesses also congregate.
- i. West Hawaii court personnel are also concerned that the two cells used for detention in the Keakealani Building are cramped and inadequate. Because detainees have to be transported from Hilo, they remain at the courthouse until all cases have been heard, even after matters in the detainee's own case have been completed. Sometimes there are 10 defendants in a small cell at a time. This practice leads to unsanitary conditions and overcrowding in the detention facility.
- j. Maui court personnel believe the security program should provide training for judges on methods to address "tense situations in the courtroom." A speaker on courtroom security and a discussion on the topic at JERD conferences would be welcomed. Security sessions at JERD conferences will allow judges to learn from experts. These sessions would also provide a forum for the sharing of experiences to develop understanding of "best practices" and define what responses were most effective.
- k. Court personnel believe there is a need for clear policies and procedures in the event of emergencies such as fights, commotions, reports of gunfire, discovery of firearms or other weapons, medical emergencies, and natural disasters. The procedures should ensure rapid communications and instructions on specific responses to be followed, such as "locking down" of individual courtrooms, closing of interior doors, and evacuation procedures.

- I. The Judiciary's security program should be comprehensive and provide an organized approach to court security. The program should ensure the improvement of court facilities and more clearly define internal security practices involving, among other things, the public's access to secure areas, use of bulletproof windows, tinting of special security windows, and training in security and emergency medical procedures for all court personnel.

**B. For Executive Branch implementation:**

**1. For PSD:**

- a. **Participate in the Judiciary's security working group to coordinate and implement security enhancement efforts.**

PSD must be a committed and active participant in the Judiciary's working group for security initiatives to be effective. PSD should assign a senior official with authority to act for the Director, PSD and ensure working group cooperative efforts are meaningful.

- b. **Commit resources to assess security needs, advise the Judiciary on the priority of work to be done, and recommend security enhancements that can be implemented immediately through training, realignment of uses in existing facilities, and installation of security equipment.**

PSD will provide essential leadership and expertise in assessing security needs and advising on all corrective steps.

- c. **Advise the Judiciary in the creation of standardized security response procedures and implementation of security training programs.**
- d. **Partner with the Judiciary for the purpose of enhancing the professionalism, training, and prestige of the Deputy Sheriffs serving in the Judiciary.**
- e. **Take immediate action to address shortcomings the Judiciary has identified as present security risks. These corrective steps include action to:**
  - Improve security screening for prohibited items that enter the courthouse, such as hidden contraband in pastry boxes or food containers;
  - Provide sufficient supply of wrist and leg restraints for persons in custody at all circuit and district courts;
  - Increase the number of deputy sheriffs available to:
    - Escort persons in custody from holding cells to courtrooms (bailiffs currently do this but

they are neither qualified nor responsible to perform such services);

- Escort judges attending hearings at the State Hospital and traveling to rural courts, as requested;
- Provide after hours security for court staff who work beyond regular hours;
- Ensure a security ratio of 2:1 for criminal and Temporary Restraining Order (TRO) calendars; and
- Provide protective services for all judges as requested/needed.

**2. For DAGS:**

- a. Participate in the Judiciary's security working group to coordinate and implement security enhancement efforts.**

DAGS' responsibility for buildings and grounds makes DAGS an essential member in the Judiciary's working group for security initiatives. To implement any initiatives related to court facilities under DAGS' control, the Judiciary must receive DAGS' active support. DAGS should assign a senior official with authority to act for the Director, DAGS and provide the necessary assistance and advice to the working group.

- b. Implement Judiciary security enhancement programs in the repair, maintenance, and renovation of Court facilities.**

DAGS provides the Judiciary support in the maintenance and repair of court facilities and grounds. In providing this support, DAGS should ensure its programs incorporate planned security enhancements. DAGS' selection and oversight of contractors should also be consistent with and conform to court security procedures.

**C. Legislative initiatives:**

The Judiciary, PSD, DAGS and other interested entities should work together to inform the legislature of immediate and long-term security funding requirements. Immediate needs for submission to the legislature:

1. Funding for wrist and leg restraints for persons in custody sufficient to supply all circuit and district courts;
2. Funding for additional PSD deputy sheriff positions dedicated to court security and judicial protective services sufficient to:
  - a. escort persons in custody from holding cells to courtrooms;



- b. escort judges attending hearings at the State Hospital (Oahu) and traveling to rural courts in all circuits, as requested;
  - c. provide after hours security for court staff who work beyond regular hours;
  - d. provide 2:1 security ratio for criminal and TRO court calendars; and
  - e. provide personal protective services for all judges as requested or needed.
3. Funding for U.S. Marshal's security training services.
4. Funding for DAGS planning, design, and construction for:
- a. Second Circuit Court (Wailuku's Hoapili Hale) - secure underground parking with perimeter fencing and drop down entry grill gate;
  - b. Ali'iolani Hale (Supreme Court) and Kapuaiwa (Intermediate Court of Appeals) Buildings - improve parking area security by installing motion sensitive lighting and surveillance cameras;
  - c. Ali'iolani Hale and Kapuaiwa Buildings - install shatter and bulletproof film on ground level windows to deter vandalism and illegal entry;
  - d. All courtrooms - retrofit with bulletproof benches;
  - e. All court chambers - retrofit with bulletproof windows; and
  - f. Kona Division Courts:
    - 1. Expand Circuit Court cell block to accommodate up to 10 persons in custody;
    - 2. Reconfigure Circuit Court parking areas to segregate judge parking from the off/on loading area for persons in custody;
    - 3. Install surveillance cameras in court law library corridor;
    - 4. Redesign Circuit Court public corridor to courtrooms to segregate court staff and the public from persons in custody; and
    - 5. Install surveillance camera in the Drug Court's side entrance for monitoring of transports of persons in custody.

**D. For Non-Governmental Entity implementation:**


Public trust and confidence in Hawaii's Judiciary is directly dependent upon the integrity and effectiveness of the court security program. Non-Governmental Entities such as the Hawaii State Bar Association, Legal Aid Society, American Civil Liberties Union,

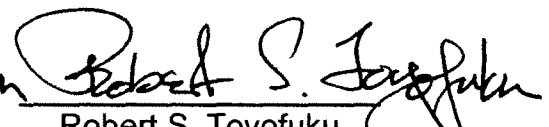
AJS Hawaii Chapter, and others have both civic and professional interests in improving court security. These Non-Governmental Entities should be enlisted to help enhance court security and thereby ensure the public's continuing confidence that the courts can administer justice free from fear of injury or intimidation. Increased security measures will benefit not only the attorneys who appear before the courts from these different organizations but will also increase security for their clients as well.

As representatives of those who need and use court services, the Non-Governmental Entities will be important allies of the government in ensuring safety and fairness in a secure court setting. To promote the involvement and support of these Non-Governmental Entities, AJS Hawaii Chapter should share the approved Report with them and ask for their assistance in achieving the best possible court security program.

Respectfully Submitted this 29<sup>th</sup> day of August, 2007.

  
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Committee Members:

- Simeon R. Acoba, Associate Justice
- R. Mark Browning, Circuit Judge
- James Burns, Chief Judge (Retired)
- Sanford Chun
- Katra Cuskaden, Esq.
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- Leslie A. Hayashi, District Judge
- Neal Kanda
- Barry M. Kurren, Magistrate Judge
- Carol McNamee
- Gary M. Slovin, Esq.
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## ATTACHMENT #1

### BACKGROUND – ANECDOTAL REPORTS OF COURT SECURITY INCIDENTS

The U.S. Marshal recently reported that threats against federal judges and court employees reached record levels in 2005. According to the Marshal, there were 953 threats and inappropriate communications which required investigation. The 2005 figures were 63% higher than 2003 levels and threats are on a pace to reach new highs in 2006 (The Honolulu Advertiser, p. A3, July 27, 2006).

In the last two years, certain extreme attacks on judges received national attention. In 2005, a litigant named Bart Ross invaded the Chicago home of U.S. District Court Judge Joan Lefkow and murdered Lefkow's husband and mother. Nine days after committing the murders, Ross confessed to committing the murders and killed himself. His motivation for the murders was his outrage at Judge Lefkow's decision to dismiss a medical malpractice suit Ross had filed (Chicago Tribune, June 25, 2006; "Judges Get Home Security").

Also in 2005, an alleged rapist named Brian Nichols seized a pistol from an Atlanta, Georgia court security officer. Nichols then went on a rampage that ended with three court employees, including Judge Rowland Barnes, dead from gunshots inflicted by Nichols (Christian Science Monitor, March 13, 2006; "A Year After Atlanta Shootings, Courthouse Security Is Spotty").

The Atlanta attacks prompted reviews by journalists from interested professional association publications and other media. These reviews revealed that courts throughout the nation had experienced similar, although less notorious, acts of violence. Courts of all states and the federal government had reported more frequent violent acts on court grounds than ever before. Many of the violent acts resulted in deaths or severe injuries to court personnel, litigants, and court visitors (Judges' Journal, p. 14, Summer 2005 "Protecting America's Courthouses").

Concerns over court security led to troubling developments in some areas. For instance, the New York State Advisory Committee on Judicial Ethics ruled this year that no ethical violation arises if a judge carries a concealed firearm to the bench so long as (1) the judge complies with existing laws governing permitting of weapons in court; and (2) the judge behaves in "a manner that promotes public confidence in the integrity and impartiality of the judiciary." (Honolulu Advertiser, p. A14, July 16, 2006).

In Reno, Nevada, a man named Roy Mack allegedly attacked the Family Court Judge presiding over the divorce action brought by Mack's wife. Reportedly, Mack used a rifle from a point outside the Courthouse to shoot Judge Chuck Weller through the window of Weller's chambers. Although Weller survived, Mack's estranged wife was later found murdered. (Reno Gazette-Journal, June 26, 2006, "Mack's Lawyer Wants Case Moved Out of Washoe County").

Hawai'i state courts have not experienced the level of violence reported in other jurisdictions. However, Hawai'i courts have not been immune from violent or threatening conduct. During Shaun Rodrigues' Circuit Court sentencing for a home-invasion robbery and kidnapping, Rodrigues' family reportedly cursed the prosecuting attorney in open court and proclaimed Rodrigues' innocence. Rodrigues' father was reported to have shouted at the prosecuting attorney in the courtroom, "You wrong buddy. You wrong. You get bad luck, brah. I curse you." (Star Bulletin, January 10, 2006; "Manoa Burglar to Serve 20 Years"); (Honolulu Advertiser, January 10, 2006; "Manoa Robber Sent To Prison").

Recently, a fight in a Hawai'i Circuit Court delayed sentencing of a man who pled guilty to second-degree assault and recklessly causing bodily injury. Daniel Lista had been playing with a pistol when it discharged. The bullet struck Lista's friend who was nearby. The friend is now paralyzed from the waist down. Shortly prior to the sentencing hearing, the wounded friend's father attacked Lista at court and caused court proceedings to be delayed. (Star Bulletin, May 23, 2007, "Fight Delays Man's Sentencing").

A member of the judiciary provided the Committee the following description of a security incident as an example of security threats Hawai'i's judges and other court personnel face in serving the State.

A judge was in the courthouse on Sunday evening around 8:30 p.m. when juveniles threw sandbags through the traffic violations section windows, destroyed computers and ransacked the place. They had unfettered access throughout the courthouse. The judge was in chambers and never knew what happened. There was no alarm which would have alerted the judge to a security breach. Reportedly there is also a bullet hole beneath the judge's chambers window.

When the judge left the courthouse and walked toward her car, a young male picked up a garbage can, threw it down on the ground, pulled the fire alarm and proceeded to walk toward the judge, cursing at her. She called 911 on her cell phone. When [law enforcement officials] arrived, [the person threatening the judge] was already long gone.