

Ab File

DEPARTMENT OF JUSTICE
ODAG EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: MECHAM, L. RALPH, DIRECTOR, ADM. OFFICE OF THE U.S. CTS., DC
To: AG.
Date Received: 07-25-86 Date Due: NONE Control #: 6072510566
Subject & Date
07-18-86 "DEAR ED" LETTER ENCLOSING COPIES OF CORRESPONDENCE
HE HAS RECEIVED REGARDING THE LEGALITY OF THE MEMORANDUM OF
UNDERSTANDING OF JANUARY 13, 1984, CONCERNING COURT SECURITY
AND COURT SECURITY OFFICERS.

	Referred To:	Date:		Referred To:	Date:	
(1)	OAG;RICHARDSON	07-25-86	(5)			FILE:
(2)	OLC;COOPER	08-06-86	(6)			
(3)	OAG;RICHARDSON	10-02-86	(7)			PRTY
(4)			(8)			1
	INTERIM BY:			DATE:		OPR:
	Sig. For:	AG		Date Released:		HBR

Remarks

ADVISE EX. SEC. OF FURTHER ACTION TO BE TAKEN.
CC: OLA (BOLTON)
08-06-86 ACTION CHANGED FROM OAG TO OLC W/CC TO OLA PER
INSTRUCTIONS FROM OAG (RICHARDSON). (WM)
09-09-86 EX.SEC. ADV. BY LEE BENTLY/OLC THAT THIS IS AN
AGREEMENT BETWEEN THE ADM. OFFICE OF U.S. COURTS AND
THE USMS; AOUSC WILL SEND OLC COPY OF RESPONSE - NOTHING

Other Remarks:

FURTHER FOR OLC TO DO - CLOSE OUT.
(3)W/MEMO FROM OLC/ALITO TO OAG/RICHARDSON DATED 09-29-86 .
(REC'D FROM OAG) ADV. THE PROBLEM BETWEEN MR. MECHAM AND
REP. KASTENMEIER APPARENTLY HAS BEEN RESOLVED TO THEIR
MUTUAL SATISFACTION - NO FURTHER ACTION IS NECESSARY BY DOJ.

FILE: M

ML.
JR

Memorandum



SEP 22 10 30 AM '86

Subject

Letter to the Attorney General from
L. Ralph Mecham, Director of the
Administrative Office of the U.S. Courts

Date

SEP 29 1986

To

John N. Richardson
Special Assistant to
the Attorney General

From

Samuel A. Alito, Jr. *SEA*
Deputy Assistant
Attorney General
Office of Legal Counsel

You forwarded to our Office a letter in which L. Ralph Mecham, the Director of the Administrative Office of the U.S. Courts, informed the Attorney General that Rep. Kastenmeier had questioned the legality of an agreement between the Administrative Office of the U.S. Courts and the U.S. Marshals Service. The agreement provides that "[t]he March 1982 recommendations of the Attorney General's Task Force on Court Security will be adopted and implemented as rapidly as possible." Rep. Kastenmeier apparently was concerned that this agreement might be in violation of 28 U.S.C. 569, which provides that the "United States Marshal of each district . . . may in the discretion of the respective courts, be required to attend any session of court." The concern was that by adopting the recommendations of the Attorney General's Task Force, the agreement might be denying judges the discretion to require the presence of deputy marshals in the courtroom.

In the letter informing the Attorney General of Rep. Kastenmeier's request, Mr. Mecham said that he would "coordinate his reply" to Rep. Kastenmeier with the Department of Justice. Instead, on July 25, 1986, Mr. Mecham responded to Rep. Kastenmeier without consulting the Department. Mr. Mecham's letter explained that "a deputy marshal is in fact provided in the courtroom when required by an individual judge." According to Bill Burchill, the General Counsel of the Administrative Office of the U.S. Courts, Mr. Mecham's response satisfied Rep. Kastenmeier.

It is unnecessary for the Department to take any further action in this matter. Mr. Mecham's letter to the Attorney General did not ask for any advice. In any event, the problem between Mr. Mecham and Rep. Kastenmeier apparently has been resolved to their mutual satisfaction. I recommend that you close the file on this matter and remove it from the list of projects assigned to OLC. *JNR*

L. RALPH MECHAM
DIRECTOR

JAMES E. MACKLIN, JR.
DEPUTY DIRECTOR

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

WASHINGTON, D.C. 20544

JUL 25 3 28 PM '86
DEPUTY ATTORNEY GENERAL

July 18, 1986

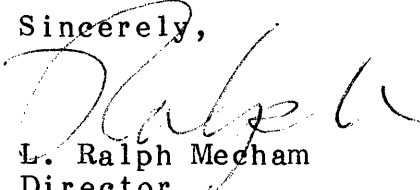
Honorable Edward Meese, III
Attorney General
Room 5111, Main Justice Building
Washington, D.C. 20530

Dear Ed:

Because of your interest in this matter, I am enclosing a copy of a request from Chairman Robert Kastenmeier which was triggered by a request from Chairman Jack Brooks regarding the legality of the memorandum of understanding of January 13, 1984 between you and the Chief Justice concerning court security and court security officers.

Our General Counsel, Bill Burchill, is preparing a reply to this request. I have asked him to coordinate his reply with the Justice Department.

Sincerely,


L. Ralph Mecham
Director

Enclosure

PETER W. RODINO, JR., NEW JERSEY, CHAIRMAN

JACK BROOKS, TEXAS
ROBERT W. KASTENMEIER, WISCONSIN
DON EDWARDS, CALIFORNIA
JOHN CONYERS, JR., MICHIGAN
JOHN F. SEIBERLING, OHIO
ROMANO L. MAZZOLI, KENTUCKY
WILLIAM J. HUGHES, NEW JERSEY
MIKE SYNAR, OKLAHOMA
PATRICIA SCHROEDER, COLORADO
DAN GLICKMAN, KANSAS
BARNEY FRANK, MASSACHUSETTS
GEO. W. CROCKETT, JR., MICHIGAN
CHARLES E. SCHUMER, NEW YORK
BRUCE A. MORRISON, CONNECTICUT
EDWARD F. FEIGHAN, OHIO
LAWRENCE J. SMITH, FLORIDA
HOWARD L. BERMAN, CALIFORNIA
RICK BOUCHER, VIRGINIA
HARLEY O. STAGGERS, JR., WEST VIRGINIA
JOHN BRYANT, TEXAS

HAMILTON FISH, JR., NEW YORK
CARLOS J. MOORHEAD, CALIFORNIA
HENRY J. HYDE, ILLINOIS
THOMAS N. KINDNESS, OHIO
DAN LUNGREN, CALIFORNIA
F. JAMES SENSENBRENNER, JR., WISCONSIN
BILL MCCOLLUM, FLORIDA
E. CLAY SHAW, JR., FLORIDA
GEORGE W. GEKAS, PENNSYLVANIA
MICHAEL DEWINE, OHIO
WILLIAM E. DANNEMEYER, CALIFORNIA
HANK BROWN, COLORADO
PATRICK L. SWINDALL, GEORGIA
HOWARD COBLE, NORTH CAROLINA

GENERAL COUNSEL
M. ELAINE MIELKE
STAFF DIRECTOR
GARNER J. CLINE
ASSOCIATE COUNSEL
ALAN F. COFFEY, JR.

U.S. House of Representatives
Committee on the Judiciary
Washington, DC 20515-6216
Telephone: 202-225-3951

July 8, 1986

Mr. Ralph Meham
Director
Administrative Office of
the U.S. Courts
811 Vermont Avenue, N.W.
Washington, DC 20544

Dear Mr. Meham:

I have received a letter from my colleague Jack Brooks which questions the legality of your memorandum of understanding of January 13, 1984 concerning court security. Mr. Brooks questions whether this agreement violates section 569 of title 28. I would appreciate a direct and complete response to this question to each of us.

With warm regards,

Sincerely,


ROBERT W. KASTENMEIER
Chairman

Subcommittee on Courts,
Civil Liberties and the
Administration of Justice

RWK:dbv

cc: Jack Brooks

JACK BROOKS
3RD DISTRICT, TEXAS

COUNTIES:
CHAMBERS
GALVESTON
HARRIS (S.E. SECTION)
JEFFERSON

Congress of the United States
House of Representatives
Washington, D.C. 20515

COMMITTEES:
JUDICIARY
GOVERNMENT OPERATIONS
CHAIRMAN
LEGISLATION AND NATIONAL
SECURITY SUBCOMMITTEE
CHAIRMAN

June 16, 1986

The Honorable Robert W. Kastenmeier
Chairman
Subcommittee on Courts, Civil Liberties and the
Administration of Justice
Committee on the Judiciary
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

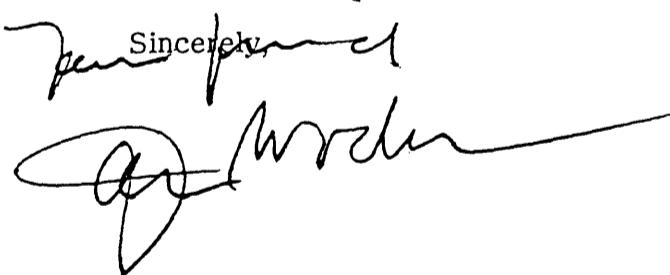
It has come to my attention that the United States Marshals Service and the Administrative Office of the United States Courts have agreed to a Memorandum of Understanding (January 13, 1984) regarding security arrangements for the Federal courts. One of the central features of this new policy is to incorporate the security level criteria specified in a Report of the Attorney General's Task Force on Court Security (March 1982), for determining the need for Marshal protection in the courtroom. This security level system attempts to categorize the security risk associated with various courtroom situations and fix accordingly the requirement for the presence of Marshals (if at all) and their number, in the courtroom.

This approach appears to me to be in direct violation of the statutory provisions of current law which indicate that "The United States Marshal of each district...may in the discretion of the respective courts, be required to attend any session of court." 28 U.S.C. 569 (emphasis added).

I respectfully request that the Subcommittee review how this new policy is being implemented and whether it conforms with existing law.

With every good wish, I am

Sincerely,



MEMORANDUM OF UNDERSTANDING BETWEEN THE UNITED STATES MARSHALS
SERVICE AND THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS
REGARDING THE DEFINITION AND FUNDING OF VARIOUS FEDERAL COURT
SECURITY PROGRAMS AND RESPONSIBILITIES

January 13, 1984

On March 11, 1982, the Chief Justice and the Attorney General delivered a Joint Statement on court security before the Judicial Conference of the United States in which they declared that:

The provision of adequate security services to all the participants in the federal judicial system, most especially the Judiciary itself, is a critical element in the relationship between the Department of Justice and the Federal Courts. If we cannot ensure the safety of all participants in the judicial process, we cannot maintain the integrity of the system, we cannot - in sum - "establish justice," as mandated in the preamble to the Constitution of the United States.

The Chief Justice and the Attorney General recognized that the problems of providing adequate court security services - especially underfunding and fragmentation of responsibility - can be resolved only through mutual understanding by all participants in the judicial process and by a concerted, coordinated response to judicial needs. To this end, it was agreed that:

- (1) The United States Marshals Service will assume primary responsibility and authority for the provision of security services to the federal judiciary. The judiciary in each district will, therefore, have a single individual to whom it can look for all judicial security matters -- the United States marshal for the district.
- (2) The March 1982 recommendations of the Attorney General's Task Force on Court Security will be adopted and implemented as rapidly as possible.

The United States Marshals Service (USMS), the bureau of the Department of Justice that is vested with responsibility for providing court security services, and the Administrative Office of the United States Courts (AO) enter into this Memorandum of Understanding for the purposes of implementing the Joint Statement of the Chief Justice and the Attorney General, defining the court security programs of the USMS, and expressing the terms and conditions under which funds appropriated to the judiciary will be transferred to the Marshals Service for use in providing security to the federal courts.

1. Definition of USMS Security Programs

a. The USMS manages and funds the following programs which provide judicial security:

(1) Technical Assistance Program. This program provides technical assistance in surveying and determining security requirements for existing federal court facilities and new acquisitions of space in which federal judicial business is or will be conducted. Included in this program are: designing, planning, and implementing physical security systems; performing technical or physical inspections of court offices on a regular or requested basis; providing advice and assistance to the courts on security matters; and assessing security requirements for specific trials, hearings, and conferences. All expenses for salaries, overtime, travel, equipment, and related costs for this program are funded from the regular USMS appropriated budget.

(2) Courtroom Security Program. This program provides deputy United States marshals for the security of federal court proceedings by their physical presence in the courtroom, pursuant to the security level criteria specified in the March 1982 Report of the Attorney General's Task Force on Court Security. In addition, deputy United States marshals will handle juries and operate security equipment, where necessary. All expenses for salaries, overtime, travel, equipment, and related costs for this program are funded from the regular USMS appropriated budget.

(3) Personal Security Program. This program provides for the personal security of members of the federal judiciary, trial participants, and other judicial officials whose welfare and safety are threatened as a result of performing their official duties. Personal security may include around-the-clock surveillance and escort for these persons and, where appropriate, for members of their families. All expenses for salaries, overtime, travel, equipment, and related costs for this program are funded from the regular USMS appropriated budget.

b. The USMS manages the following program, which is funded by the Judiciary through the AO:

Judicial Facility Security Program. This program provides uniformed security officers and security systems and equipment for judicial area security, beyond the three programs funded by the USMS. The goal of the program, as funds become available, is to provide security to the circuit, district, and bankruptcy courts, the U.S. Claims Court and such related court activities as magistrates' offices, clerks' offices, court executives' offices, court reporters' offices, libraries, probation offices, pretrial services offices, and federal public defenders' offices. (For general building and perimeter security see section 16, infra.)

Under this program the USMS will use money transferred by the judiciary to secure judicial areas, including but not limited to courtrooms, jury rooms, witness rooms, judicial chambers, reception areas, work areas for all officers and employees of the courts, and passageways, elevators and hallways connecting to, or providing access to, these areas. To secure these areas the USMS will contract for uniformed court security officers and provide screening, selection, orientation, deployment, and personnel evaluation for such officers. The USMS will also contract for installation and maintenance of security systems and equipment, including, but not limited to, bench armor, duress alarms, closed circuit television systems, entry control systems, magnetometers, X-ray machines, portable state-of-the-art security systems, vault alarms, radios, weapons, monitoring facilities, and other equipment necessary to satisfy unique and changing requirements.

2. Inter-Agency Cooperation

The USMS and the AO recognize that the provision of security services to the federal courts is a task of high national priority and great sensitivity, which requires a joint, cooperative effort. To this end, the two agencies agree to support each other's mission, to exchange information and views freely, and to work together in a spirit of cooperation and joint enterprise, as agreed to by the Chief Justice and the Attorney General in their Joint Statement before the Judicial Conference of the United States.

3. Transfer of Funds

Funds appropriated to the judiciary's court security appropriation account will be transferred to the USMS on Standard Form 1151 on the same basis as approved by the Congress; i.e., in the case of annual appropriations, the transfer will provide funds for the entire budget year; and in the case of a continuing resolution, the transfer will provide funds for the period covered by the resolution. The USMS will provide the AO with an annual apportionment plan outlining proposed obligations by object class on a quarterly basis.

4. Apportionments or Reapportionments

Pursuant to 31 U.S.C. § 1514, the USMS Comptroller will prescribe by regulation a system of administrative controls designed to restrict obligations or expenditures to the amount of apportionments or reapportionments made and to fix responsibility for the creation of any obligation or the making of any expenditures in excess of an apportionment or reapportionment of funds transferred by the AO.

Any officer or employee of the USMS who authorizes or creates expenditures in excess of apportionment shall be subject to administrative discipline (31 U.S.C. § 1518), and, if appropriate, the criminal sanctions contained in 31 U.S.C. § 1519.

5. Accounting

Records of all financial transactions will be maintained by the USMS Comptroller consistent with generally accepted accounting principles and in compliance with the rules and regulations prescribed by the Comptroller General and the Department of the Treasury.

6. Certification of Obligations and Unobligated Balances to the Treasury

The USMS Comptroller will report the status of the transfer appropriation account to the AO seven (7) calendar days before the Department of Treasury due date for TSA Form 2108, so that it may be included in the judiciary's report. The USMS will report the balances on a certified copy of TSA Form 2108.

7. Formulation and Presentation of Budget Estimates

The USMS will develop estimates of annual and supplemental appropriations required for the Judicial Facility Security Program using a format developed by the AO in consultation with the USMS. This format will be submitted to the USMS by the AO no later than May 1 each year. These estimates, together with narrative justifications, will be submitted to the AO by July 1 each year for inclusion in the judiciary's annual budget request to the Congress and will be subject to the approval of the Judicial Conference of the United States. A representative of the USMS will attend the hearings before the Appropriations Committees of the Congress and, if called upon by the judicial witness, will testify or respond to questions relating to the court security program.

8. Budget Execution

The USMS Comptroller will prepare and transmit to the AO regular monthly reports on the status of funds and obligations incurred by object class within thirty (30) calendar days following the close of the accounting period. These reports will be prepared in a format that presents each object class for each individual district.

9. Review of Accounts

The AO will examine accounts and supporting documentation relative to the expenditure of funds drawn from the court security transfer appropriation account. The USMS contracting officer will provide the AO on issuance with a copy of all purchase orders and reimbursable work authorizations for guard services and security systems and equipment.

10. AO Program Oversight

The AO recognizes the special expertise of the USMS in providing court security services and the primary responsibility of the USMS to administer the nationwide court security program on a daily basis. The AO will support and assist the USMS in carrying out these responsibilities by providing appropriated funds, by expressing the concerns and needs of the Judiciary to the USMS, and by facilitating communications on security matters.

The USMS will determine the priorities when allocating or authorizing the expenditure of specific funds for security officers, systems, and equipment. The USMS, however, will consult with the AO in establishing general, overall program policies and priorities.

In order to fulfill its program oversight responsibilities to the Judicial Conference and its appropriations responsibilities to the Congress, and in order to respond knowledgeably and effectively to inquiries from the courts, the AO must be informed of actual and projected allocation of resources and services made by the USMS. Therefore, in addition to the information specified in sections 8 and 9, the USMS periodically will provide the AO with a report in a format prescribed by the AO, on a district-by-district basis, which will include the following: (1) the recommendations for security personnel and other resources that are approved by each district court security committee; (2) the projected number of USMS contract court security officers and the types of equipment that the USMS plans to provide to each facility and the projected dates that such officers and equipment will be provided; and (3) current lists of the number of court security officers and other security personnel actually on duty, funded by the judiciary's court security appropriation, their posts and duties, hours of duty, and costs.

The USMS will provide the AO with access to the USMS automated court security data base and with copies of USMS Form 69 (Specification and Proposal Pricing Sheet) when issued.

11. Court Security Surveys and Reviews

As recommended in the Attorney General's Task Force Report on Court Security, the USMS will conduct an initial comprehensive court security survey of all federal judicial facilities. Periodic reviews will be made thereafter to determine the adequacy of the level of security provided in each court facility. In addition, the USMS will conduct security reviews on a case-by-case basis as funds, time, and availability of personnel permit upon the request of a district court security committee. These surveys and reviews will be funded by the USMS through its Technical Assistance Program. On request, copies of security surveys and reviews made by the USMS will be made available to the AO.

12. District Court Security Plans

Each district will have a court security plan approved by the court security committee for that district. The plan will identify the personnel and systems necessary to meet the security needs established by the court security survey or review conducted by the USMS.

Court personnel will be advised by the AO and the USMS to bring all security problems and all requests for additional security services to the attention of their local United States marshal and the district court security committee.

All district court security plans and recommendations for security resources, once approved by the committee, will be forwarded by the marshal to the Court Security Division of the USMS for appropriate action.

13. Denial of Security Services

Where a request for security services approved by a district court security committee is denied, the USMS will send a written response to the local marshal, with a copy to the AO, stating the reason for the denial. The marshal will notify the district court security committee.

14. Construction and Alterations of Court Facilities

The AO will consult with the USMS regarding the construction of new court facilities, so that the USMS may review the plans with a view towards incorporating security needs and arrangements in the final design. Whenever alterations are required in existing court facilities for security purposes, the USMS will consult with the AO during the planning stage.

When new construction or alterations of existing court facilities rise to such expense that a prospectus must be prepared by GSA and approved by the Congress, the prospectus will include the cost of construction, conduits, wiring, and all security equipment and materials as specific dedicated line items.

Where construction or alterations do not require a prospectus, the AO (or GSA) will pay for the costs of construction, including the installation of necessary conduits and wiring for security equipment. The USMS will pay, from the judiciary's court security appropriation account, for the purchase and installation of security equipment, such as alarms, closed-circuit television, entry control systems, emergency lighting devices, and sensing devices for vault protection. The USMS will also pay, from the judiciary's court security appropriation account, for security materials included in the approved court security plan, such as bench armor, locking devices, and entry barriers.

15. Overtime Security Services

The USMS will provide court security officer services during overtime, weekend, and holiday hours to the extent that such services are approved by a district's court security committee and appropriated funds are available. This service may be provided: (a) by the USMS directly with deputy United States marshals; (b) by the use of contract court security officers; or (c) through payment of reimbursement by the USMS to GSA for the posting of Federal Protective Service officers or contract guard services. Items (b) and (c) are to be paid from the judiciary's court security account.

16. Building Perimeter Security Services

It is recognized that general building and perimeter security is the primary responsibility of the General Services Administration (or in some cases the United States Postal Service). Nevertheless, as the Report of the Attorney General's Task Force on Court Security notes, "security needs of the courtrooms and other areas of a building occupied by the Federal Judiciary cannot be reasonably separated from the security needs of the entire building."

Where: (a) GSA does not provide security systems or personnel at the entrances to or perimeters of buildings housing federal court facilities, or at garages or parking facilities used by the courts; and (b) the provision of such systems or personnel is approved by the district court security committee as a necessary part of the overall security plan for the district, the USMS will either provide such systems or personnel directly or obtain them from GSA on a reimbursable basis.

17. Changes in the Terms of this Memorandum

Renegotiation of the terms and provisions of this memorandum may be initiated by either party by giving sixty (60) calendar days notice to the other party. Changes or modifications to this agreement will become effective only upon the mutual consent of both parties in writing.

18. Responsible Officials

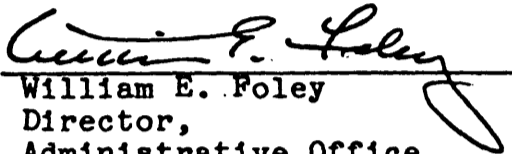
The responsible official and point of contact for the AO is:

Chief, Office of Court Security
Telephone: 786-6003

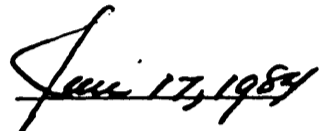
The responsible official and point of contact for the USMS
is:

Chief, Court Security Division
Telephone: 285-1195


APPROVED:


William E. Foley
Director,
Administrative Office
of the United States Courts

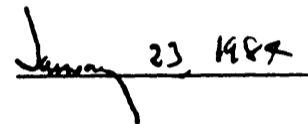
DATE:



APPROVED:


Stanley E. Morris
Director,
United States Marshals Service

DATE:



DEPARTMENT OF JUSTICE
ODAG EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: MECHAM, L. RALPH, DIRECTOR, ADM. OFFICE OF THE U.S. CTS., DC
To: AG.
Date Received: 07-25-86 Date Due: 08-05-86 Control #: 6072510566
Subject & Date
07-18-86 "DEAR ED" LETTER ENCLOSING COPIES OF CORRESPONDENCE
HE HAS RECEIVED REGARDING THE LEGALITY OF THE MEMORANDUM OF
UNDERSTANDING OF JANUARY 13, 1984, CONCERNING COURT SECURITY
AND COURT SECURITY OFFICERS.

	Referred To:	Date:		Referred To:	Date:	
(1)	OAG;RICHARDSON	07-25-86	(5)			FILE:
(2)			(6)			
(3)			(7)			PRTY
(4)			(8)			1
	INTERIM BY:			DATE:		OPR:
	Sig. For:	AG		Date Released:		HBR

Remarks
ADVISE EX. SEC. OF FURTHER ACTION TO BE TAKEN.

Other Remarks:

FILE:

L. RALPH MECHAM
DIRECTOR

JAMES E. MACKLIN, JR.
DEPUTY DIRECTOR

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

WASHINGTON, D.C. 20544

July 25, 1986

Honorable Robert W. Kastenmeier
Chairman, Subcommittee on Courts, Civil
Liberties and the Administration of Justice
Committee on the Judiciary
United States House of Representatives
Washington, D. C. 20515-6216

Dear Mr. Chairman:

By letter dated July 8, 1986, you requested information in regard to the Memorandum of Understanding on court security (January 13, 1984) between the United States Marshals Service and the Administrative Office of the United States Courts. You specifically requested that I respond to certain questions raised by Chairman Jack Brooks concerning the implementation of the policies contained in the Memorandum of Understanding, and you sought our position as to whether such policies comply with the provisions of section 569 of title 28, United States Code. I am pleased to provide you with the following response.

The Memorandum of Understanding represents the implementation of policy recommendations which were made in the March, 1982, report of the Attorney General's Task Force on Court Security. The Task Force on Court Security was appointed by Attorney General William French Smith in July, 1981, and its primary objective was to examine court security requirements, to develop criteria for determining when a deputy United States marshal is needed in the courtroom as a security officer, and to establish policy recommendations for protecting the Federal Judiciary and maintaining the integrity of the judicial process. A copy of the Task Force report is enclosed for your information.

The report is structured to address the issue of the most appropriate use of court security personnel within the context of a comprehensive system of determining when and what security measures should be provided to protect the Federal Judiciary. As established in the court security criteria provisions of the report (see Report, pp. 3-4), the requirement for the presence of a deputy marshal in the courtroom is a function of the anticipated security risk of a particular proceeding—e.g., a deputy's presence will seldom be required during a civil suit involving energy allocation issues; however, a deputy's presence will always be required during criminal trials involving hired assassins. (See Report, pp. 7-8, for a detailed exposition of the security criteria.)

The underlying motivation for this structured use of deputy marshals is plain—under present budgetary limitations, it is simply not possible to provide a law

Honorable Robert W. Kastenmeier
Page 2

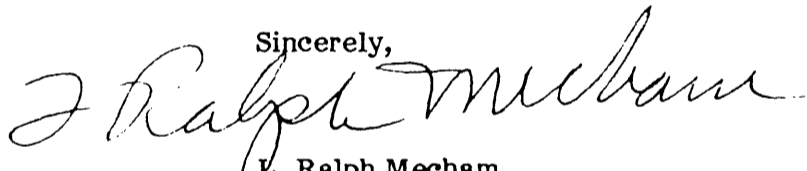
enforcement officer in each courtroom in every case without regard to the actual need for security. The Judicial Conference of the United States explicitly recognized this fact and resolved in March, 1984, that "[n]o United States Marshal shall be required to be in a courtroom except for security purposes, in accordance with the joint statement of the Chief Justice and the Attorney General and the report of the Attorney General's Task Force on Court Security which the joint statement adopts." (Copy enclosed.) The Judicial Conference also resolved in March, 1982, that the judicial councils of the circuits maintain oversight of the implementation of the recommendations of the Task Force report. (Copy enclosed.) So as you can see, the present policy is a reasonable method for the responsible allocation of scarce resources, in a manner that is calculated to fully satisfy the legitimate security needs of the courts, while recognizing the fiscal realities confronting the Federal Judiciary today.

The implementation of the Memorandum of Understanding has proven to be satisfactory to both the Marshals Service and the courts. We have had little difficulty with its implementation, and I am convinced that the vast preponderance of Federal judges support and comply with the sound policy expressed in the Memorandum and approved by the Judicial Conference.

In respect to the provisions of section 569 of title 28, United States Code, I am advised that notwithstanding the aforementioned court security policy, a deputy marshal is in fact provided in the courtroom when required by an individual judge. I know of no instance when a judge's request for a marshal's presence has been ultimately refused. Furthermore, in instances where judges have asserted to the Administrative Office that the Memorandum of Understanding does not limit their statutory discretion under section 569 of title 28, we have never asserted otherwise. I accordingly have no doubt that the court security policy as implemented under the Memorandum of Understanding is in accord with the law.

I hope that I have fully responded to your inquiry. Your interest in this program is certainly appreciated, and I remain ready to respond to any further questions that you may have regarding it.

Sincerely,



L. Ralph Mecham
Director

Enclosures

cc: Honorable Jack Brooks
United States House of Representatives

Honorable Stanley Morris
Director, United States Marshals Service