

What court administrators need to know about court security



Introduction

Courthouses are safer than they were 50 years ago. That's the good news. A Bureau of Justice Administration survey found that nearly half of the judicial respondents described security in their courtrooms as either "good" or "excellent."

But sadly, while investments in personnel and technology have been effective in securing state and federal buildings, threats against judges have only increased. The numbers are staggering – and concerning: According to the U.S. Marshals Service, the organization tasked with protecting federal judges, there were 4,449 threats and inappropriate communications against protected persons in 2019. In 2015, that number was just 926.

Attacks have not only multiplied, but they have also evolved. The fortification of federal buildings, combined with the profusion of personal information on all of us now available online, has resulted in more incidents of harassment, vandalism, and violence at judges' homes.

In July 2020, U.S. District Judge Esther Salas was targeted by a man who came to her home and killed her husband and son when they answered the door. One day after federal Judge James Robart issued a temporary restraining order on President Donald Trump's first travel ban on Feb. 3, 2017, threats against the judge came flooding in. According to the American Bar Association, before Robart left the Seattle, Washington, courthouse, his personal information was put out on the Internet, along with his wife's information. The U.S. Marshals estimated that there were 1,100 serious threats against the judge.

As evidenced by the Robart case and the Salas tragedy, targeting a private residence also puts a judge's family at increased risk. As a result it is not surprising that, again according to the U.S. Marshals, inappropriate communications or threats to court family members have also been on the rise. There were 4,542 reports of threats or inappropriate communications to family members in 2018. In 2014, that number was 768.

Information is Power

All of us, to varying extents, have sacrificed some of our privacy for the convenience of online communication and activity, and we understand that many of the records once stored only on paper are now accessed electronically. As a result, however, anyone can now search for an individual online and find out where they live, the name of his or her spouse and where they work, and where their children attend school. This content is gladly sold by "people finder" websites with no regard for how it may be used.

The ubiquity of personal information on the Internet has had a profound impact on the escalation of home-based threats and intimidation campaigns. Groups that wish to influence public opinion or protest the stances of individual jurists understand the psychological effects of taking the fight from the courthouse to the home. The nation saw this scenario play out following the Dobbs decision when hundreds gathered outside the residences of some Supreme Court Justices. One Justice, Brett Kavanaugh, was targeted in an assassination plot.

In California, a blogger posted the home addresses of state legislators who voted for a gun control bill, and that information was shared on hundreds of other sites. Not surprisingly, that post inspired numerous graphic threats. These types of incidents are now commonplace.

Statute Based Protection

At present there are 24 states that provide some level of online privacy protection to judges and other public officials. The recently passed Daniel Anderl Judicial Security and Privacy Act aims to suppress this information at the federal level

In addition, most states are currently considering consumer privacy legislation that would allow anyone to "opt-out" of having his or her personal data collected, shared, or sold. However, laws are just words on paper unless they are enforced, and the U.S. Marshals do not have the resources or the personnel to take the necessary action on behalf of thousands of judges.

Addressing This Challenge

The objective now must be to provide security services that reach beyond the courthouse and into the homes of jurists, public-facing employees, and even into cyberspace, and to do so within tighter budgets. How should courts respond when their personnel is endangered outside the workplace?

America's courts now have three options:

Option One: Doing Nothing

Like fire insurance on a home, online privacy protection is an investment against an occurrence that may never happen. However, while the number of residential fires has not risen over the past decade, one cannot say the same about the number of threats and attacks against judges. The Internet now presents a cornucopia of options to the individual determined to seek vengeance against an unfriendly judicial outcome.

Family law courts are especially vulnerable to revenge scenarios, and social media offers an outlet to share grievances on platforms with millions of subscribers. "Callous Judge Sent My Daughter to a Child Molester" and "My Husband Abused Me and My Children for Years and the Judge Gave Him Custody" are the types of posts that many would click on, unaware that they are reading only one account of these situations. Such posts may be picked up by blogs, local media, or cable news channels, further increasing their reach.

These posts inevitably generate sympathetic responses and may escalate into death threats against the judge. As online words get sharper, people react more viscerally, and may eventually carry out violent actions in the real world.

There have also been situations where offenders have created websites specifically to target a judge, often using the judge's name in the URL. The reach of such sites is comparatively limited, but they may be indexed by search engines and appear if someone does a search for that judge. And once someone with a grudge is in possession of a judge's home address, any number of disturbing scenarios may result.

It's easy to view inaction as the most economical option available. However, there are additional costs associated with privacy issues that are often not acknowledged.

Judges that receive threats and do not feel protected by their court are more likely to have morale issues, take more sick and vacation days, and perhaps even decide against running for re-election. Some may simply choose to retire early. Without jurists who feel confident in their ability to make decisions without fear of reprisal, our entire system of justice will not work.

Judges could, in the absence of any help from their court, take action to provide privacy protection for themselves and their families. This would require frequent online searches to locate where their private information is available, and emails demanding that this content be removed. However, doing so is a long, arduous, and time-consuming process that at best will yield imperfect results.

When information is removed, many state statutes require that it only stays removed for a limited period of time. It may also be reinstated by mistake (Judge Bob Jones has his address removed, but Bob D. Jones [same person] is still listed on a website). Many sites that profit from selling information will simply ignore requests to remove it, knowing that they risk a punitive fine, but that risk is likely minimal.

Should the judge be successful in his or her efforts, that success will be temporary without constant monitoring. Buying or refinancing a home, getting a credit card, getting married or divorced, opening a bank account, or even signing up for a loyalty program at a grocery store can result in new information entering databases. And then the removal process starts all over again.

Given the time and effort necessary to find this content, remove it, and make sure it stays removed, many courts are contracting with outside agents that search, remove and, in a few cases, sue repeat offenders.

Option Two: Provide Protection After an Attack or Credible Threat

Given the ever-escalating rise in threats and attacks, it is almost inevitable that every court in every state must one day contend with situations where a jurist fears for his or her safety. When this happens the court must assume some responsibility for that jurist's protection, which should also extend to family members.

That may entail a wide range of expenditures, up to and including security personnel, professional consultation on threat assessment, and other emergency measures. All of these efforts, none of which had been calculated in the court's annual budget, will be far more expensive than investment in the type of advanced precautions that contribute to a secure and sustainable workplace.

Option Three: Online Privacy Protection

Nominal programs exist that claim to provide online privacy protection. Such programs monitor the sites where private content is most likely to turn up, and then send a form letter requesting its removal, or report search results to their clients and have them follow up directly.

For some in the general public, this may be sufficient. It will lower participants' exposure and may keep them away from a few online scams and annoying robocalls. Such programs, which have proliferated over the past few years, also allow courts to assure their personnel that something has been done to make them feel more secure. But limited searches of private databases and one-time removals are insufficient to address the nature and seriousness of threats against judges and other professionals who make life-and-death decisions every day, from police officers to social workers. Companies that pay lip service to protecting clients, while not actually doing it, are putting those clients and their families in danger. Comprehensive privacy protection programs are also available and are now being utilized by Supreme Court justices, federal justices, police organizations, and government agencies.

These programs consist of multiple components that work in unison to eliminate the publication of the private data of subscribers, reduce the likelihood of such content being found at a later date, and equip members with additional tools to keep them safer.

These companies use proprietary software to conduct searches across every aspect of the Internet, not just a few select sites. When a judge's home address is located, a series of communications is initiated with that website until the content is removed.

Those that do not comply are referred to the state attorney general, or taken to court. In addition to hands-free removal service, clients receive a VPN, email aliases, a VoIP number and even mail forwarding that breaks the chain of causation between public information and the underlying recipient (i.e., the protected judge). Properly managed, these efforts replace authentic private content with new, untraceable information, allowing for safer engagement in all online activities. When such precautions are taken, the amount of information in circulation about a judge and his/her family drops by 30-50%.

Education is another key factor. This may be offered through training classes and webinars that increase awareness and provide a greater sense of confidence in personal security.

While cost is always a concern, a closer examination suggests that protecting jurists at home can be more economical than protecting them at work. Costs can be shared on a state and federal level; states like Tennessee have introduced bills that provide protection and allocations of state grants to help pay for these services; additional law enforcement and judicial grants are available from the federal government.

When compared to the cost of physical security and heightened protection after a breach of information occurs, or an attack at a home, these preventative measures are cost-effective. For the average court (with 50 judges) the tab could be less than \$20,000 a year.

Between changing laws and more allocation of dollars for non-traditional threats, there is more help available today for judges and judicial officers than there has been in more than two decades.

Don't wait for threats to materialize; secure your privacy today and step into a safer future.

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