

By Richard Neely

# Improving the COURTHOUSE SECURITY PROCESS



Having spent 22 years as a Supreme Court Justice with nothing between me and the general public except my 72-year-old secretary, I am generally negative about court security. For 20 years Judge Blaine Michael of the Fourth Circuit was my next-door neighbor, and we used to joke that an assassin could get us both with one double barreled shotgun on any given Saturday morning.

But then, a few weeks ago, I had lunch with Steve Canterbury, the Supreme Court's administrator, and when I began my usual rant about court security, Steve made the most intelligent case I have ever heard for this particularly annoying institution.

"Look," he said, "if some serious nutcase really wants to kill you or me, he'll get us at Kroger's or when we're out working in the yard. That's not the guy court security is designed to stop: Court security is designed to stop the temporarily enraged parent of a son just sentenced to prison, the temporarily enraged father who just lost custody of a child or the husband of a shooting victim who thinks that the defendant won't get his just deserts. These are people who are momentarily out of control, but who will come back into control if they don't ruin their lives doing one stupid act."

Now that made some sense to me: Court security is very different from airport security. Airport security actually is designed to get the plotting, long-term terrorist because airliners are a particularly attractive target for terrorists in a way that courthouses are not. And, of course, the only place where a terrorist can get an airliner is at an airport; airliners don't shop at Krogers! But if we repair to Steve Canterbury's excellent analysis of what court security is really about — i.e., it certainly doesn't protect court personnel or litigants from the determined assassin — then we should be able to redesign court security to be much less intrusive and far more reasonable.

First, there are lots of persons, many but not all of whom are lawyers, who regularly go in and out of courthouses. These persons have a vanishingly small likelihood of being the temporarily enraged persons whom court security is designed to inhibit. Furthermore, when 15 lawyers arrive at a courthouse at 8:45 a.m. on a given day, the line makes it inconvenient for everyone concerned in spite of the fact that there is infinitesimal chance that a courthouse regular will do some violent act. In both State and Federal Courts employees of the courthouse have special passes that allow them to bypass court security.

In keeping, then, with what court security is designed to do, I suggest the following: Anyone who regularly uses courthouses throughout the state should be able to enter those courthouses with the new State Bar photo ID. Others, such as paralegals, and expert witnesses like forensic accountants and forensic psychologists, should be able to fill out a simple application showing professional usage of the courts and get a "professional user" ID from the Supreme Court through the Department of Motor Vehicles just like the regular State Bar ID. Then, for those who use only one courthouse, the clerk of the Court should be able to issue a pass, as they do in Raleigh County, that allows the bearer to bypass security.

And, of course, a few more refinements might be in order. For example, many West Virginia men carry a pocketknife of some sort all the time. Mine is made by Swiss Army and measures two inches closed, which means the blade is shorter than that. Women regularly carry little scissors or nail clippers with a fold out file. These are not weapons of mass destruction

and would certainly not do any more damage than my Montblanc fountain pen should I chose to stick it in someone's eye or ear.

Allowing regular users of the courthouses to bypass security and carry their normal utensils certainly doesn't raise concerns about "preferential treatment" or "racial profiling" or any of the other politically incorrect things that authorities can do. Litigants, spectators and witnesses are the real targets of court security, and allowing the regular users to pass without screening speeds everything up for all of the casual users. Most of the time, when lawyers go to court, they are accompanied by two or three witnesses or clients, so not having "regulars" go through security makes everything much quicker with no loss of safety for all concerned. **WVL**

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