

Testimony of

Benigno G. Reyna

May 18, 2005

STATEMENT
BENIGNO REYNA
DIRECTOR UNITED STATES MARSHALS SERVICE
DEPARTMENT OF JUSTICE
BEFORE THE
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE
CONCERNING
PROTECTING THE JUDICIARY AT HOME AND IN THE COURTHOUSE
MAY 18,2005

STATEMENT OF
BENIGNO REYNA
DIRECTOR,UNITED STATES MARSHALS SERVICE
DEPARTMENT OF JUSTICE
BEFORE THE
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE
CONCERNING
PROTECTING THE JUDICIARY
AT HOME AND IN THE COURTHOUSE
MAY 18,2005

Mr. Chairman, Ranking Member Leahy, and Members of the Committee, thank you for the opportunity to appear before you today. I appreciate the support that you have given the United States Marshals Service in the past, and we look forward to working with you in addressing the challenges we face in preserving the integrity of the judicial process.

Since our founding in 1789, the primary mission of the United States Marshals Service (USMS) has been the protection of the federal judicial process. Each day - in all 94 Marshals Service districts - our resources are fully dedicated to fulfilling this mission.

The protection of the judiciary is one of the most important, and perhaps least recognized, functions in American government. If federal jurists are to preside over cases and render verdicts free from fear of threat and intimidation in a safe environment.

then Judicial Security must continue to be a priority in our government. A secure judiciary is fundamentally necessary in the preservation of justice, in maintaining the rule of law, and in protecting the rights of all citizens. While the "judicial security" mission traditionally has been defined as protection of federal judges and the physical protection of federal courthouses, the full resources of the Marshals Service are devoted to the protection of the judicial process, in one or more of the following aspects:
by providing a secure courtroom environment not only for the judiciary.

But for all trial participants, including court employees, prosecutors,federal public defenders, jurors, witnesses, private attorneys, and all who attend federal trials and court proceedings;
when necessary, by providing for the personal protection of tmembers of the judiciary and their families, so that judges can carry out their official
duties without fear of threat, intimidation, or retaliation; by applying complex, techmcal security systems to make the nation's federal courthouses safe from external threats; by contracting and deploying thousands of experienced, well-trained

Court Security Officers (CSOs) to screen the daily complement of visitors to our nation's federal courts; by designing and constructing secure facilities for the detention and movement of federal prisoners and creating secured passageways for the judiciary; by safely transporting thousands of federal prisoners to court appearances; by providing safe environments for thousands of federally-protected witnesses and their families; and, by executing warrants and arresting dangerous fugitives from justice and returning them to custody for proper adjudication of their criminal cases.

The tragic deaths of the husband and mother of Judge Joan Humphrey Lefkowitz in Chicago, and of Judge Rowland Barnes and his court colleagues in Atlanta, have brought national attention to the issue of judicial protection. This is the Marshals Service's highest priority. The Fiscal Year (FY) 2005 Budget provides the USMS with \$552

million for judicial protection activities, which is an increase of five percent (5%) over FY 2004 spending levels. This includes funding for 94 new Deputy U.S. Marshals for judicial security. The FY 2006 President's Budget requests \$586 million for USMS judicial protection activities, which is a six percent (6%) increase over FY 2005. These funds will support 65 additional Deputy U.S. Marshals assigned to judicial security, bringing the total to 2,542. Each day, Deputy U.S. Marshals transport thousands of federal prisoners - some of whom are extremely violent - to their court appearances without major incident.

Likewise, the Marshals Service currently manages more than 17,000 witnesses and their families in the Witness Protection Program. Since the inception of the program over thirty years ago, no federally-protected witness who has followed the program's rules has been harmed. In the 215 years since the USMS was founded, no federal judge has been murdered in a courtroom or courthouse. However, the ever changing threat environment requires a continual evaluation and assessment focused on meeting the emerging challenges and improving our judicial protective measures.

The Judicial Conference's Committee on Security and Facilities has stated previously that the Marshals Service "never gets the resources it needs to get the job

done." It is true that, in past fiscal years, the President's Budget Requests for USMS positions dedicated to judicial security and protection have not been fully funded.

Specifically, for Fiscal Years 2001 through 2005, the President's budget requested a total increase of 993 positions for the USMS. Only 393 of those additional requested positions were enacted in the FY 2001-2005 appropriations bills. Another 138 positions were enacted as part of two subsequent supplemental appropriations bills. The USMS would have benefited greatly from the President's budget requests being fully funded.

Protection and Security Services Provided to Federal Judges

The Marshals Service's attention to the personal security of a judge begins soon after a judicial candidate is nominated. Shortly after being nominated, the USMS provides nominees with a comprehensive briefing regarding their personal security and the range of security services offered by the USMS, both inside the courthouse and away from judicial facilities. These briefings are conducted at the highest level, generally by the USMS Assistant Director for Judicial Security.

Orientation topics for new judges include a variety of issues, such as: personal and residential security, both inside and away from judicial facilities; ensuring that personal information is removed from the public arena, such as telephone directories and Internet sites; vehicle and air travel safety; and changes in landscape designs around the home. Judicial Security Inspectors also offer to undertake a residential security survey of a judge's home to assess a wide range of security issues.

Throughout a judge's career, the USMS continues to provide security briefings in various situations and formats, including specialized publications and personal meetings between judges and experienced Deputy U.S. Marshals who are trained as Judicial Security Inspectors. If a judge is threatened, the Marshals Service provides immediate and appropriate protection - in their chambers, at their homes with their families, to include transportation, as necessary, to and from work or while on travel. The importance that the Marshals Service places on this mission cannot be overemphasized.

Threat Assessments and Investigations Against the Judicial Family

The USMS is responsible for the safety and security of more than 2,200 federal judges and 5,500 Assistant U.S. Attorneys. In recent years, there has been an increase in the number of threats against members of the judiciary, U.S. Attorneys, and other federal

court officers. One of the key functions of the USMS Judicial Security Division (JSD) is to review, assess, and investigate inappropriate communications or threats made against members of the federal judiciary, U.S. Attorneys and other court participants.

Inappropriate communications can be made in writing, by telephone, verbally, through a third party, or by some suspicious activity that threaten, harass, or make ominous or unsettling overtures of an improper nature. The USMS considers all threats to be inappropriate communications, but not all inappropriate communications necessarily are threats. When appropriate, the Marshals Service coordinates its investigations with local and state police departments and the FBI.

The USMS provides guidance to the judiciary on addressing inappropriate communications. A primary factor considered by the Marshals Service is the assessment of whether or not the person making the threat has the means to carry out the threat. The ability of the USMS to assess and abate threats against the judiciary is directly related to its immediate capacity to obtain information and the identity of those who issue threats to the judiciary using the Internet and other means.

Each determination related to providing increased levels of security to a court officer is assessed on a case-by-case basis, and decisions regarding security are discussed with the individual who is at risk. Protective details are provided both as a precautionary measure and when a determination of a credible threat has been made. When a credible threat is received, an immediate response is the establishment of a protective detail, as well as notification to the FBI and the concurrent initiation of a protective investigation. Predicated on the findings of that investigation, the USMS will adjust the scope of the protective detail according to the nature of the threat in terms of human resources, deployment of technologies, duration, and scope. Any decision to modify security measures, once implemented, is discussed with the protectee.

In fiscal year 2004, the Marshals Service monitored and managed 39 protective details for federal judges and prosecutors as a result of inappropriate communications or potential threats. The majority of these protective details were placed on United States Attorneys and/or Assistant U.S. Attorneys. Additionally, the Marshals Service reviewed and assessed more than 700 inappropriate communications.

Courthouse and Courtroom Security

The USMS deploys more than 4,500 full- and part-time contracted CSOs, all with certified law enforcement experience, to more than 400 court facilities in the United States and its territories. The CSOs screen visitors, packages and mail for weapons, explosives, and other prohibited hazardous items. In addition, these security personnel operate perimeter security barriers that are designed to protect the facility from external vehicular threats.

The USMS coordinates the planning, and designing of the construction or renovation of federal courthouses with the Administrative Office of the United States Courts (AOUSC), the General Services Administration (GSA), and the Department of Homeland Security's Federal Protective Service (FPS). These activities include the acquisition and installation of electronic security systems (such as perimeter security barriers and systems, access control systems, closed circuit television surveillance, and alarm reporting systems), and the analysis and design of secured passageways for the judiciary, prisoner movements and detention facilities.

There are times when the USMS must develop special security plans for judicial proceedings that are categorized as high-risk. These proceedings may involve international or domestic terrorists, drug kingpins, violent gang members, organized crime figures, or civil matters that have garnered a high degree of notoriety. In such high-risk cases, the USMS may deploy members of its Special Operations Group (SOG) or Hazardous Response Unit (HRU), both of which are specially trained to transport high-risk prisoners and protected witnesses.

Coordination with the Administrative Office of the United States Courts

The USMS works closely on a day-to-day basis with the AOUSC's Office of Court Security and the Office of Facilities and Security. In addition, the USMS regularly meets with the Judicial Conference Committee on Security and Facilities. Coordination, cooperation, and consultation occur on the national level, and on a nation-wide basis at

the district level.

With regard to coordination with the AOUSC on a national level, the USMS frequently participates in meetings and working sessions in preparation for quarterly reviews led by the AOUSC's associate director. In these meetings, a wide variety of issues are discussed, such as the purchase and installation of security systems, X-ray machines, magnetometers, entry security packages for judicial chambers, CSO staffing, procurement and budget issues and labor matters.

USMS senior managers attend every semi-annual meeting of the Judicial Conference Committee on Security and Facilities. Presentations regarding USMS budget issues are formally made to the committee, legal issues are discussed, and any security concern that the committee presents is discussed and becomes part of the agenda. For example, working with the judiciary's CSO and systems annual budget of approximately \$300 million, the Marshals Service formulates the national budget to determine the number of CSOs and the types and amount of security systems that are needed to protect judicial facilities. The results of the budget formulation process are presented to the judiciary, which in turn finalizes the budget request to Congress. The USMS works continuously with AOUSC and the committee throughout the year in addressing issues not resolved during a meeting.

At the local level, U.S. Marshals routinely attend scheduled Court Security Committee meetings chaired by the Chief Judge of the District. The U.S. Marshal is the principal coordinator of the committee, which also includes representatives from the magistrate, district, and bankruptcy courts, and also may include circuit judges and U.S. Attorneys. District-wide security issues are discussed, security plans are reviewed and implemented, and local security issues are identified and solutions are recommended. Issues not addressed locally are forwarded to the AOUSC's Office of Court Security and the U.S. Marshals Service headquarters for the determination of a coordinated resolution. Such issues may include additional CSO staffing, the need for additional security equipment between budget cycles, or legal issues affecting security.

Technical Support and Capabilities

In many cases, the USMS deploys technical countermeasures to protect persons and environments from electronic interception of official communications. Such technologies may involve, but are not limited to, conducting electronic security sweeps of federal court facilities, judicial officials' chambers, jury rooms and, in some cases, the residences of judicial officials. Also, the USMS will install electronic security systems and equipment in the residences of protectees in direct support of a protective detail.

Response to the Department of Justice Office of Inspector General Audit

In March 2004, the Department of Justice Office of Inspector General (OIG) issued a report entitled "Review of the United States Marshals Service Judicial Security Process." In that report, the OIG made six recommendations to the USMS. Two of those recommendations have been closed; that is, the OIG and USMS have agreed on a resolution and the resolution has been implemented. The OIG and USMS have agreed on a resolution for the remaining four recommendations; however full implementation has not been completed. None of the findings of the OIG report found any instances wherein the USMS failed to provide adequate security for the judiciary. The USMS has implemented most of the OIG's recommendations as contained in the March 2004 report. More specifically, the OIG recommendations and the implementation status are as follows:

Recommendation 1: Ensure that all threats to the judiciary are assessed within established timeframes.

USMS Implementation: To ensure that all threats to the judiciary are assessed within established time frames, the USMS has instituted rating criteria to identify, assess, and prioritize all inappropriate communications. Other policy revisions may result from the Attorney General's Judicial Security Working Group recommendations and comprehensive review of USMS judicial security procedures.

Recommendation 2: Update the historical threat database or develop a new database to perform comparative assessments.

USMS Implementation: To perform comparative assessments of threat information, the USMS merged its historical threat database with the Justice Detainee Information System (JDIS). JDIS includes warrant information and all 94 district offices have electronic access to this information. (Closed)

Recommendation 3: Assign full-time representatives to all 56 FBI field office Joint Terrorism Task Forces (JTTFs) and ensure effective USMS liaison with intelligence agencies.

USMS Implementation: To ensure the USMS has effective liaison relationships with intelligence agencies, the USMS is increasing its participation on the FBI's JTTFs. JTTF workload has been taken into account when new positions are allocated to the districts. There are currently 18 Deputy U.S. Marshals working full-time on the FBI's JTTFs. Another 33 Deputy U.S. Marshals work part-time on the JTTFs. Together, 34 of the FBI's main offices have a Deputy U.S. Marshal presence.

Recommendation 4: Create a centralized capability to identify, collect, analyze, and share intelligence with USMS districts, as well as with the USMS JTTF representatives and other intelligence liaisons.

USMS Implementation: In February, we established an Office of Protective Intelligence (OPI) to analyze and disseminate protective intelligence related to the safety and security of the judiciary. We have six Deputy U.S. Marshals and one administrative position assigned to this office. Five of these Deputy U.S. Marshals are working on a daily basis with other intelligence units, including the FBI Washington Field Office, the Sacramento Intelligence Unit, the National Counter Terrorism Center, the Defense Intelligence Agency, and Metropolitan Police Department's Joint Operations Center. We hope to use a portion of the supplemental appropriation to increase our analytical capability so that we have the necessary staff and equipment to make this unit flourish. (Closed)

Recommendation 5: Require that Chief Deputy U.S. Marshals and USMS JTTF representatives have Top Secret clearances, and ensure that each district has secure communication equipment.

USMS Implementation: To safeguard intelligence information, all Chief Deputy U.S. Marshals have updated Top Secret clearances and all 94 district offices have secure communications equipment. Furthermore, the USMS created the Office of Protective Intelligence (OPI) to analyze and disseminate protective intelligence related to the safety and security of the judiciary.

Recommendation 6: Revise the 1993 Judicial and Court Security Manual and the 1999 Offsite Security Booklet for Judicial Officers to establish risk-based standards and require after-action reports for high-threat trials and protective details.

USMS Implementation: To educate USMS personnel and members of the federal judiciary, the USMS revised and distributed two publications to all 94 districts: Offsite Security for United States Judges (September 2004) and Personal Security Handbook: How You and Your Family Can Minimize Risks to Personal Safety (September 2003). In addition, USMS Judicial Security personnel offer to provide judges with security surveys of their personal residences as well as additional counseling on how to enhance their personal security.

The USMS Fugitive Apprehension Mission and Its Impact on Judicial Security While Deputy U.S. Marshals have been arresting criminals since the Service was established in 1789, the fugitive apprehension mission was formalized in the early 1970's. Since that time, deputies have been executing arrest warrants issued by federal courts throughout the U.S. The fugitive apprehension mission is directly related to the successful operation of the court in the administration of justice. Deputies assigned the

duties of warrant execution are not taken away from court security responsibilities. In many districts, deputies are specifically assigned the fugitive warrant execution function. Many fugitive apprehensions are conducted before and after courtroom proceedings and/or on weekends.

The Chicago and Atlanta Incidents

The USMS responded immediately to the tragic events surrounding the murder of the mother and husband of Judge Lefkow, and to the equally disturbing courtroom murder and attacks of Judge Barnes and other court officers. In Chicago, the USMS responded within hours by providing a protective detail for Judge Lefkow and her family. Additionally, the Marshals Service established four other protective details on three circuit court judges and one district court judge. Concurrent with the establishment of these protective details, the USMS Great Lakes Regional Fugitive Task Force assisted the Chicago Police Department and the FBI in their investigation. Similar to the USMS contributions in and around Chicago, the Marshals Service's Southeast Regional Fugitive Task Force assisted local law enforcement in its investigation within hours of the courtroom attack in Atlanta.

Judicial Security Review Working Group

Following the murders of Judge Lefkow's husband and mother and the shooting in the Fulton County, Georgia, courthouse, the Attorney General established a Judicial Security Review Working Group within the Department of Justice. The review group's membership includes representatives from the Marshals Service, the Bureau of Prisons, the FBI, a United States Attorney, and the Department's Criminal Division, Office of Legal Policy, Office of Legislative Affairs, and Office of the Deputy Attorney General. While the review group is composed of Justice Department components, we recognize that it must work closely with the judiciary on issues of judicial security. Further, we understand that the review group's chairman has met with representatives of the Judicial Conference and the AOUSC, and that the initial meeting (after its organizational meeting) of the full review group was with representatives of both entities. While the work of the review group is ongoing, the expectation is that it will conclude its discussion and report back to the Attorney General within the established time frame.

In addition to the Attorney General's creation of the internal review group, the Office of Justice Programs has provided funding of \$1 00,000 to the National Center for State Courts, which is leading a study of judicial security in state and local courts. Together, the Department expects that these two initiatives will result in improved judicial security at the federal, state, and local levels.

In summary, Mr. Chairman and members of the Committee, the Marshals Service is committed to maintaining the security of the judiciary as its highest priority.

Moreover, we will continue to focus on enhancing our protective operations and working with the members of the judiciary and the Administrative Office of the U.S. Courts in meeting emerging security challenges.