



COPY

Garland

U. S. Department of Justice

Office of the Deputy Attorney General

Associate Deputy Attorney General

Washington, D.C. 20530

December 19, 1994

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL *DMC [JSG has copy] 12/20/94*

FROM: Roger C. Adams *RCR*
Counsel to the Deputy Attorney General

SUBJECT: GAO Court Security Report

PURPOSE: Information Only; No Action by the Attorney General is Required

This responds to questions directed to me by John Hogan concerning the October 20, 1994 letter from USMS Director Eduardo Gonzalez to Senator Glenn concerning recommendations in the July 1994 GAO Report on Judicial Security. The Report recommended that the Marshals Service take various actions, some in conjunction with other agencies, such as the General Services Administration (GSA) or the Administrative Office for U.S. Courts (AOUSC). The following is a summary of those actions.

As an initial matter, I would note that it is common for recommendations contained in a GAO report to be phrased in terms of requesting a Cabinet Officer to do something, but with a full expectation that a subordinate official or agency will actually carry out the assignment. In this vein is the recommendation that the Attorney General and the Administrator of GSA, in consultation with the AOUSC and the Judicial Conference, resolve the differences between the Marshals Service and GSA regarding building entrance and perimeter security, revising as necessary the 1987 Memorandum of Agreement (MOA). The 1987 MOA, signed by the Director of the USMS, the Administrator of GSA, and the Director of the AOUSC, provides in relevant part that GSA is responsible for perimeter security at GSA-controlled buildings that contain both judicial facilities and other government offices, e.g. a Social Security District office. The problem has been that GSA has not been able to provide entrance security sufficient to protect judges and court personnel and the Marshals have been forced to use their own Court Security Officers to perform functions such as running magnetometers and checking

brief cases at doorways. Both GSA and the USMS realize there is a problem and they are working to address it. As Director Gonzalez's letter said, they are conducting a joint survey of mixed use (i.e., buildings that contain both judicial facilities and other government offices) to see if entrances can be closed and how Court Security Officers and Federal Protective Service guards can best be deployed to cover the remaining entrances in each building. The survey is on schedule and should be finished in early 1995. As the Director's letter indicates, when the survey is finished it may make sense to revise the MOA, at least to reflect the realities of the situation which are that CSO's have to perform some perimeter security to provide adequate protection for judges. I do not believe that it is necessary for you to direct the Marshals to do anything more on this recommendation.

Another recommendation in the GAO Report was that the Attorney General direct the U.S. Marshals Service, working with AOUSC and the Judicial Conference, to encourage judges and judicial personnel to report all threats by explaining the definition of a threat and the process for and the importance of their reporting. Again, I believe the Marshals are fully complying with this recommendation and that you do not need to direct the Marshals Service to do anything with respect to it. Senior officials of AOUSC have informed me that the Marshals actions as described in the Director's letter -- in essence, lectures on threats and reporting procedures by the Marshals Court Security Division presented at orientation programs, Circuit Conferences, national workshops, and at the local district level -- were in fact occurring even before the GAO recommendation and are responsive to the recommendation.

Still another recommendation was that the Attorney General have the Director of the Marshals Service update the Court Security Division's operating manual to include procedures for establishing and operating district security committees, preparing security surveys and plans, and uniform formats for those surveys and plans. As the Marshals letter indicated, the manual has already been revised, and the Marshals and AOUSC are working on a joint policy statement on judicial security committees. The joint policy statement will be discussed at the January 9 and 10 meeting of the Judicial Conference's Committee on Security, Space, and Facilities, which Director Gonzalez and the leadership of his Court Security Division will attend.

A related GAO recommendation was that the Attorney General direct the Marshals Service to reiterate to district marshals the 1982 recommendations that security committees be established in every district and that they include all parties specified by the

1982 task force¹ and the Judicial Conference. The Marshals response to this recommendation was that while the Marshals were responsible for establishing the committees, the chief judge was the chairman and so determined the frequency of meetings, although the Marshals certainly encouraged meetings. The Marshals' letter also stated that the establishment by the AOUSC of a mechanism for reporting the results of the meetings was the best way to generate uniform reports on security concerns and to encourage the holding of meetings in the first place. The Marshals are working jointly with AOUSC to devise a monitoring and reporting system for the security committees. Moreover, the aforementioned January 9-10 meeting of the Security, Space and Facilities Committee has on its agenda initiatives to reinvigorate district court security committees, including reporting formats. In short, I do not think the Marshals need specific instructions about security committees.

Two more recommendations which are being addressed concern the holding of security-related meetings beyond the district level. The first was that meetings be held at the national level to discuss comprehensive judicial security programs. As the Marshals' letter noted, this was being done even before the report through the Security and Facilities Working Group, chaired by the DAG.² The second was that the Marshals Service sponsor periodic regional meetings to foster interchange among the agencies involved in judicial security. The Marshals letter indicated that its Court Security Inspectors, who are assigned to specific judicial circuits, meet periodically with the Circuit Executives and regional GSA officials.

The final GAO recommendation, concerning off-site security, is the only one in which arguably the Marshals should be given additional instructions but I have attempted to do that. The GAO recommendation was that the Attorney General have the Director of the Marshals Service, in consultation with the AOUSC and the Judicial Conference, incorporate consideration of off-site

¹This task force was created by then Attorney General William French Smith and resulted in a 1984 Memorandum of Understanding between the USMS and AOUSC "Regarding the Definition and Funding of Various Federal Court Security Programs and Responsibilities."

²The Group has had two meetings, but staff of the offices involved -- the DAG's Office, GSA, USMS, and AOUSC -- meet more frequently. At the present time, the judges involved are much more concerned about the Marshals proposed reorganization plan than they are about having another meeting, although such a meeting will probably take place in the first quarter of 1995. In any event, the DAG's office, not the Marshals is ultimately responsible for calling these meetings.

security needs into district security surveys and plans, using risk-management principles to identify, evaluate, and prioritize such needs. The Marshals' response indicated they were developing an inventory of security equipment and systems that could form the basis for a subsequent budget submission to Congress for the purchase of such equipment and that the issue of off-site security had been discussed with the judiciary on at least two occasions. Moreover, the issue of off-site security (and who will pay for such security) is a major concern to the Judicial Conference and AOUSC. I recently had a lengthy discussion concerning this and other matters with the AOUSC Assistant Director for the Office of Facilities, Security and Administrative Services, Jerry Thacker. Following the meeting, I passed along a number of items to the Marshals Court Security Division, including the following pertaining to off-site security:

Fourth, concerns the issue of off-site security. This keeps coming up all over the place. For example, it is on the agenda for the January meeting (Item II. B.); the GAO Report said the USMS should incorporate off-site security needs into district security plans using risk management principles; and at the July Executive Working Group meeting the DAG and the Director said the USMS could conduct security surveys of judges' homes and make recommendations on what improvements were needed. I am no expert in this area but here are some ideas on what I think you should do: Have someone work with Don Tucker (or whoever else AOUSC assigns to this) to come up with a plan for surveying judges residences (or at least a sampling of their residences) with the idea of coming up with an inventory of security equipment that is needed. It is likely that different equipment will be needed for different judges. (A judge in E.D. N.Y who hears mostly mafia and Colombian drug lord cases probably needs a lot more home security than a judge in South Dakota.) I think the goal is two-fold: (1) set up criteria for risk assessment that will satisfy the judges that they do not all need the full range of very expensive equipment and different security measures are appropriate for different judges (assuming that is really the case), and (2) know the cost of what you do recommend before you recommend it, and make sure funding is available. AOUSC has said to me that it has no obligation to fund off-site security devices. I don't think they are serious about forcing the Marshals to pay for all off-site security -- in fact Judge Zatkoff mentioned going to Congress for funding once we have some idea of what the funding will be -- but I don't think the Marshals want to recommend that all judges have something like cellular phones or an

outside lighting system for their homes without first having some assurance that the Marshals won't get stuck with paying for all of it. In any event, one of the agenda items for the January meeting is the Marshals plans for doing off-site risk assessments which GAO recommended.

In sum, I believe the Marshals are responding to the recommendations of the GAO report, although I have made some suggestions concerning off-site security,³ and I do not think it is necessary for you to direct the Marshals to do anything else or write to GSA or AOUSC. Having said that, however, you should know that no matter how much time you and Director Gonzalez devote to court security, and no matter how carefully thought out the Marshals plans, there is no absolute guarantee that every single judge will be satisfied with every aspect of the security provided him or her, and you may get sporadic complaints.

cc: Eduardo Gonzalez
Director
U.S. Marshals Service

³I have also told the Marshals of AOUSC's great interest in another project the Marshals are doing, namely the expeditious completion of a security survey of every judicial facility in the country, a much broader undertaking than the survey of just the mixed-use buildings, which are a small minority of all judicial facilities.