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## Judicial Safety: A Judge's Perspective

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## Judicial Safety: A Judge's Perspective

By Judge Wayne R. Andersen\* ,  
with Sameh I. Mobarek and John M. Richardson

Judges throughout the United States were jolted by the murders of the husband and mother of our colleague, United States District Judge Joan Lefkow, on Monday, February 28, 2005. Less than two weeks later, on Friday, March 11, a still reeling judicial world was rocked by the news of the killing of state court Judge Rowland Barnes, court reporter Julie Ann Brandau, and sheriff's deputy Hoyt Teasley at an Atlanta courthouse. Many judges, probably most judges, in this nation felt then and still feel a sense of profound sympathy for the victims of these crimes. In the immediate aftermath of the events, a deep anguish invaded the consciousness of virtually every judge. That anguish is still there and will not go away. We may not think of these events every five minutes, as we did in the weeks immediately after they happened, but we are aware of them all of the time. So, what can we do?

Some argue that we should do nothing. Advocates of doing nothing have several rationales: "If someone wants to get us, we simply cannot be protected." "Judicial murders are so rare that attempts to reduce their frequency are really not cost effective." "Public discussion of our fears will just reveal our vulnerability and enhance the danger."

Most judges, however, adamantly reject the notion that there should be no response to these

events. Thomas Schuck, the president of the Federal Bar Association, and the leadership of the Judicial Conference of the United States, quickly called for reforms to enhance the safety of the judiciary, both state and federal. Judges throughout the nation echo this call. In this piece, I suggest ways to whittle the odds of attacks on judges and our families.

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### *The Lefkow murders force us to confront the dangers outside the courthouse itself.*

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The Lefkow murders force us to confront the dangers outside the courthouse itself. It became immediately apparent that staffing for the U.S.

Marshals Service, in this District and nationwide, is inadequate to provide heightened personal protection to judges and our families. Although the U.S. Marshals in Chicago gave excellent and immediate protection to the Lefkow family and several other judges here, the U.S. Marshals Service would not have had the necessary resources had a broader need arisen. Justices of the Illinois Supreme Court have assigned cars and drivers who provide some protection, but no other class of judges in Illinois has this level of protection. Long gone are the days when judges are accompanied by personal bailiffs.

More money should be appropriated to hire additional staff. Staff should focus, as the Secret Service does, on personal protection in addition to traditional law enforcement activities. Young men and women join the U.S. Marshals Service to investigate and arrest criminals, not to guard judges. We need marshals and sheriffs trained and dedicated to the protective function, and we need them in greater numbers.

Some investigators should be specially trained to analyze court files. The killer of Judge Lefkow's family would have been readily identified had investigators been alerted to his statements and the fact that he had appeared before Judge Lefkow.

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He lived near her and had been named as a potential threat by at least one state court judge. No mechanism existed to exchange information among courts. I am aware of no cadre of law enforcement personnel available and trained to review court files quickly to try to discover potential threats. Such training could be provided on a statewide or nationwide basis, so that investigators are ready to swoop in and perhaps help identify suspects, either before or after an incident. The Lefkow killer apparently sought out other judges on his hit list and remained at large for more than a week before committing suicide. Had our courts exchanged information and had specially trained investigators been available to review Judge Lefkow's files, the danger to others might have been minimized. Most judges have many cases involving obsessed, mentally ill parties, often *pro se* plaintiffs, whom we perceive as posing special problems to themselves and to others, including us. Some system for identifying these persons and addressing their problems (and the threats they pose) needs to be developed. Judges should also be able to make mental health referrals.

Home security needs to be addressed. The U.S. Marshals Service will provide a home security evaluation for any judge who requests it. This practice needs to expand to state court judges. The cost of installing a reasonable home security system should probably be borne by government employers through direct payments or tax credits. Indeed, on May 3, 2005, Congress appropriated \$12.2 million for home security systems for federal judges. States and counties should provide the same subsidy. Whether paid for by government or not, individual judges need to make informed decisions regarding whether home security systems are appropriate for our families and probably be prepared to purchase them ourselves. We need to establish regular contacts with local police departments so that those departments are familiar with our home locations

and any special security issues regarding our families.

Private information about judges and our families should not be readily accessible, particularly from Internet sources. Chief Judge Charles P. Kocoras of the Northern District of Illinois has requested legislation to make unlawful the posting of personal information of judges and other public officials on the Internet without consent. The Chicago Bar Association, under the leadership of its President, Joy Cunningham, and Seventh Circuit Executive, Collins Fitzpatrick, has formed an interdisciplinary task force to explore privacy issues. The task force membership is both state and federal and includes representatives of the bar, the judiciary and academia. Recommendations will probably include actions that do and do not require legislative change. A checklist of things judges can do to limit distribu-

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tion of personal information about ourselves and our families, such as the identities of family mem-

bers and our home addresses, will undoubtedly emerge. The task force may persuade government agencies and private entities to redact or not to list private information on databases accessible on the Internet. Legislation may be recommended to accomplish this goal. The task force will have to weigh free speech issues and the position of the press - that as much information as possible should be publicly accessible - against our objective of enhancing personal safety.

We need to de-escalate the political rhetoric that undermines the conscientious efforts of public servants, elected and non-elected, at all levels of government. None of us judges is blessed with "the truth," so we must exercise our powers with humility and obvious respect for others as, ironically, Judges Lefkow and Barnes have done. Similarly, those who wish to criticize particular decisions we make should focus on the decisions rather than on the judges who make them or the institutions within

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which we function. Judges are compelled to apply the law to specific situations often unforeseen by the scriveners of the statutes. Life and death decisions have to be made, and those who disagree with our decisions in particular cases are inevitably upset. Suggesting retaliation for those decisions fosters an insecure political, social and physical environment. Every judge I know, and I know hundreds, tries to discern and then follow the law - often in the face of statutory or constitutional ambiguity. When we are wrong, as we inevitably are from time to time, appeals of our decisions frequently achieve the desired "correction." Legislative change and constitutional amendments - not personal attacks - are legitimate ways to alter the law as courts have interpreted it.

Finally, a word about mental illness: Any effort to address the violence which threatens judges and our families, as well as the violence directed against others, must confront and include an honest discussion of mental illness. My experience on the

bench convinces me that we, as a society, are failing the mentally ill. The ability of the medical profession to prescribe effective medication, as well as psychological treatment, is better than ever before. Yet, many mentally ill persons, often living alone without family support, become a danger to themselves and others. To reduce the danger they pose, we must find a way to provide a structured, caring environment for the mentally ill.

My goal here has been to suggest ideas to better protect judges and their families. Many of the ideas for upgrading judicial security may assist others in the legal community and beyond. We should, therefore, look for opportunities to coordinate our ideas and their implementation with as broad a spectrum of the public as possible. Although difficult to implement, reforms are required to reduce the chances of these tragic events being repeated.

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## Recent Study Highlights U.S. Ex-Felon Disenfranchisement Crisis

By Aisha Cornelius

A study released this past February reports that an estimated 4.7 million Americans are not allowed to vote due to felony disenfranchisement laws that are applicable in 48 states and the District of Columbia. The study, "Barred for Life: Voting Rights Restoration in Permanent Disenfranchisement States," was prepared by Marc Mauer and Tushar Kansal of the Sentencing Project, a nonprofit organization that seeks options other than incarceration when dealing with crime.

Most states prohibit voting while a person is incarcerated, on probation, or on parole. There are 14 states, however, that prohibit the right to vote even after completion of a sentence, and six states do so indefinitely. The eight remaining

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states prohibit the right to vote for certain offenses or for certain time periods. The only way to restore voting rights is through action by the state through a pardon from the governor or board of pardons, or by legislative action. "Barred for Life" is the first national survey of the restoration processes of the 14 states that do not automatically restore voting rights.

According to the report, the restoration process in certain jurisdictions is difficult, confusing, and, as a practical matter, often unattainable.

Since 1996, 11 states have enacted legislation to alter their felony disenfranchisement policies, according to another Sentencing Project report, "Legislative Changes on Felony Disenfranchisement, 1996 - 2003." Most states

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