



Judicial Council of California · Administrative Office of the Courts

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on December 14, 2012

Title

Judicial Branch Administration: Retaining the
AOC Office of Security

Agenda Item Type

Action Required

Rules, Forms, Standards, or Statutes Affected

None

Effective Date

N/A

Recommended by

Steven Jahr, Administrative Director of the
Courts

Date of Report

November 30, 2012

Contact

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Executive Summary

At its August 31, 2012, meeting, the Judicial Council directed the Administrative Director of the Courts “to return to the Judicial Council with an analysis, defining the necessary emergency response and security functions for the branch and a recommendation on the organizational plan for council approval.” Based on the recommendation of the final report of the Court Emergency Response and Security Task Force, the Administrative Director of the Courts recommends maintaining the Administrative Office of the Courts (AOC) Office of Security within the Judicial and Court Operations Services Division and directing a proposed Court Security Advisory Committee to review the AOC Office of Security and make recommendations defining the necessary emergency response and security functions to be performed by the office. When the necessary functions are established, the Administrative Director of the Courts will conduct a staffing and organizational study of the AOC Office of Security and make changes to the office in consultation with the proposed Court Security Advisory Committee, as appropriate.

Recommendation

The Administrative Director of the Courts recommends that the Judicial Council:

1. Maintain the AOC Office of Security within the Judicial and Court Operations Services Division, with responsibility for performing the security and emergency response planning functions currently assigned to it and at the current staffing level;
2. Direct the proposed Court Security Advisory Committee¹ to review and evaluate the current work of the AOC Office of Security; and
3. Direct the proposed Court Security Advisory Committee to make recommendations to the Judicial Council on the security and emergency response planning functions that the AOC Office of Security should be providing to the courts and the Judicial Council.

Once the necessary functions are established, the Administrative Director will conduct a staffing and organizational study of the AOC Office of Security and recommend changes to the office in consultation with the proposed Court Security Advisory Committee, as appropriate.

Previous Council Action

At the Judicial Council's August 31, 2012, meeting, the Executive and Planning Committee presented its recommendations on the final report of the Strategic Evaluation Committee (SEC). The SEC's final report raised questions about whether all the functions performed by the AOC Office of Security are necessary and whether they could be performed by other offices within the AOC, eliminating the need for a separate office.² The Judicial Council adopted the Executive and Planning Committee's recommendation regarding the AOC Office of Security and directed the Administrative Director of the Courts "to return to the Judicial Council with an analysis, defining the necessary emergency response and security functions for the branch and a recommendation on the organizational plan for council approval."³ This report is submitted in compliance with that directive.

¹ In a report submitted concurrently with this report, the Court Emergency Response and Security Task Force recommends that the Judicial Council establish a Court Security Advisory Committee to advise the Judicial Council on matters related to court security and emergency response planning and to oversee the AOC Office of Security. (*Court Emergency Response and Security Task Force, Final Report* [Dec. 2012], Recommendation 2, pp. 19–22.) The recommendations in this report assume that the Judicial Council will adopt the task force's recommendation to establish such an advisory committee.

² *Strategic Evaluation Committee Report on the Administrative Office of the Courts*, accepted by Judicial Council of Cal., June 21, 2012, pp. 144–147. A copy of the SEC report is available at www.courts.ca.gov/documents/SEC_Final_Report_May_2012_withcoverletter.pdf.

³ Minutes of Judicial Council of Cal. Meeting, Aug. 31, 2012, p. 11 and attachment 3, p. 52. A copy of the minutes is available at www.courts.ca.gov/documents/jc-20120831-minutes.pdf.

Rationale for Recommendation

The Judicial Council has previously made court security and emergency planning high priorities for the branch. In its *Operational Plan for California's Judicial Branch, 2008–2011*, the Judicial Council included in Goal III, Modernization of Management and Administration, the following objective:

Improve safety, security—including disaster preparedness—at all court locations for all court users, judicial officers, and staff.⁴

The AOC Office of Security was established as a unit within the Executive Office in 2005 and takes the lead in AOC work related to court security and emergency response planning.

AOC Office of Security scope of work

The work of the AOC Office of Security currently falls into three broad areas:

- Personal security
- Physical security
- Emergency planning

In its final report, the Court Emergency Response and Security Task Force (CERS Task Force) provided an in-depth summary of the AOC Office of Security's services to the courts in each of these three areas.⁵ In particular, the CERS Task Force assembled compelling evidence and arguments supporting the necessity of the following programs and services currently offered by the AOC Office of Security:

- Judicial Privacy Protection Opt-Out Program⁶
- Contractor Clearance and Badging Program⁷

⁴ Judicial Council of Cal., *The Operational Plan for California's Judicial Branch, 2008–2011*, Goal III, Objective 3, p. 32. The Strategic Plan includes a similar statement of principle: "Work to ensure the safety and security of the work environment [i.e., court facilities], and develop emergency and continuity of business plans for times of crisis or natural disaster. (Judicial Council of Cal., *The Strategic Plan for California's Judicial Branch, 2006–2012*, Goal III.A.5, p. 37.)

⁵ *Court Emergency Response and Security Task Force, Final Report* (Dec. 2012), pp. 11–17; see also Attachment C to that report, which is an excerpt from the November 4, 2011, report of the Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch. The report summarizes the work of the AOC Office of Security. A link to the report is found on the agenda for the Judicial Council meeting on December 14, 2012.

⁶ *Id.* at pp. 12–14.

⁷ *Id.* at pp. 14–15.

- Personal Security for Judicial Council Events⁸
- Responding to Threats to Judicial Officers⁹
- Screening Equipment Replacement Program¹⁰
- Court Security Grant Program¹¹
- Court Security Plan Consulting¹²
- Court Security Assessments and Consulting¹³
- Continuity of Operations Planning¹⁴
- Emergency Response Planning¹⁵

With some exceptions, noted below, these programs and services are not mandated by statute or rule of court. Importantly, however, these programs and services facilitate and enhance the ability of California *courts* to provide services that are mandated by statute—and to do so in a safe and secure environment. Moreover, these programs and services are consistent with the Judicial Council’s current Strategic and Operational Plans, which promote safety and security at all court facilities for all court users, judicial officers, and staff.

Several programs and services are required by law. Rule 10.172 of the California Rules of Court requires the AOC to review the court security plans submitted by superior courts under Government Code section 69925. The AOC Office of Security is the only office within the AOC with personnel with the law enforcement expertise to review the plans and to assist the superior courts in preparing such plans.

The Judicial Privacy Protection Opt-Out Program is operated under Government Code section 6254.21, which allows public officials, including judges, to demand that vendors remove their address or telephone from public display on the internet. Government Code section 6254.21 was amended in 2009 to, among a number of other changes, allow a state official to designate an employer or related governmental entity to act as the official’s agent in making a demand.¹⁶ The sponsor of the bill, Judge James R. Brandlin, a member of the CERS Task Force, advised the Legislature that this amendment was inspired, in part, by vendors’ questioning the ability of AOC staff to make these requests on behalf of judges and was intended to clarify that judges did

⁸ *Id.* at p. 15.

⁹ *Ibid.*

¹⁰ *Id.* at pp. 15–16.

¹¹ *Id.* at p. 16.

¹² *Ibid.*

¹³ *Id.* at pp. 16–17.

¹⁴ *Id.* at p. 17.

¹⁵ *Ibid.*

¹⁶ Assem. Bill 32 (Stats. 2009, ch. 43, § 1.)

have authority to delegate making these demands to AOC staff.¹⁷ The Judicial Council supported the bill making this amendment.¹⁸

Finally, Penal Code section 830.6 specifically grants “coordinators of security for the judicial branch” to have limited peace officer status. This section provides statutory authority for trained security coordinators in the AOC Office of Security to provide security for Judicial Council events.

The AOC Office of Security should continue to perform these functions until, following a more thorough evaluation, the proposed Court Security Advisory Committee recommends otherwise.

A separate office within the AOC should perform safety and security functions

In its Final Report, the CERS Task Force makes a strong recommendation that the safety and security functions performed by the AOC Office of Security should remain the responsibility of a single office and should not be dispersed to other AOC offices or divisions.¹⁹ The CERS Task Force supports this recommendation by demonstrating that services provided by the AOC Office of Security require specialized training and experience and cannot be performed effectively by administrative staff or personnel untrained in judicial security and law enforcement techniques. These safety functions are best coordinated and implemented by a separate office under the direction of an experienced professional.

In addition, the task force noted that other law enforcement agencies believe keeping similar functions under a separate office is consistent with best practices. In an e-mail (Attachment A) dated June 4, 2012, to Judge James R. Brandlin, Chief John F. Muffler, Administrator, National Center for Judicial Security, United States Marshals Service (USMS), a national leader in courthouse security and judicial protection, noted the following:

¹⁷ Sen. Rules Comm., Off. of Sen. Floor Analyses, 3rd Reading Analysis of Assem. Bill 32 (2009–2010 Reg. Sess.), as amended June 17, 2009, p. 5.

A few Internet data vendors have absolutely refused to remove the information at the request of the Administrative Office of the Courts - Office of Emergency Response and Security - and have demanded that each judicial officer communicate their individual demand directly with the vendor. This has created a huge time-consuming burden upon individual judges and staff to comply with these requirements.

There is a great economy of effort in permitting a willing public safety officials' employer or professional association, typically a single staff person, to perform this task for their employees and officials rather than requiring all public safety officials to have to individually identify all known Internet data vendors and communicate with them directly.

A copy of the analysis is available at www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0001-0050/ab_32_cfa_20090707_094405_sen_floor.html. See also Sen. Jud. Comm. Analysis of Assem. Bill 32 (2009–2010 Reg. Sess.), as amended June 17, 2009, pp. 6–9, available at www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0001-0050/ab_32_cfa_20090622_115421_sen_comm.html.

¹⁸ *Ibid.*

¹⁹ *Court Emergency Response and Security Task Force, Final Report* (Dec. 2012), pp. 10–18.

Trained, professional personnel with expertise in risk management, protective investigations and emergency preparedness are essential to sustaining our rule of law in the United States. Protecting judges, legislators and public safety officials is an inherent part of our democracy and ensures our system of justice is fair and impartial. Untrained individuals in these disciplines would not be able to provide the required level of protection rightly needed. The United States Marshals Service provides protective details to threatened officials after careful examination of the threat information. Security details are maintained until the threat is mitigated by operational and administrative professionals in law enforcement and intelligence, respectively. At no time is untrained staff or non-Marshals Service employees-part of this mitigation process; nor should it be left to untrained individuals to make a life or death call on a threat or to evaluate risk.

Consistent with the principles outlined by Chief Muffler, the vital and necessary safety functions performed by the AOC Office of Security should not be distributed to vendors or to untrained staff in other offices of the AOC unless, following a more thorough evaluation, the proposed Court Security Advisory Committee recommends otherwise.

AOC Office of Security staffing

The AOC Office of Security is currently headed by a senior manager who reports to the AOC Chief Operating Officer. Staff members include four security coordinators, two analysts, and an administrative secretary. The AOC Office of Security recently lost an analyst due to staff reductions resulting from recent budget cuts. This loss has limited the services that the office provides on continuity of operations and emergency planning.

The senior manager and the four security coordinators provide personal security for Judicial Council events, assist in responding to threats to judicial officers, and perform court security assessments, among other responsibilities. The senior manager and two of the coordinators are located in the San Francisco office, and one each is located in the Sacramento and Burbank offices, respectively. Locating the officers in several offices facilitates providing timely services to judicial officers and courts throughout the state.

One of the analysts staffs the Judicial Privacy Protection Opt-Out Program, in which over 2,000 judicial officers and their family members have participated, and badging and access functions. The other analyst staffs the Screening Equipment Replacement Program, which includes the maintenance of over 700 machines throughout the state, and the Security Grant Program, which involves over 250 security systems. The administrative secretary staffs the Contractor Clearance and Badging Program, which currently covers 1,600 active contractors working in courts or AOC facilities throughout the state. Both analysts and the secretary are located in the San Francisco office under the direct supervision of the senior manager.

The AOC Office of Security has begun to collect data on the time spent by staff on each of its major functions. Following a review of its functions by the proposed Court Security Advisory

Committee, and after the Judicial Council makes a final determination of the security and emergency response planning functions that the AOC Office of Security should be providing, the data will provide a sound basis for a time study and workload assessment. When the time study and workload assessment are completed, the Administrative Director of the Courts will be able to report back to the Judicial Council to recommend any staffing level or organizational changes that are necessary.

The AOC Office of Security should be maintained at its current staffing levels, pending a time study and workload assessment and a further recommendation from the Administrative Director of the Courts.

Comments, Alternatives Considered, and Policy Implications

The need to address issues of immediate concern to the Judicial Council—i.e., the disposition of the AOC Office of Security—left insufficient time to circulate this report for public comment. In addition, the recommendation is to maintain the status quo, pending review and recommendations by the proposed Court Security Advisory Committee, at which point there should be opportunity for comment.

The alternatives considered and policy implications were discussed in the rationale, above.

Implementation Requirements, Costs, and Operational Impacts

At present, no additional requirements, costs, or operational impacts are associated with maintaining the AOC Office of Security because the recommendation is to maintain the status quo on staffing and the scope of programs and services offered by the office.

Relevant Strategic Plan Goals and Operational Plan Objectives

The attached report supports Goal III, Modernization of Management and Administration, as it relates to work to ensure the safety and security of court facilities.

Attachments

1. Attachment A: E-mail from Chief John F. Muffler, Administrator, National Center for Judicial Security, USMS, to Judge James R. Brandlin

To: Brandlin, Jim
From: Muffler, John (USMS)
Sent: June 4, 2012 5:12 PM

Judge

I have been trying to pull some specific numbers for you on threats to our protectees, protective details, and weapons confiscated at point of entry screening but it is taking some time to retrieve. I do not think I will have what I want by tomorrow. In the interim I can tell you that the USMS has over 18,000 protective intelligence cases (threats and inappropriate communications) in our data base. In FY 2011 we had 1258 inappropriate communications and in the last 5 years there were 5, 332. Four of our judges were murdered-all at home, all away from the secured environment of the courthouse. One judges family, Judge Joan Lefkow, whom you were empaneled with at the 2011 National Sheriff's Conference in St. Louis, lost her husband and mother to an assassin, a pro se litigant, in the basement of her home. That assassin later committed suicide in the vicinity of another judge's residence while a fugitive from justice.

In the internet age the availability of personal information-home address, kids after school schedule-is at anyone's fingertips. Threateners change targets and cross jurisdiction's-from legislators to judges-in order to be heard and to change their plight. This is a fact and has been proven time and again in studies by law enforcement agencies and academics.

Trained, professional personnel with expertise in risk management, protective investigations and emergency preparedness are essential to sustaining our rule of law in the United States. Protecting judges, legislators and public safety officials is an inherent part of our democracy and ensures our system of justice is fair and impartial. Untrained individuals in these disciplines would not be able to provide the required level of protection rightly needed. The United States Marshals Service provides protective details to threatened officials after careful examination of the threat information. Security details are maintained until the threat is mitigated by operational and administrative professionals in law enforcement and intelligence, respectively. At no time is untrained staff or non-Marshals Service employees-part of this mitigation process; nor should it be left to untrained individuals to make a life or death call on a threat or to evaluate risk. California is a progressive state in the realm of privacy protection laws. If the other 49 were as good as California we would be a much safer democracy. In fact, I wish the federal laws were as progressive as California as you are truly the pioneer. If I can be of further assistance please do not hesitate to reach out.

Regards,

John F. Muffler, Administrator
National Center for Judicial Security
United States Marshals Service