



COURT SECURITY COMMITTEE REPORT & RECOMMENDATIONS

October 2016



Texas Judicial Council

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In February 2016, the Texas Judicial Council established the Court Security Committee. The committee was established to assess the status of court security in the state to ensure that the Texas courts remain a safe and open place for individuals to access justice to appropriately resolve their disputes and for judges and court personnel to administer justice, and identify statutes, funding sources, judicial policies or initiatives that could be enacted to further those goals.

The members of the committee are:

- Honorable Scott Jenkins, Chair
- Mr. Carlos Amaral
- Honorable Bill Boyce
- Honorable Valencia Nash
- Honorable Glenn Phillips
- Senator Judith Zaffirini

Introduction

In 2006 the Texas Judicial Council passed a resolution dealing with court security. In calling for statutory changes that would improve the security environment for courts and judges, the council referred to, among other things, a high number of security incidents in Texas's courts; security deficiencies in Texas's courthouses and courtrooms; the need for training on security matters; uncertainty about whether funds generated from the imposition of certain court costs were being used to support security improvements as may have been intended by statute; and the need for more and better data regarding security incidents around the state.¹ The resolution also identified several opportunities for improving court security, including the hiring of an individual to work in the Office of Court Administration to assist courts in addressing security issues; and the protection of judges' personal information by exempting it from disclosure.

Ten years later, in conducting its review of court security issues, the Judicial Council's Court Security Committee has found that these conditions persist and that the proposed remedies were not fully acted on and still have relevance. Accordingly, the committee believes that action is needed in the upcoming legislative session to address security-related issues facing courts, judges, court staff, and members of the public that come to court.

The shooting of Travis County District Judge Julie Kocurek in the fall of 2015 provided a grave reminder of the need to act with urgency in this area. The facts surrounding Judge Kocurek's shooting are well-known. Upon returning to her home with her family shortly after 10 pm on November 6, 2015, Travis County District Judge Julie Kocurek was shot in her driveway. Judge Kocurek was hospitalized for several months recovering from injuries from the attempted assassination before returning to the bench on February 29, 2016. On September 23, 2016, federal authorities announced charges against three individuals in connection with the shooting, one of whom had a probation revocation proceeding pending in Judge Kocurek's court at the time of the shooting.

While the horrible events from November 2015 were not the first court security event to occur in Texas, the event has reminded the judiciary of the importance of ensuring that judges and court personnel are protected as each carries out administering justice. Equally important is the realization that the judiciary has an obligation to ensure that individuals seeking access to justice are protected in and around Texas' numerous courthouses and other facilities in which court proceedings are held.

The Office of Court Administration's Security Survey

Partly in response to the shooting of Judge Kocurek, in January 2016, the Office of Court Administration (OCA) sent a survey to all judges in the state for whom OCA has an email address in the state asking them to respond to a series of questions regarding security issues, including courthouse security and personal security. The distribution included 2,579 judges (out of just

¹ A copy of the 2006 resolution is attached as Appendix A.

over 3,300 total judicial officers), and 1,115 judges responded – representing a 43.2% response rate. Survey results, which are summarized below, have been an essential point of reference for the committee in developing the recommendations included in this report.

- Key survey results are as follows:
 - Over a third (34%) of judges feel that the quality of security in their courthouse is poor (18%) or very poor (16%)
 - 62% of judges indicate that no security plan exists for their courthouse (29%), or that they don't know whether a plan exists (33%)
 - While 47% of judges indicate that they are unaware of any security incidents in their courthouse, over 30% report being aware of a security incident in the year prior to the survey (12%) or within the six months preceding the survey (18%)
 - Nearly two-thirds (64%) of judges indicate that they are unaware of the reporting requirements included in Code of Criminal Procedure Article 102.017(f)²
 - Nearly two-thirds (62%) of judges report that no court security training has been provided in their courthouse (31%), or that they don't know if any court security training has been provided (32%)
 - In terms of improved performance in the area of court security, judges list needs in the following rank order:
 1. Point of entry screening
 2. Security and emergency preparedness training
 3. Judge and judicial officer movement in the courthouse
 4. Physical security systems
 5. Law enforcement officer and/or court security training
 6. In-custody defendant movement in the courthouse, including holding cells
 7. Mail and package delivery screening
 - 43% of judges report that the public can enter the courthouse from more than one entrance, while 57% indicate that the public can move unrestricted within the courthouse, and 47% report that there is no separation in hallways between the public and judges
 - Only 22% of judges report that separate entrances for judges are available in their courthouse, and half (50%) of judges report that there is no separation in parking areas for the judges and the public. While many (40%) of judges park in a secure area, only 18% of judges report that they park in a secure area
 - Nearly half (43%) of judges report that there are no personnel to screen at any entrance to their courthouse

² This Article requires the local administrative judge to submit to the Office of Court Administration a written report regarding any security incident involving court security that occurs in or around a building housing a court within three days of the occurrence of the incident.

- While the majority of judges (78%) report that panic alarms/duress buttons are available in their courtrooms or in their courthouse, testing to ensure functionality of these systems is lacking (only 43% of judges report that these systems are regularly tested), and over half (59%) of judges report that they have never received training on the use of the alarms or what to do if an alarm is activated

Research on Other States' Models

The committee has researched security-related planning and improvement issues taking place in several select states, namely Arkansas, Ohio, Arizona, and Florida. Like Texas, these states have a non-unified judiciary, meaning that responsibility for all courthouse security equipment and administration resides at the local level. All of these states have, however, adopted administrative models that have institutionalized practices statewide that are promoting security awareness and providing guidance to judges, county officials and law enforcement on how to improve local court security. This is done at the state level through the development of, and ongoing training on, security-related forms and templates; guidance to local officials on developing local court security plans; and ongoing advocacy at the state and local level in support of the security-related needs of the judiciary. The committee is of the opinion that many of these activities could be replicated here in Texas, especially if funding for a statewide Director of Security and Emergency Preparedness is secured.

Consultation with the National Center for State Courts

The National Center for State Courts (NCSC) provides security-related consulting and technical assistance to courts and court systems throughout the country. NCSC possesses extensive experience in this area, and the committee obtained resources from them that should be considered essential to Texas' efforts to increase safety through improved security preparedness planning. Key among these resources is the publication titled *Steps to Best Practices for Court Building Security*.³ This document, which was originally published in 2010 and recently revised, is one of the most useful resources available on the issue of court security, and it will undoubtedly serve as an important planning and process improvement resource at both the local and state level regarding court security.

This document and related resources make clear that planning for security improvements is a "team effort" that should involve judges, county officials, and law enforcement representatives, and that it requires leadership and ongoing attention. These resources also point out that not all security improvements come with a financial cost. The committee feels that all counties should begin to engage immediately in best practice steps such as those outlined in the NCSC document.

Contact with Key In-State Law Enforcement Resources

The committee reached out to the Texas Department of Public Safety (DPS) and the Sheriff's Association of Texas to assess the supports and services that may be available on an ongoing and

³ The publication can be found at:
<http://cdm16501.contentdm.oclc.org/cdm/singleitem/collection/facilities/id/170/rec/6>.

systemic basis to assess the needs of judges and to support improvements within the judiciary in the area of court security. While the resources currently available dedicated to support court security improvements are limited, both entities seem interested in partnering with the judicial branch to promote them. The committee feels that partnerships with these entities should be developed.

[Consultation with the Supreme Court Task Force on Emergency Preparedness](#)

In 2007 the Supreme Court of Texas appointed the Task Force to Ensure Judicial Readiness in Times of Emergency (JRITE). The purpose of the JRITE was to begin the design and implementation of an emergency program to prevent or manage disrupted court operations throughout the state in emergencies. In 2008, JRITE developed an Interim Plan that has since been implemented in many counties.

In March 2016 the Supreme Court of Texas issued an order superseding its 2007 order and created the Task Force for Judicial Emergency Preparedness (TFJEP). The TFJEP is charged with reviewing the status of the Interim Plan's implementation across this State, and will evaluate the adequacy of the Interim Plan as an ongoing means of ensuring that the Texas judiciary can continue performing its essential functions amid disruptive events. The findings and recommendations will be submitted to the Supreme Court by December 30, 2016.

OCA staff have participated in the meetings of the TFJEP and discussions regarding the similarities—from a planning, communications, and coordination perspective—on threats to the courts resulting from both a security and emergency preparedness perspective. The committee believes that overlap exists between the assessment and response features of court security and emergency preparedness and that the hiring of a statewide Director of Security and Emergency Preparedness would assist the judiciary in these two areas of need.

Findings

The findings below have been developed on the basis of the activities above and the input received from committee members and others since the committee was established.

- There is a lack of uniformity or best practices readily available to or used by court staff or law enforcement personnel responsible for court security.
- There is a lack of communication between and among judges, court staff, and law enforcement regarding court security best practices.
- There is a lack of training for judges, court personnel and security personnel on court security.
- There is a lack of reliable and useful data on court security incidents in the state.
- There is no individual at the state level dedicated to judicial branch security issues with whom judges, county/city officials, and state and local law enforcement officials can engage on the wide range of court security issues confronting courts today.
- There is a lack of ongoing planning occurring in counties and cities dedicated to identifying and sustaining court security improvements.
- There is a lack of funding in many counties and cities for incorporating desired court security improvements.
- It is difficult for judges, as appropriate, to conceal their identity for the purpose of protecting their safety and that of their families, including delisting their personal addresses and contact information from publicly searchable databases.

Summary of Recommendations

Recommendation 1: Establish the position of Director of Security and Emergency Preparedness at the Office of Court Administration to assist judges and county officials in addressing court security needs.

Recommendation 2: Amend Sections 30.00007 (municipal courts of record) and 74.092 (local administrative district judges) and add a provision to Chapter 29 (municipal courts – not of record) of the Texas Government Code to require Municipal Judges (MJ) and Local Administrative Judges (LADJ) to establish a court security committee chaired by the MJ/LADJ or his or her designee, and require that the committee include both the entity with primary responsibility for providing court security and a representative of the county/city/funding authority.

Recommendation 3: Repeal or amend reporting requirement of Art. 102.017(f), Code of Criminal Procedure, to promote greater reliability and utility of the security-related information reported.

Recommendation 4: Require all individuals providing court security to be appropriately certified in specialized court security.

Recommendation 5: Require that all new judges receive security training addressing both court security and personal security and that security training be made part of continuing judicial education thereafter through rules promulgated by the Court of Criminal Appeals.

Recommendation 6: Increase funding for courthouse security available to counties/cities by appropriating sufficient general revenue funds to cover essential security needs.

Recommendation 7: Consider amending statutes impacting a judge's personal security as follows:

- **Allow judges to delist addresses to make delisting of personal information, including judge/spouse telephone numbers, from all public records automatic upon qualification for office;**
- **Allow spouses to be included in delisting on appraisal records, including county deed records;**
- **Authorize the retroactive and prospective removal of personal addresses from Texas Ethics Commission online searches; and**
- **Provide for penalties, as appropriate, to apply in situations in which a judge's personal information is released.**

Recommendation 8: Consider authorizing and, if necessary, providing resources to DPS to provide personal security to threatened or attacked judges, at the discretion of DPS when a threat or attack is deemed credible.

Recommendation 9: Establish a standing Court Security Committee at the state level to provide security-related policy planning and guidance to state leaders regarding local court security needs and issues.

Detailed Recommendations

Recommendation 1: Establish the position of Director of Security and Emergency Preparedness at the Office of Court Administration to assist judges and county officials in addressing court security needs.⁴

The sheriff in each county is responsible for providing courthouse security.⁵ The municipal governing body is responsible for doing so in municipal court buildings. While the judiciary itself does not have responsibility or authority for providing court security, it is often in the position to advocate for appropriate security to ensure that individuals in the courts are not threatened as they seek access to justice. In addition, sheriffs and municipalities are not generally responsible for providing direct security to judges and court personnel when they are away from a courthouse, unless specific circumstances warrant such. Rather, it is judges and court personnel who are responsible for ensuring their own safety.

In the committee's research, it was apparent that there are many court security best practices that can and should be implemented across our state. Some of those best practices do not require additional resources for implementation. However, it is apparent that a lack of a central resource from which to seek information on best practices inhibits the implementation of those best practices by counties, cities and individual judges.

In addition to a need for counties, cities and judges to have a centralized resource to learn of best practices in court security, there is frequently a need for consultation with experts on specific issues of court security in local jurisdictions. Almost three-fourths of judges responding to the OCA Court Security Survey indicated an interest in receiving court security technical assistance. Without an expert resource at the state level, counties, cities and judges must hire outside consultants at significant cost, if they are able to hire them at all.

Lastly, training was found to be a key missing ingredient to preparedness on court security. A lack of an individual within the state who focuses on Texas needs in court security and best practices from a national and local perspective inhibits quality and continuous training and preparedness in this area. A statewide central resource dedicated exclusively to issues relating to court security could catalog and build training around those security-related improvements that are developed at the local level for sharing throughout the state.

The committee believes that a director-level staff position at the Office of Court Administration focused on providing expertise to counties, cities, judges and other court and security personnel would improve court security in this state.

⁴ The Office of Court Administration has requested funding for a Director of Security and Emergency Preparedness in its Legislative Appropriations Request for the upcoming biennium. (See Exceptional Item #1)

⁵ Tex. Local Govt. § 291.003; *Anderson v. Wood*, 152 S.W.2d 1086 (1941).

Recommendation 2: Amend Sections 30.00007 (municipal courts of record) and 74.092 (local administrative district judges) and add a provision to Chapter 29 (municipal courts – not of record) of the Texas Government Code to require Municipal Judges (MJ) and Local Administrative Judges (LADJ) to establish a court security committee chaired by the MJ/LADJ or his or her designee, and require that the committee include both the entity with primary responsibility for providing court security and a representative of the county/city/funding authority.

Municipal court judges and local administrative district judges have varied and numerous administrative responsibilities, which are generally detailed in statute. These responsibilities address the administration of the judicial branch at the county and city levels. None of these administrative responsibilities contain provisions regarding preparing for court security incidents.

A fundamental and nationally-recommended best practice in court security is to have a court security committee at each locality that can bring together all of the interested stakeholders to discuss the needs of the jurisdiction in the area of court security. However, it was apparent in the results of the OCA Court Security Survey conducted earlier this year that most jurisdictions do not have a committee dedicated to addressing security issues. This results in a lack of information to judges about court security practices in the jurisdiction and a lack of recognition of court security needs.

A committee established under these new provisions should include all necessary and interested stakeholders at the local level. The committee should include one representative from each of the types of judges that are housed in the jurisdiction (e.g. appellate judges, district judges, statutory county court judges, constitutional county judges, justices of the peace, municipal judges, associate judges, and magistrates). In addition, the committee should include the sheriff or other primary security provider for the courthouse(s) and a representative of the funding authority for the jurisdiction. Other representatives that can provide assistance to the committee should be added as appropriate.

The committee believes that requiring each jurisdiction to have a court security committee chaired by the municipal judge or local administrative district judge will improve court security in the state.

Recommendation 3: Repeal or amend reporting requirement of Art. 102.017(f), Code of Criminal Procedure, to promote greater reliability and utility of the security-related information reported.

In 2006, the Judicial Council advocated for required reporting of courthouse security incidents to OCA in an effort to improve the analysis of the security situation in the state's courts. This recommendation followed a survey by OCA that revealed more than 4,200 separate security incidents that occurred in courtrooms, chambers, and judicial offices in a one-year period. That recommendation was enacted by the 80th Legislature and became law on September 1, 2007. The responsibility was placed upon local administrative judges to provide "a written report regarding any security incident involving court security that occurs in or around a building housing a court for which the judge serves as **local administrative judge** not later than the third business day after the date the incident occurred."⁶ (Emphasis added)

Since 2007, an average of 160 security incidents have been reported to OCA each fiscal year. The OCA's 2016 Court Security Survey revealed that 64% of judges were unaware of the reporting requirement. For those who were aware of the requirement, 72% reported having never made a report. Of those judges who indicated they were aware of the requirement, only 28% knew that the local administrative judge was the reporting entity. The survey also showed that 40% of the responding judges knew of an incident of court security within the past two years.

The committee believes that the reporting requirement is not functioning as desired and results in a massive underreporting of security incidents in courthouses. The committee recommends that one of two actions occur to correct this issue (listed in preferred order):

1. Amend the statute to require that the reporting responsibility lie with the courthouse security provider (e.g. sheriff or municipal authority).

The committee has found that many local administrative judges are not made aware of security incidents occurring in the courthouse. Unless the incident is well-known or occurs in or around the courtroom of the local administrative judge, he/she may not know about the incident to report. The individual or entity responsible for providing security would likely be more knowledgeable about security incidents to report.

2. In the alternative, repeal the reporting requirement and require OCA to survey courts annually to solicit security incident information.

If the legislature does not amend the statute as proposed above, the committee recommends repealing the reporting statute and instead requiring OCA to collect security incident information through an annual survey. Because the committee believes the data

⁶ Art. 102.017(f), Code of Criminal Procedure

in the security incident reports to be incomplete and unreliable, the committee believes that an annual survey would be more beneficial than the current method of collecting the information. The committee recognizes that the utility of the information will be less than a real-time reporting requirement but acknowledges that it would be better than the current reporting requirement.

Recommendation 4: Require all individuals providing court security to be appropriately certified in specialized court security.

Providing court security effectively is a specialized skill that requires ongoing training on best practices. However, there is currently no requirement or voluntary certification program to provide this specialized training for individuals serving in this role. The lack of training of court security officers limits their ability to provide effective court security.

The committee recommends that individuals serving as court security officers (CSO) in the Texas courts be required to obtain an additional certification in court security through a training program approved by the Texas Commission on Law Enforcement. The certification should be required within one year of the beginning of the court security officer's term of service. Consideration should also be given to requiring that this training, or some variation of it, be made mandatory for individuals in addition to CSOs whose job responsibilities involve some aspect of court security. Regular and ongoing training to update best practices should be required as well.

The committee further recommends that the sheriff or other appropriate court security provider be required to ensure that court security officers meet or attain the certification within the timeframe discussed above.

Recommendation 5: Require that all new judges receive security training addressing both court security and personal security and that security training be made part of continuing judicial education thereafter through rules promulgated by the Court of Criminal Appeals.

Just as court security officers should be well-trained in providing court security, judges must be made aware of best practices in security to maintain a high level of personal and court security. While judicial education providers may include educational sessions on court security on their educational agendas, there is no requirement that this type of training be provided to judges regularly. OCA's 2016 Court Security Survey revealed that many judges are unaware of best practices in court security and only 22% of judges reported having been trained in court security measures. Sixty percent of judges indicated an interest in attending an educational event dedicated to court security practices.

The Court of Criminal Appeals (CCA) has been given rulemaking authority over judicial education pursuant to Texas Government Code Section 56.006. The CCA has promulgated rules requiring education in many specific areas.⁷ While the statute authorizes CCA to promulgate rules, "including rules that require entities receiving a grant of funds to provide legislatively required training," there is no prohibition on the court requiring additional training to be provided to judges. Therefore, the committee recommends that CCA consider amending the Rules of Judicial Education to provide a minimum number of hours of training on court security be regularly provided to all judges. The committee further recommends that the CCA consider amending the Rules of Judicial Education to provide additional training to presiding judges and local administrative district judges regarding their duties under Recommendation 2 above.

⁷ Rule 12 (Statutorily Mandated Training), Texas Rules of Judicial Education.

Recommendation 6: Increase funding for courthouse security available to counties/cities by appropriating sufficient general revenue funds to cover essential security needs.

In OCA's 2016 Court Security Survey, judges ranked court security in their jurisdiction at 2.88 out of a possible 5. While almost 60% of the judges reported having requested increased court security in the past, only 57% of those reported that the request was partially (31%) or fully (26%) implemented. Almost a third indicated that the request was ignored (16%) or not implemented (16%). The most common reasons for not fully implementing the recommendation was a lack of funding for staff (49%), or a lack of funding for equipment (38%) - 87% related to funding.

Counties and cities are responsible for funding court security for the trial courts and most appellate courts. Recognizing the need to provide a funding mechanism to assist the local jurisdictions in funding this responsibility, the legislature has created several user fees through criminal court costs and civil filing fees. However, those fees that have not been updated since the mid-1990s do not generate sufficient revenue to fund court security. Thus, counties and cities must rely upon general revenue to fund these responsibilities.

The committee strongly believes that funding for court security should not come from cost and fee revenue generated by users. Such an arrangement can present a barrier to accessing the courts for some people. Rather, the state, counties and cities should dedicate sufficient general revenue to fund adequate court security.

Recommendation 7: Consider amending statutes impacting a judge’s personal security as follows:

- **Allow judges to delist addresses to make delisting of personal information, including judge/spouse telephone numbers, from all public records automatic upon qualification for office;**
- **Allow spouses to be included in delisting on appraisal records, including county deed records;**
- **Authorize the retroactive and prospective removal of personal addresses from Texas Ethics Commission online searches; and**
- **Provide for penalties, as appropriate, to apply in situations in which a judge’s personal information is released.**

In its 2006 resolution on court security, the Judicial Council recommended making judges’ personal information confidential and not subject to disclosure by governmental bodies. The legislature has responded over time by providing mechanisms for judges to remove their addresses or other personal information from publicly available databases, including the voter registration, appraisal district, and driver license databases. However, judges have indicated that navigating the delisting process is challenging and that delisting in general is difficult to accomplish.

In addition, even if a judge is successful in having his/her information removed from the public databases, this remedy is not made available to his/her spouse, meaning that the family’s privacy is limited. The provisions for exclusion do not apply to county deed records or to judicial campaign finance and ethics reports held by the Texas Ethics Commission.

The committee recommends amending existing statutes⁸ to simplify the process of delisting judges’ information, perhaps through automatic delisting upon qualification for office, and extending the remedy to the spouse of the judge, if requested. The committee recommends that similar provisions be added to the law for county deed records and records held by the Texas Ethics Commission.

⁸ Election Code Sec. 13.0021 (Voter Registration Records), Tax Code Sec. 25.025 (Appraisal District Records), Transportation Code Sec. 521.121 (Driver License Records)

Recommendation 8: Consider authorizing and, if necessary, providing resources to DPS to provide personal security to threatened or attacked judges, at the discretion of DPS when a threat or attack is deemed credible.

As discussed in Recommendation 1 above, court security is primarily the responsibility of the sheriff in counties or municipal governing body in cities. It is those entities that provide personal security to threatened or attacked judges when that security is warranted. However, the authority of those officers is generally limited to the jurisdiction in which the officer is sworn. If a judge has been threatened or attacked and must travel outside of that jurisdiction, the officer generally does not have authority necessary to provide protection. There are some state law enforcement officers who have statewide authority, but the entities for which they work may not have statutory authority or the resources to provide this protection to Texas judges. Obviously, this can increase the vulnerability of a threatened or attacked judge when he or she travels outside of the jurisdiction in which he or she serves.

The committee believes that DPS may be an underutilized resource in addressing court and judge security issues and recommends that the legislature authorize the Department of Public Safety (DPS) to provide personal security to threatened or attacked judges, at the discretion of DPS when a threat or attack is deemed credible, and that the legislature should provide appropriate resources to DPS to accomplish this task.

Recommendation 9: Establish a standing Court Security Committee at the state level to provide security-related policy planning and guidance to state leaders regarding local court security needs and issues.

The Judicial Council Court Security Committee has provided a valuable forum in which court security-related needs have been able to be identified, considered, and prioritized for action. A permanent and diverse body of individuals with knowledge and expertise on security issues would be a valuable resource to the Supreme Court, Court of Criminal Appeals, the Judicial Council, the Office of Court Administration, other courts in the state, and to a Director of Security and Emergency Preparedness. Acting in an advisory role, such a permanent committee could provide input on: 1) the development of statewide security-related rules and standards; 2) the development and delivery of security-related services on matters involving court security, including training programs for judges and court personnel; and 3) any other issues the advisory committee deems necessary to assist the Texas judiciary on court security matters.

The committee recommends that such an advisory body be established, and that its membership be diverse and inclusive of all positions and professions with an interest in and/or responsibility for improving security in Texas's courts.