



CITIZENS FOR
RESPONSIBILITY &
ETHICS IN WASHINGTON

October 5, 2026

The Honorable Robert J. Conrad, Jr., Director
Administrative Office of the United States Courts

Re: Legislative considerations for enhancing judicial security

Dear Judge Conrad:

By virtue of their positions, judges are particularly vulnerable to both verbal and physical personal attacks.¹ Today, threats against judges at all levels—appointed by presidents of both major parties—only continue to intensify.² Judges and their families face inflammatory rhetoric, threats, doxxing and swatting by private individuals,³ while ad hominem attacks by public officials increase in both scale and severity.⁴ Judges and justices have started to publicly raise the alarm about these threats at both a broad and personal level, in some

¹ *Oversight of the United States Marshals Service: Hearing Before the Subcomm. on Crime & Fed. Gov't Surveillance of the H. Comm. on the Judiciary*, 118th Cong., at 7 (statement of Ronald Davis, Director, U.S. Marshals Service),

<https://www.congress.gov/118/meeting/house/116837/witnesses/HHRG-118-JU08-Wstate-DavisR-20240214.pdf>.

² *The Judiciary Fiscal Year 2027 Congressional Budget Summary*, Administrative Office of the U.S. Courts, at iv (Mar. 2026),

<https://www.uscourts.gov/sites/default/files/document/fy-2027-congressional-budget-summary.pdf>

(“Security incidents of significant concern (as reported by USMS) increased for judges by 57 percent in FY 2025 and are on pace to rise again in FY 2026.”); *see also* Jalen Beckford, *Federal judges say they're facing intensified threats since start of Trump's second term*, Politico (Sept. 2, 2026),

<https://www.politico.com/news/2026/09/02/federal-judges-threats-trump-second-term-01062696>;

Berkeley Judicial Institute & Rule of Law Lab at NYU Law, *Threats to the Independence of the Federal Judiciary* 17, 22 (Aug. 31, 2026),

<https://live-nyu-law.pantheonsite.io/documents/threats-independence-federal-judiciary>

[hereinafter Berkeley-NYU report] (“[I]t is beyond dispute that the threat environment in recent years has become considerably more severe.”).

³ *See* Berkeley-NYU report, *supra* note 2, at 7, 27–30; Alicia Bannon et al., *Protecting Judges from Rising Threats*, Brennan Ctr. for Just. at N.Y. Univ. L. Sch. 11 (Aug. 2026),

https://www.brennancenter.org/media/16154/download/2026_08_judicial_safety_final-1.pdf?inline=1

[hereinafter Brennan Center report].

⁴ *See* Berkeley-NYU report, *supra* note 2, at 7–8, 19, 22–27; *see also id.* at 34 (explaining that disinformation by public officials “is particularly pernicious because their status may confer a perception of credibility”); *Federal judges say they're facing intensified threats*, *supra* note 2 (“Many judges also identified rhetoric from Trump and his allies, including Stephen Miller and Elon Musk, as contributing to the hostile environment.”); Brennan Center report, *supra* note 3, at 10; Gavin J. Quinton, *Federal Judges in Minnesota Speak Out Against Trump's DOJ in Rare Interviews*, Wash. Sun (Sept. 17, 2026),

<https://www.washingtonsun.com/immigration/federal-judges-minnesota-against-trumps-doj>.

instances sharing the details of what they and their families have endured because of their public service to the judiciary.

In asking for more security funding for the Supreme Court, Justice Elena Kagan explained to Congress that “threats have come very close” for some justices, with Supreme Court Justice Amy Coney Barrett adding that she has had to explain to her son why she now owns a bulletproof vest.⁵ A lower court judge received an email telling her to “eat a bullet.”⁶ Another received an envelope filled with pictures of dead bodies and blood.⁷ Another’s floor plan for their house was published online.⁸ Another had to move to a secure location with their family for several days after receiving a series of violent threats.⁹ Others received letters with warnings to “Be careful. The level of anger is rising.”¹⁰ Others have confronted “pizza doxxing”: receiving anonymous pizza deliveries to their homes in the name of Daniel Anderl, a young man killed by a lawyer who had appeared before his mother, federal district judge Esther Salas.¹¹ Judges’ family members—even those who do not live with the judge—continue to face threats of violence.¹² Judges have reported changing their commutes, installing security cameras and panic buttons in their homes and paying out of pocket for private security.¹³

The consequences of these violent threats extend beyond the physical safety of judges and their families. The insurance company for a judge who faced pizza doxxing, credible death threats and partisan calls canceled the judge’s homeowner’s policy as “too risky.”¹⁴ Other judges face the psychological impacts of threats, including stress, anxiety and trouble

⁵ Melissa Quinn, *Supreme Court justices push Congress to boost security funding: “Threats have come very close”*, CBS News (July 14, 2026), <https://www.cbsnews.com/news/supreme-court-justices-amy-coney-barrett-elena-kagan-congress-security-funding-threats/>.

⁶ Sudhin Thanawala, *Judge reads death threats during hearing on Trump decision to end legal protections for Haitians*, Associated Press (Feb. 12, 2026), <https://apnews.com/article/judge-threats-haitians-temporary-protected-status-trump-ea36d1f0dd6977371fa3188ec7a3342a>.

⁷ See Berkeley-NYU report, *supra* note 2, at 19.

⁸ Brennan Center report, *supra* note 3, at 13.

⁹ Mattathias Schwartz, *Trump’s Minnesota Surge Threatened Democracy, Judge Warns*, N.Y. Times (Sept. 17, 2026), <https://www.nytimes.com/2026/09/17/us/politics/minnesota-judge-trump-immigration.html>.

¹⁰ Jon Seidel, *Libertyville man gets 6 months in prison for threatening federal judges with photos of bullets*, Chicago Public Media (July 28, 2026), <https://chicago.suntimes.com/crime/2026/07/28/judge-threat-sara-ellis-james-lebuhn>.

¹¹ Scott MacFarlane & Jacob Rosen, *Federal judges targeted nationwide by “pizza doxxings”*, CBS News (May 13, 2025), <https://www.cbsnews.com/news/pizza-doxxings-federal-judges/>; Esther Salas, *Opinion: My Son Was Killed Because I’m a Federal Judge*, N.Y. Times (Dec. 8, 2020), <https://www.nytimes.com/2020/12/08/opinion/esther-salas-murder-federal-judges.html>; Berkeley-NYU report, *supra* note 2, at 7–8.

¹² See Berkeley-NYU report, *supra* note 2, at 19–20; Brennan Center report, *supra* note 3, at 10, 13.

¹³ Berkeley-NYU report, *supra* note 2, at 10; Brennan Center report, *supra* note 3, at 13.

¹⁴ Joanna Slater, *This federal judge ruled against Trump. Then the threats began.*, Wash. Post (Aug. 5, 2026), <https://www.washingtonpost.com/nation/2026/08/05/federal-judge-opens-up-about-threats-he-has-experienced-under-trump/>.

sleeping.¹⁵ Others have warned that, while threats have not influenced how judges decide cases, “continued harassment could undermine judicial independence in the long term”¹⁶ and deter qualified candidates from pursuing judicial service.¹⁷

We commend Congress for responding to calls for increases in funding for judicial security for both the lower courts and the Supreme Court, including by calling Supreme Court justices to testify for the first time since 2019.¹⁸ In addition to increased funding for personal, courthouse and cyber security, however, the Administrative Office of the U.S. Courts, Judicial Conference and Congress should consider additional reforms for deescalating and preventing violent threats as well as reactive measures to respond to them.¹⁹ Two recent reports, developed following extensive interviews with sitting and retired federal judges, highlighted several issues that warrant serious consideration, including the need to decrease inflammatory rhetoric from public officials,²⁰ expand civic education, clarify tax liability for judges, improve online safeguards for threats and strengthen programs to protect judges’ personal identifying information.²¹

We write today, however, to elaborate on a longstanding structural issue currently under consideration by the AO: the structure of the United States Marshals Service (USMS) and options for transferring some or all of the marshals’ protective functions to the judicial branch.

Since the nation’s founding, the USMS’s primary role has been to support the federal courts.²² This has not, however, been the marshals’ only job. In addition to enforcing court decisions, the marshals also have enforced federal laws and orders of the president,²³

¹⁵ See Berkeley-NYU report, *supra* note 2, at 41.

¹⁶ See *Federal judges say they’re facing intensified threats*, *supra* note 2; see Berkeley-NYU report, *supra* note 2, at 41; *id.* at 42 (describing a judge’s thought process in issuing a decision that may create a risk for the judge); Brennan Center report, *supra* note 3, at 14–15 (reporting a judge’s acknowledgment that they have “wished cases weren’t” theirs).

¹⁷ See Berkeley-NYU report, *supra* note 2, at 42; Brennan Center report, *supra* note 3, at 13–14.

¹⁸ Justice Elena Kagan, *Statement Before the Subcommittee on Financial Services and General Government of the Senate Committee on Appropriations 2* (July 14, 2026), https://www.appropriations.senate.gov/imo/media/doc/scotus_testimony_fy27.pdf (describing increases in security funding); *Judiciary Fiscal Year 2027 Congressional Budget Summary*, *supra* note 2, at i (explaining that “the FY 2026 enacted appropriations took significant steps to strengthen programs and place them on solid financial footing,” including sufficient court security funding); Ann E. Marimow, *In Rare Testimony, Supreme Court Justices Will Ask Congress for Security Funds*, N.Y. Times (July 14, 2026),

<https://www.nytimes.com/2026/07/14/us/politics/supreme-court-congress-testimony-security.html>.

¹⁹ See Berkeley-NYU report, *supra* note 2, at 46 (investigations and prosecutions).

²⁰ See also Debra Perlin and Christie Wentworth, *Testimony Submitted for the Record, U.S. Senate Committee on the Judiciary, Subcommittee on Federal Courts, Oversight, Agency Action, and Federal Rights, Hearing on Impeachment: Holding Rogue Judges Accountable*, at 3 (Jan. 7, 2026), <https://www.citizensforethics.org/wp-content/uploads/2026/01/2026.01.07-Statement-for-the-Record.pdf> (“Congress must not only react to threats by ensuring sufficient protection for judges, but also must work to prevent them by discouraging harmful rhetoric in the first place.”).

²¹ Berkeley-NYU report, *supra* note 2, at 45–48; Brennan Center report, *supra* note 3, at 21–23.

²² Frederick S. Calhoun, *The Lawmen: United States Marshals and Their Deputies, 1789–1989*, at 3 (1991); see also Judiciary Act of 1789.

²³ See *Lawmen*, *supra* note 22, at 14.

coordinated the national census,²⁴ registered enemies during wartime,²⁵ served as administrative and disbursing officers of the courts²⁶ and, given their broad geographic reach, performed myriad other duties for the federal government on a local level.²⁷

Even as the scope of the marshals' functions has evolved, however, their "most important duty [has] remained to support the federal courts."²⁸ Current law reflects the centrality of this purpose, defining the USMS's "primary role and mission" as "provid[ing] for the security" and "obey[ing], execut[ing], and enforc[ing] all orders" of the federal courts.²⁹ At the same time, however, Congress has left the control of the marshals in the hands of the executive branch: the USMS is housed in the Department of Justice (DOJ); U.S. marshals and the USMS director are appointed by the president; and the USMS director serves "under the authority and direction of the Attorney General," who is also appointed by the president.³⁰ This structure, combined with the marshals' role as enforcers, rather than makers, of policy,³¹ leaves the marshals vulnerable to resource strain and potentially conflicting directives from their "two 'masters': the Attorney General and the orders of federal judges."³²

²⁴ *Id.* at 17.

²⁵ *Id.* at 19.

²⁶ *Id.* at 19, 55.

²⁷ *Id.* at 16.

²⁸ *Id.* at 17 ("Congress passed a number of laws that required the marshals to perform various duties that lay well outside the judicial sphere."); *id.* at 20 ("Despite the increasing number of jobs assigned the marshals by the president and Congress, their most important duty remained to support the federal courts.").

²⁹ 28 U.S.C. § 566(a).

³⁰ *Id.* §§ 561(a), (c); see also Speak Up for Justice, *Without Fear or Favor: Former State Chief Justices & Federal Judges Speak Up at Unprecedented Forum*, at 42:15, YouTube (Apr. 30, 2026) (statement by the Honorable John E. Jones III, Former United States District Court Judge for the Middle District of Pennsylvania) ("The fact of the matter is that the Attorney General controls . . . the Marshals Service, which has a dual mission, including to protect judges."), <https://www.youtube.com/live/L6Gh5ZWiFLc?si=HqA2y2hDlBMqp5h8&t=2534>.

³¹ Lawmen, *supra* note 22, at 14.

³² Emile J. Katz, *Grand Unified (Separation of Powers) Theory: Examining the United States Marshals*, 42 Pace L. Rev. 322 (2022), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4192720; Nicholas R. Parrillo, *The Endgame of Administrative Law: Governmental Disobedience and the Judicial Contempt Power*, 131 Harv. L. Rev. 685, 693 (2018), <https://openyls.lawyale.edu/server/api/core/bitstreams/735b7182-12f4-4e00-ab3f-a457b7558c3c/content> ("[T]he president [calling] off the marshals would flagrantly violate the statute charging the marshals to carry out court orders.").

This conflict is complicated by the fact that the USMS has duties that extend far beyond judicial security and court order enforcement.³³ The marshals are involved in “virtually every federal law enforcement initiative,”³⁴ and, at the direction of the Attorney General, these responsibilities only continue to expand.³⁵ As early as 1982 the Government Accountability Office (GAO) reported that the USMS’s dual authority structure interfered with the USMS’s performance of its duties for the federal courts:

The effects of the existing dual authority relationship on the performance of duties for the courts, however, go far beyond the implementation of the Marshals Service’s administrative actions. As exercised, dual authority also encourages the courts to share marshal resources with the Marshals Service so that its national law enforcement duties can be fulfilled. Under these conditions the performance of court-related duties suffers because resources are shared between both fundamental missions.³⁶

GAO recommended that the DOJ and judiciary resolve these issues administratively by increasingly prioritizing the marshals’ judicial security duties and decreasing their involvement in law enforcement. If this remedy failed, GAO alternatively recommended that Congress eliminate the dual authority through statute.³⁷

But more than four decades later, this structure and the attendant concerns persist. In 2008, Congress changed the law to require that the USMS consult the judiciary about its security requirements,³⁸ observing that there had been concerns “about adequate staffing, threat assessment capabilities, and consultation between USMS and [the Administrative Office of

³³ See 28 U.S.C. § 566(e)(1)(B) (describing duties related to fugitive matters); *id.* § 566(e)(1)(C) (describing duties related to sex offender registration); *id.* § 566(e)(1)(D) (describing duties related to missing children); USMS, *Fugitive Investigations*, <https://www.usmarshals.gov/what-we-do/fugitive-investigations> (last visited June 18, 2026) (describing duties related to fugitives, sex offenders, and missing children); USMS, *Custody of Prisoners*, <https://www.usmarshals.gov/what-we-do/prisoners> (last visited June 18, 2026) (describing duties related to prisoner operations); USMS, *Asset Forfeiture*, <https://www.usmarshals.gov/what-we-do/asset-forfeiture> (last visited June 18, 2026) (describing duties related to asset forfeiture); USMS, *Witness Security*, <https://www.usmarshals.gov/what-we-do/witness-security> (last visited June 18, 2026) (describing duties related to witness security); Lawmen, *supra* note 22, at 276–77 (describing establishment of the witness protection program and creation of a national prisoner transport network).

³⁴ USMS, *What We Do*, <https://www.usmarshals.gov/what-we-do> (last visited June 18, 2026).

³⁵ DOJ, *Attorney General Bondi Issues Memo on Ending Political Violence Against ICE* (Sep. 29, 2025), <https://www.justice.gov/opa/pr/attorney-general-bondi-issues-memo-ending-political-violence-against-ice>; Bipasha Dey, *Trump Administration Expands Deportation Powers to Federal Agencies Including DEA*, *WSJ Reports*, Reuters (Jan. 22, 2025), <https://www.reuters.com/world/us/trump-administration-expands-deportation-powers-federal-agencies-including-dea-2025-01-23/>.

³⁶ U.S. Gov’t Accountability Office, GGD-82-3, *U.S. Marshals’ Dilemma: Serving Two Branches of Government* 24 (1982), <https://www.gao.gov/assets/ggd-82-3.pdf> (released by the then-General Accounting Office).

³⁷ *Id.* at iv.

³⁸ Court Security Improvement Act of 2007, Pub. L. No. 110-177, § 101(a) 121 Stat. 2534, 2534 (Jan. 7, 2008) (“Ensuring Consultation with the Judiciary”) (codified at 28 U.S.C. § 566(i)).

the U.S. Courts] to protect the judiciary.”³⁹ In 2021, the DOJ Inspector General reported that the USMS was suffering from an agency-wide staffing shortage—which was “particularly concerning” given the 89 percent increase in security incidents involving USMS-protected officials in fiscal years 2016 through 2019—and explained that “competing agency priorities . . . impeded the USMS’s ability to fund the judicial security enhancements that it ha[d] identified.”⁴⁰ Three years later, the then-USMS Director reported that “[t]he increase in severity of threats against government officials has required an increasing number of protection details that are reaching unsustainable levels given current resources,” with that increase “impacting other important work across the agency.”⁴¹

In fall 2025, more than half of the sitting judges interviewed for a report “expressed concern that the executive branch could interfere with the USMS’s judicial security function.”⁴² Some judges worried that the president could strip security from a judge or the judiciary altogether.⁴³ And several noted resource concerns for the marshals,⁴⁴ with one judge observing that the marshals’ capacity had been “stretched” due to details to support immigration enforcement.⁴⁵ Relatedly, from August 2025 to March 2026, the USMS identified over \$18 million, including money that had been allocated to various federal district courts, in costs related to the administration’s federal takeover of Washington, D.C.⁴⁶ As marshals are being deployed to assist with immigration enforcement and policing local crime, judges have reported canceling or rescheduling proceedings due to USMS staffing shortages.⁴⁷

³⁹ H.R. Rep. 110-218, at 11 (2007); *id.* at 10–11 (explaining that the USMS coordinated with the Administrative Office of the U.S. Courts on a daily basis, and describing other routine communications between the USMS and court personnel).

⁴⁰ DOJ: Off. of the Inspector Gen., *Audit of the U.S. Marshals Service Judicial Security Activities* 13 (June 2021), https://web.archive.org/web/20250731114336/https://oig.justice.gov/sites/default/files/reports/21-083_0.pdf.

⁴¹ *Oversight of the United States Marshals Service: Hearing Before the Subcomm. on Crime & Fed. Gov’t Surveillance of the H. Comm. on the Judiciary*, 118th Cong. 7 (Statement of Ronald Davis, Director, U.S. Marshals Service), <https://www.congress.gov/118/meeting/house/116837/witnesses/HHRG-118-JU08-Wstate-DavisR-20240214.pdf>.

⁴² Brennan Center report, *supra* note 3, at 5.

⁴³ *Id.*; see also Mattathias Schwartz & Emily Bazelon, *Judges Worry Trump Could Tell U.S. Marshals to Stop Protecting Them*, N.Y. Times (Apr. 25, 2025), <https://www.nytimes.com/2025/04/25/us/politics/trump-judges-marshals-threats.html>.

⁴⁴ See Berkeley-NYU report, *supra* note 2, at 20; Brennan Center report, *supra* note 3, at 16–17.

⁴⁵ Brennan Center report, *supra* note 3, at 17.

⁴⁶ Suzanne Monyak, *US Marshals Deployments Strain Court Resources as Threats Rise*, Bloomberg Law (Dec. 16, 2025), <https://news.bloomberglaw.com/us-law-week/us-marshals-deployments-strain-court-resources-as-threats-rise>; Linnaea Honl-Stuenkel & Mahnoor Imran, *U.S. Marshals Service records show \$18M in costs supporting Trump’s DC takeover*, CREW (June 8, 2026), <https://www.citizensforethics.org/reports-investigations/crew-investigations/u-s-marshals-service-records-show-18m-in-costs-supporting-trumps-dc-takeover/>.

⁴⁷ See *US Marshals Deployments Strain Court Resources*, *supra* note 46.

The marshals—in whom judges generally place great trust⁴⁸—have affirmed that court-related functions remain, as the law requires, the marshals’ “top priority.”⁴⁹ But in a time of escalating violence, increasing threats against federal judges and pressure for the marshals to perform unrelated law enforcement functions,⁵⁰ assurances are not enough.

We appreciate that some members of Congress have tried to address this issue by introducing legislation to move USMS to the judicial branch in its entirety.⁵¹ In addition to potential legal concerns with such a transition, however, there are practical issues with moving this entire body to the judiciary: even some functions that support the judicial process are deeply integrated in the executive branch.⁵² Moreover, despite the vulnerabilities posed by the current structure—particularly in a time of escalating threats against the judiciary, increasing conflict between the three branches of government and shifting executive branch priorities—judges generally trust and rely heavily on the marshals.

We understand that the Judicial Conference’s Committee on Judicial Security is considering “whether and how the judiciary could manage certain security programs currently managed by the USMS,” and has directed the AO to study the issue.⁵³ As the AO evaluates options for legislative reforms to bolster protection for judges, we write to suggest for consideration a structure that would leave the primary responsibility for judicial and court security with the USMS in the executive branch. But to ensure that the judicial branch does not experience

⁴⁸ *Statement from Chief Judge Virginia M. Kendall*, United States District Court, Northern District of Illinois, Eastern Division (Oct. 9, 2025),

<https://www.ilnd.uscourts.gov/assets/news/statementbldgsecurity.pdf>; see Berkeley-NYU report, *supra* note 2, at 20; Brennan Center report, *supra* note 3, at 17.

⁴⁹ Josh Kovensky, *Judicial Branch Scrambles to Limit Spillover from Trump’s Executive Branch Rampage*, Talking Points Memo (Feb. 13, 2025),

<https://talkingpointsmemo.com/muckraker/judicial-branch-scrambles-to-limit-spillover-from-trumps-executive-branch-rampage>; 28 U.S.C. § 566(a).

⁵⁰ U.S. Marshals Service, Protective Investigations - Threat Statistics,

<https://www.usmarshals.gov/foia/protective-investigations-threat-statistics>; USMS FY 2027 Performance Budget, President’s Budget, Salaries and Expenses Appropriations, at 33 (Apr. 2026), <https://www.justice.gov/jmd/media/1434391/dl?inline> [hereinafter USMS FY 2027 Budget] (“With the current and future threat environment expected to intensify, a proactive, enhanced protective response is paramount to the USMS’ judicial security mission.”); Mattathias Schwartz, *Marshals’ Data Shows Spike in Threats Against Federal Judges*, New York Times (May 27, 2025), <https://www.nytimes.com/2025/05/27/us/politics/federal-judges-threats.html>.

⁵¹ *Booker, Schumer, Padilla, Schiff, Raskin, Swalwell, and Johnson Introduce Bicameral Bill to Move US Marshals Service to Judicial Branch*, Cory Booker (May 22, 2025),

<https://www.booker.senate.gov/news/press/booker-schumer-padilla-schiff-raskin-swallow-and-johnson-introduce-bicameral-bill-to-move-us-marshals-service-to-judicial-branch>.

⁵² For example, the USMS provides security for DOJ officials involved in the judicial system and closely coordinates with other executive branch entities on activities such as protective intelligence. USMS Policy Directive 10.1, Judicial Security (Jan. 11, 2022),

<https://www.citizensforethics.org/wp-content/uploads/2025/10/2025-08-21-Responsive-Records.pdf>; see, e.g., USMS Policy Directive 9.2, Prisoner Operations (last updated Oct. 9, 2018), <https://www.usmarshals.gov/sites/default/files/media/document/usms-policy-directive-housing-prisoners.pdf> (coordination with Federal Bureau of Prisons); *Custody of Prisoners*, USMS (last visited Sept. 30, 2026), <https://www.usmarshals.gov/what-we-do/prisoners>; USMS FY 2027 Budget, *supra* note 50, at 20 (coordination with Federal Bureau of Investigation).

⁵³ U.S. Courts, Report of the Proceedings of the Judicial Conference of the United States, at 22 (Mar. 10, 2026), <https://www.uscourts.gov/sites/default/files/document/jcus-march-2026-proceedings.pdf>.

any security delays or interruptions, we would recommend additional legislation to (1) implement stronger guardrails for the USMS's judicial security requirements, (2) expressly permit the Chief Justice, through delegation to the Supreme Court marshal and chief of police, Judicial Security Director or circuit executives or other local representatives, to enter into reimbursable agreements with states, localities and private security companies for the provision of additional and emergency security, (3) establish a central Judicial Security Office within the judicial branch, (4) create a permanent, indefinite appropriation to pay claims made on reimbursable agreements and (5) establish an Inspector General for Judicial Security to provide oversight and independent reviews of these additional responsibilities and the use of security funding. We lay out the details of these proposals, and considerations for the AO, Judicial Conference and Congress, below.

1. Implement strong guardrails for the USMS's judicial security responsibilities

As described above, current law creates an inherent tension between the USMS's placement under the "authority and direction of the Attorney General"⁵⁴ and its "primary role and mission . . . to provide for the security and to obey, execute, and enforce all orders of the United States District Courts, the United States Courts of Appeals, the Court of International Trade, and the United States Tax Court, as provided by law."⁵⁵ And the USMS has certain flexibility with regard to its provision of security and its use of funds for that purpose. The USMS "retains final authority regarding security requirements for the judicial branch of the Federal Government,"⁵⁶ and the USMS's lump-sum salaries and expenses appropriation—which the USMS also uses for fugitive apprehension, prisoner security and transportation, the protection of witnesses, tactical operations and detention operations⁵⁷—does not require that the USMS spend any particular amount on judicial security.⁵⁸

We thus propose additional statutory protections to ensure that, if faced with conflicting directives from executive and judicial branch leadership, the marshals can rely on unambiguous mandates from Congress to prevent the diversion of judicial security resources to other law enforcement priorities.

Judicial Support Operations. The USMS's September 2025 organizational chart shows that the USMS maintains a Judicial Support Operations directorate, comprising the Judicial Security Division,⁵⁹ Justice Prisoner Air Transportation System, Operations Support Division,

⁵⁴ 28 U.S.C. § 561.

⁵⁵ *Id.* § 566(a).

⁵⁶ *Id.* § 566(i).

⁵⁷ United States Marshals Service FY 2025 Performance Budget, President's Budget, Salaries and Expenses Appropriation, <https://perma.cc/6PVT-N6LB>.

⁵⁸ See, e.g., Commerce, Justice, Science; Energy and Water Development; and Interior and Environment Appropriations Act, 2026, Pub. L. No. 119–74, div. A, title II, 140 Stat. 5, 21 (2026) (providing amounts for "necessary expenses of the United States Marshals Service"); see also *US Marshals Deployments Strain Court Resources*, *supra* note 46 ("When you're being pulled away, and you're being asked to do tasks, you can't be in two places at one time." (statement by district court judge Esther Salas)).

⁵⁹ The Judicial Security Division "ensur[es] the safe and secure conduct of judicial proceedings, and protect[s] federal judges, jurors, and other members of the federal judiciary." *Judicial Security*, USMS, <https://www.usmarshals.gov/what-we-do/judicial-security> (last visited Aug. 6, 2026).

Prisoner Operations Division and Witness Security Division.⁶⁰ We propose that Congress establish this directorate by law. Although other USMS directorates could still fulfill the USMS's core responsibilities of judicial security and supporting the judicial process, codifying this directorate would elevate the marshals' role in judicial operations while ensuring that any statutory guardrails Congress elects to impose—such as minimum staffing levels—prevent the diversion of resources to other executive branch priorities.

Under the current organizational chart, the Associate Director of this directorate reports to the USMS Deputy Director. Congress may wish to keep, or consider a different, reporting structure, but in either case the Associate Director would serve as an inferior officer, which would allow Congress to require that the courts appoint the Associate Director.⁶¹ Although interbranch appointments are less common, the Constitution explicitly permits Congress to vest the appointment of inferior officers “in the President alone, in the Courts of Law, or in the Heads of Departments.”⁶² The Supreme Court reiterated this principle in *Morrison v. Olson*, explaining that “there is nothing to suggest that the Framers intended to prevent Congress from having” the power to provide for interbranch appointments.⁶³ This authority, which remains good law even after *Trump v. Slughter*,⁶⁴ is not unlimited, but the duties of the Associate Director are compatible—rather than “incongru[ent]”—with the functions of the courts.⁶⁵ And the Supreme Court has recognized the unique positioning of U.S. marshals, explaining in 1879 that Congress could elect someone other than the president to appoint them:

Take that of marshal, for instance. He is an executive officer, whose appointment, in ordinary cases, is left to the President and Senate. But if Congress should, *as it might*, vest the appointment elsewhere, it would be questionable whether it should be in the President alone, in the Department of Justice, or in the courts. The marshal is preeminently the officer of the courts, and, in case of a vacancy, Congress has, in fact, passed a law bestowing the temporary appointment of the marshal upon the justice of the circuit in which the district where the vacancy occurs is situated.⁶⁶

⁶⁰ United States Marshals Service, Organizational Chart (approved Sept. 15, 2025), <https://www.justice.gov/media/1414886/dl>.

⁶¹ Congress could establish, for example, a special division of the federal courts composed of a rotating panel of judges. Compare 28 U.S.C. § 49(a) (1987) (describing the assignment of judges to division to appoint independent counsels).

⁶² U.S. Const. art. II, § 2, cl. 2.

⁶³ 487 U.S. 654, 675 (1988); see also 28 U.S.C. § 546(d) (permitting a district court to appoint an interim United States attorney “until the vacancy is filled”); An Act To remove doubts as to the power of the supreme court of the District of Columbia to provide for a vacancy in the office of attorney of the United States for the District of Columbia, ch. 341 29 Stat. 600 (1897) (authorizing D.C. supreme court to appointment interim U.S. attorney for D.C.).

⁶⁴ 146 S. Ct. 2283, 2291 (addressing the FTC's removal protections).

⁶⁵ See *Morrison v. Olson*, 487 U.S. at 675–76 (explaining that an interbranch appointment might raise separation of powers concerns if the appointment would “impair the constitutional functions assigned to one of the branches,” and that appointment by the courts might be improper “if there was some ‘incongruity’ between the functions normally performed by the courts and the performance of their duty to appoint”).

⁶⁶ *Ex parte Siebold*, 100 U.S. 371, 397 (1879) (emphasis added); see also An Act Concerning attorneys and marshals of the United States, ch. 495, 30 Stat. 487 (1898) (providing for district court appointment of interim U.S. marshals); cf. also Judiciary Act of 1789 (authorizing the judge of the district court, or the circuit court sitting within the district, to remove deputy U.S. Marshals).

This reasoning—that Congress may permit the interbranch appointment of U.S. marshals—applies with even greater force to a subordinate officer who leads the Judicial Support Operations directorate and whose duties comprise court-related functions. Congress also may wish to consider whether the 94 U.S. marshals should be appointed under a similar structure.⁶⁷

Because the Associate Director ultimately would report to an officer appointed by the president, interbranch appointment of this leadership would not eliminate the potential for political interference or conflict. But appointment by the courts would still strengthen the connection between the judiciary and the USMS's support role, and provide an additional check on the executive branch, which would be particularly important in the USMS division charged with supporting the federal courts.

Consultation with the Judicial Security Director. In addition to the USMS's current statutory responsibility of consulting the Judicial Conference, we propose that the USMS be required to consult the new Judicial Security Director (see section 3) about the judiciary's security needs. We also propose that the “final authority” to determine the judiciary's security requirements lie with the Judicial Conference, with the advice of the Judicial Security Director, rather than with the USMS.⁶⁸

Explicit prohibition on declining to provide security. To ensure an additional sense of duty to the courts, as opposed to potentially conflicting directives from the Attorney General, Congress could explicitly provide that no funds are available for the salary or expenses of any official or employee who knowingly or willfully, and without good cause, declines or prohibits, prevents or threatens to prohibit or prevent another employee from providing the appropriate level of security determined by the Judicial Conference, in consultation with the JSO Director.⁶⁹ Making such payments thus would violate the Antideficiency Act, which carries administrative and potential criminal penalties.⁷⁰ Congress also may wish to consider whether the officials who knowingly and willfully, and without good cause, decline to provide an appropriate level of security should be subject to civil or criminal fines or penalties.

Budget and appropriations. Under the current structure, the USMS receives funding for judicial security as part of its salaries and expenses appropriation.⁷¹ The USMS is responsible for determining the appropriate amount of funding and requesting it during the annual

⁶⁷ *Local District Offices*, USMS (last visited Sept. 10, 2026), <https://www.usmarshals.gov/local-districts>; see Berkeley-NYU report, *supra* note 2, at 21 (explaining that USMS leadership at the local level might approach their judicial security roles differently from one another).

⁶⁸ Compare 28 U.S.C. § 566(i) (current law, providing that “[t]he United States Marshals Service retains final authority regarding security requirements for the judicial branch of the Federal Government”).

⁶⁹ Compare Consolidated Appropriations Act, 2026, Pub. L. No. 119-75, div. E, title III, § 713, 140 Stat. 173, 494 (2026).

⁷⁰ See, e.g., 31 U.S.C. §§ 1349–50.

⁷¹ See, e.g., *United States Marshals Service FY 2025 Performance Budget, President's Budget, Salaries and Expenses Appropriation*, USMS, at 18 (Mar. 2024), <https://perma.cc/6PVT-N6LB> (explaining that this appropriation funds personal protection of court personnel and certain facility security needs).

budget process, which requires review by the president's Office of Management and Budget and, ultimately, consistency with the president's policy objectives.⁷²

Rather than provide the USMS a lump sum for these operations, Congress should establish a minimum amount of funding for judicial security.⁷³ In addition, Congress should expressly permit the judiciary to include its security requirements, and its estimate of how much funding the USMS should set aside for judicial security, in its budget request.⁷⁴

In the alternative, Congress could appropriate all funding for judicial security exclusively to the judicial branch. The judiciary could then request an increased level of funding, if necessary, without potential executive branch interference with the amount requested.⁷⁵ After Congress appropriates the funds, it could give the judiciary authority to transfer funds to the USMS to pay for the USMS's judicial security costs, while also allowing the judiciary to spend the funds directly on, for example, the salary of the Judicial Security Director.⁷⁶ In either instance, "[w]ith the current and future threat environment expected to intensify," it is imperative that Congress appropriate adequate and protected funding for judicial security.⁷⁷

2. Expressly permit the judiciary to enter into reimbursable agreements

Under the National Capital Region Mutual Aid section of the Intelligence Reform and Terrorism Prevention Act of 2004, the Chief Justice has authority to enter into mutual aid agreements with localities. That authority, however, applies only in the National Capital Region and only for public service events.⁷⁸

Given the broad geographic reach of the federal court system, the judiciary would benefit from additional statutory authority that explicitly authorizes the Chief Justice to enter into

⁷² See Taylor N. Riccard, *The Role of the Office of Management and Budget (OMB) in Budget Development: In Brief*, CRS, at 2 (May 2025),

https://www.congress.gov/crs_external_products/R/PDF/R47089/R47089.6.pdf.

⁷³ See, e.g., Christie Wentworth, *Testimony on Fiscal Year 2027 Appropriations to the U.S. Senate Committee on Appropriations, Subcommittee on Commerce, Justice, Science, and Related Agencies, Concerning United States Marshals Service Appropriations for Judicial and Courthouse Security*, CREW (Apr. 28, 2026),

https://www.citizensforethics.org/wp-content/uploads/2026/04/CREW_Fiscal-Year-2027-USMS-Judicial-and-Courthouse-Security-Testimony.docx.pdf.

⁷⁴ See 31 U.S.C. § 1105(b) ("Estimated expenditures and proposed appropriations for the . . . judicial branch to be included in each budget under subsection (a)(5) of this section shall be submitted to the President before October 16 of each year and included in the budget by the President without change.").

⁷⁵ See *id.*

⁷⁶ This is similar to the current structure of the judiciary's Court Security appropriations account. Those funds may "be expended directly or transferred to the United States Marshals Service, which shall be responsible for administering the Judicial Facility Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General." See Consolidated Appropriations Act, 2026, Pub. L. No. 119-75, div. E, title III, 140 Stat. 173, 458 (2026).

⁷⁷ USMS FY 2027 Budget, *supra* note 50, at 33; Berkeley-NYU report, *supra* note 2, at 10; Brennan Center report, *supra* note 3, at 21.

⁷⁸ Pub. L. No. 108-458, title VII, § 7302, Dec. 17, 2004, 118 Stat. 3840, *as amended by* Pub. L. 110-250, § 1, June 26, 2008, 122 Stat. 2318, *classified at* 42 U.S.C. § 5196 note (National Capitol Region Mutual Aid).

agreements to reimburse state and local law enforcement or private security companies for large-scale events at courthouses and extraordinary protective detail coverage for protected persons across the United States.⁷⁹ The USCP, for example, operates a similar mutual aid reimbursement program through which it prepares for and supports large-scale events on the Capitol complex and reimburses state and local law enforcement for protective detail coverage for members of Congress while they are in their districts and states.⁸⁰

As applied to the judiciary, we propose that the Chief Justice or their designee—to include the Supreme Court marshal, Supreme Court chief of police, JSO Director or circuit executives or other circuit or district representatives—to enter into a reimbursable aid agreement with any state or locality in which there is a United States courthouse, facility housing federal court or AO operations or residence of a protected person. And to ensure that the judiciary’s security needs are met even if states or localities do not have capacity to provide needed protection, this authority should extend to contracts with private security companies.⁸¹ The USMS already has built relationships with state and local law enforcement, but giving this express authority to the Chief Justice allows the judiciary to address stopgap security needs and help improve coordination between federal, state and local law enforcement agencies.⁸²

Under either a written agreement or an emergency request for assistance, the Director should be permitted to request that these “support entities” provide security, police, fire, rescue and other public safety and health or medical services, as appropriate, to any protected person, United States courthouse or facility housing federal court or AO operations, including services beyond those a state or local support entity may have a legal duty to provide. Additionally, Congress should provide the Supreme Court marshal and chief of police, or their designee, explicit authority to deputize state or local law enforcement officers or employees of private security companies when the law enforcement needs of the Supreme Court police or JSO so require, and to coordinate with the appropriate executive branch entities to vet individuals for deputation.⁸³ The judiciary would use a permanent, indefinite appropriation to cover any reimbursements. *See infra* Section 4.

⁷⁹ See, e.g., U.S. Gov’t Accountability Off., *Principles of Federal Appropriations Law, Chapter 3, Availability of Appropriations: Purpose 3-371 to -372* (4th ed. 2017), <https://www.gao.gov/assets/2019-11/687162.pdf> (providing examples of congressional appropriations for “extraordinary” law enforcement costs); Brennan Center report, *supra* note 3, at 16 (outlining the challenges of providing security in remote locations and explaining that the USMS has advised judges to call the local police when the marshals cannot arrive in time).

⁸⁰ Formal Statement of J. Thomas Manger, Chief, United States Capitol Police, before the Committee on Appropriations Subcommittee on the Legislative Branch of the United States House of Representatives, *U.S. Capitol Police FY 2026 Budget Hearing 5* (Apr. 8. 2025), <https://docs.house.gov/meetings/AP/AP24/20250408/118104/HHRG-119-AP24-Wstate-MangerJ-20250408.pdf>.

⁸¹ For ease, in this document all agreements and contracts are referred to as “agreements” or “reimbursable agreements.”

⁸² Brennan Center report, *supra* note 3, at 18.

⁸³ Compare, e.g., 28 C.F.R. § 0.112 (USMS special deputation authority); USMS Policy Directive, 17.11 Special Deputation Program (Oct. 7, 2020), <https://www.citizensforethics.org/wp-content/uploads/2025/09/2025-06-13-Responsive-Records.pdf>.

To ensure oversight of these additional authorities, we recommend that the Chief Justice be required to establish and publish on a website standard operating procedures for entering into and requesting assistance from these support entities.⁸⁴ We also recommend that any support entity with which the Chief Justice enters into a reimbursable aid agreement that contemplates special deputation complete training on federal law enforcement authority, and that all support entities also complete training on federal judicial security and operations.⁸⁵ The JSO would coordinate, develop and provide these trainings with the Supreme Court police and the USMS.

We also recommend that the Chief Justice compile and submit to Congress regular reports on the implementation of the program. Reports could include the status of any written agreements, including whether the agreement has been established, requested or rejected by the support entity and why; a summary of any challenges encountered in entering into or implementing any agreements with states and localities; the judiciary's use of any written agreements; the judiciary's requests for emergency assistance; and any obligations and expenditures from the newly established permanent, indefinite appropriation, *see infra* section 4, for the preceding fiscal year.

The Chief Justice also should be required to publish the report online, subject to appropriate redactions for sensitive law enforcement information, and provide a copy of the unredacted report to the Inspector General for Judicial Security, Supreme Court marshal, Judicial Conference, Associate Director of the USMS Judicial Support Operations directorate, appropriate congressional committees and appropriate official of any support entity cited in the report. To facilitate additional oversight of support entities that decline to enter into agreements with the judiciary, federal, state or local oversight bodies should be permitted to request documentation related to any agreement or denial of an agreement.

To facilitate oversight of these efforts, Congress may wish to require that the Chief Justice maintain an online database that indicates whether an agreement is active (and, if so, a link to the agreement), pending, rejected or withdrawn.

3. Establish a Judicial Security Office

To support this new responsibility and enhance communication between the judiciary and the USMS, we propose that Congress establish by law a Judicial Security Office in the Administrative Office of the U.S. Courts (AO).⁸⁶ This office would be independent of, but

⁸⁴ See GAO, *The Capitol Police Need Clearer Emergency Procedures and a Comprehensive Security Risk Assessment Process*, GAO-22-105001, at 29 (Feb. 2022), <https://www.gao.gov/assets/gao-22-105001.pdf> (finding that "[t]he Capitol Police did not have standard operating procedures or a similar policy document in place to describe the procedure for making requests for assistance under its mutual aid agreement with the Metropolitan Washington Council of Governments").

⁸⁵ See U.S. Gov't Accountability Off., *Law Enforcement: DOJ Should Improve Training and Misconduct Guidelines for Nonfederal Task Force Officers*, GAO-26-108468, at 9, 12-13, 14-15 (Aug. 2026), <https://www.gao.gov/assets/gao-26-108468.pdf> (for nonfederal task force officers, outlining USMS's current procedures for determining initial and continued eligibility for deputation, communicating roles and responsibilities, and providing initial training).

⁸⁶ The AO already manages oversight of the court security program. *Judiciary Fiscal Year 2027 Congressional Budget Summary*, *supra* note 2, at 4.

would communicate regularly with, the USMS. The JSO, in part, would help improve coordination and communication between the USMS, state and local law enforcement and the judiciary.⁸⁷ We would also expect the Chief Justice to delegate authority to the JSO to ensure emergency, stopgap security for courts and judges by entering into the agreements with the support entities that would provide an appropriate level of security when the marshals either cannot or will not do so.

Leadership. The JSO would be headed by a Director appointed by the Chief Justice, after consultation with the Judicial Conference of the United States, Supreme Court marshal and Associate Director of the USMS Judicial Support Operations directorate, without regard to political affiliation and solely on the basis of fitness to perform the duties of the position.⁸⁸ The Director would serve a renewable 10-year term and could be removed by the Chief Justice or a majority of the Chief Judges of the courts of appeals for good cause. If a vacancy occurs, the Chief Justice would designate an officer or employee of the AO or the Supreme Court police to temporarily serve as acting Director. An individual removed from the Director position could not be designated to act in the event of a vacancy.

Authority. The JSO would be authorized to:

- Consult the Judicial Conference, USMS and Supreme Court police on the judiciary's security needs.
- By delegation from the Chief Justice, enter into contracts and reimbursable agreements with states, localities and private security companies for the provision of security when the USMS cannot or will not provide requested security services for court personnel.⁸⁹
- In coordination with the Judicial Conference, receive and manage requests for security declined by the USMS.
- Coordinate and oversee the provision of emergency services with support entities.
- Coordinate with the Supreme Court marshal and chief of police to, when appropriate, facilitate special deputation of state or local law enforcement officials or employees of private security companies to perform federal law enforcement functions.
- Coordinate, develop and provide—in coordination with the Supreme Court police and the USMS—the timely provision of security training for such entities.
- Review and process claims for reimbursement from state or local governments or private security companies.
- Hire staff to help perform these functions.

⁸⁷ Brennan Center report, *supra* note 3, at 18.

⁸⁸ Compare 2 U.S.C. § 1903(a)(2).

⁸⁹ This would include the same individuals protected by the USMS (except that the JSO's jurisdiction does not cover DOJ or USMS employees or other individuals ordered to be protected by the Attorney General): Justices of the Supreme Court of the United States (outside the Washington, D.C. area); federal judges (Circuit, District, Bankruptcy, and Magistrate); tax court judges; Court of International Trade judges; judges of the D.C. Superior Court and D.C. Court of Appeals; federal public defenders and their assistant public defenders; clerks of court; probation officers; pretrial services officers; jurors; witnesses; and other threatened persons in the interests of justice where criminal intimidation impedes the functioning of the judicial process or any other proceeding. USMS Policy Directive 10.1, Judicial Security, USMS, at 1–2 (Jan. 11, 2022), <https://www.citizensforethics.org/wp-content/uploads/2025/10/2025-08-21-Responsive-Records.pdf> (listing protected persons).

- Authorize staff, circuit executives or other local representatives to perform any of these functions.

Stopgap security. Although federal judges interviewed about judicial security explained how much they appreciate the work of the marshals, they also identified situations in which the marshals could not respond quickly enough, failed to communicate effectively with the judges they were protecting or declined to provide a judge’s requested security without additional explanation.⁹⁰ Indeed, a federal court in Minnesota established its own system for tracking hostile communications to “supplement[] the U.S. Marshals Service” when judges in the district faced a deluge of violent threats.⁹¹

Accordingly, we recommend that judges be permitted to reach out directly to the JSO for assistance if they do not receive their requested protection from the USMS. As described below, the Judicial Conference and JSO ultimately may determine that a lower level of protection is warranted than that requested by the judge. But in the interim, this structure would ensure that judges receive immediate protection in potentially dangerous situations and that a judge’s request receives serious consideration by a party other than the USMS.

We propose that the JSO facilitate—under the agreements entered into with states, localities or private security companies—the provision of security immediately upon request by a (1) judge, (2) Supreme Court justice outside of Washington, D.C. or (3) protected person, such as a juror or witness, when the Chief Judge of the relevant court makes the request on behalf of the protected person. The requester should have to follow specific procedures for making the request, including an affirmation that the USMS has declined a request to provide security for the protected person, or has not responded to a request to provide security for the protected person in a reasonable timeframe.

While the Director ensures that a state, locality or private security company fulfills the protected person’s immediate security needs, they also would inform the Judicial Conference of the situation. The Judicial Conference, in consultation with the Director, would confirm the appropriate level of security, inform the Director to increase or decrease the requester’s security, if necessary, and, if the Judicial Conference determines that the USMS failed to provide an appropriate level of security, initiate an inquiry with the USMS. The USMS would respond by either providing the appropriate level of security determined by the Judicial Conference or providing written justification to the Judicial Conference, Director, and the requesting judge, justice or Chief Judge regarding the USMS’s decision to decline to provide an appropriate level of security.

If the USMS provides a written justification and declines to provide the requested security, and the Judicial Conference disagrees with the USMS’s decision, the Judicial Conference should be required to immediately inform the appropriate congressional committees of the failure, along with any comments from the Judicial Conference. The Judicial Conference also should be required to post these materials online, with appropriate redactions for law enforcement sensitive information. Additionally, if the Judicial Conference determines that

⁹⁰ See also Berkeley-NYU report, *supra* note 2, at 21 (reporting that one judge suggested it would be more effective if judges completed their own needs assessments or had more discretion to determine how to use security funding); Brennan Center report, *supra* note 3, at 16–18.

⁹¹ See *Trump’s Minnesota Surge Threatened Democracy*, *supra* note 9.

consideration of impeachment of the responsible USMS official may be warranted, the Conference should be required to certify and transmit its determination and the relevant materials to the House of Representatives for whatever action the House of Representatives considers to be necessary, and to post the determination and materials online, with appropriate redactions for law enforcement sensitive information.⁹²

Finally, we recommend that the JSO Director be required to submit to Congress regular reports summarizing the number and types of requests for security received by the JSO and the USMS's responses to those requests, including instances in which the USMS ultimately provided an appropriate level of security. The reports should be published online and sent to the Inspector General for Judicial Security, *see infra* section 5, Supreme Court marshal, Judicial Conference, Associate Director of the USMS Judicial Support Operations directorate and appropriate congressional committees.

4. Provide permanent, indefinite authority to reimburse support entities

Because judicial security generally is funded through the annual appropriations process, the judiciary could face additional vulnerabilities if it experiences shortages or delays in the provision of such funding. Although government operations can continue during a lapse in appropriations in an emergency involving the safety of human life or the protection of property, providing permanent, indefinite authority for the judiciary to reimburse support entities would ensure the judiciary can meet its security needs without interruption.

Ordinarily, the federal government may not reimburse state or local governments for services those entities have a legal duty to provide.⁹³ But Congress can, and has, provided authority to reimburse an entity for services beyond its operating costs.⁹⁴ For firefighting services on federal property, for example, the U.S. Fire Administrator may reimburse expenses and losses, but must determine whether “the fire service incurred additional firefighting costs, over and above its normal operating costs, in connection with the fire.”⁹⁵

We propose a similar payment model for agreements with state or local governments. For such agreements, the Chief Justice or their designee, as appropriate, would need to determine what additional amounts the entity incurred before making a payment on a claim. For agreements with private security companies, the Chief Justice or their designee would need to confirm the amount of the claim.

To enhance accountability, we recommend that the Chief Justice regularly communicate with Congress regarding the judiciary's use of this appropriation and, as described in section 2, *supra*, include in the annual report on reimbursable agreements any obligations and expenditures from the appropriation for the preceding fiscal year. The Chief Justice would compile this information in consultation with the Supreme Court marshal and JSO Director.

⁹² Compare 28 U.S.C. § 355(b)(1).

⁹³ U.S. Gov't Accountability Off., *Principles of Federal Appropriations Law, Chapter 3, Availability of Appropriations: Purpose 3-371* (4th ed. 2017), <https://www.gao.gov/assets/2019-11/687162.pdf>.

⁹⁴ *Id.* at 3-371 to -372; see also 15 U.S.C. § 2210.

⁹⁵ 15 U.S.C. § 2210(b)(2); see also U.S. Gov't Accountability Off., B-160998, Apr. 13, 1978 (determining that the fire services appropriation was permanent (unlimited as to time) and indefinite (unlimited as to amount)).

5. Establish an Inspector General for Judicial Security

The proposed reforms outlined in sections 2 through 4 give the judiciary significant new authorities and responsibilities, including the express ability to engage with and deputize employees of state and local governments and private security companies, the establishment of a new office focused on judicial security, and access to a permanent, indefinite appropriation for paying claims made by support entities. In light of the need for independent oversight of these additional duties, we propose the establishment of an Inspector General for Judicial Security.⁹⁶

The IG would be a member of the Council of the Inspectors General on Integrity and Efficiency (“CIGIE”), and CIGIE would submit recommendations to the Chief Justice and Judicial Conference for an IG in the event of a vacancy.⁹⁷ The IG would be appointed by the Chief Justice, by and with the advice and consent of the Judicial Conference, without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration or investigations.⁹⁸ The IG could be removed by the Chief Justice, but the Chief Justice should be required to communicate in writing the reasons for any removal to both houses of Congress not later than 30 days before the removal.⁹⁹ If a vacancy occurs, the Chief Justice would designate an acting official who meets the same qualification requirements to serve as IG for no more than 210 days.

The IG would conduct oversight of the Supreme Court police, the JSO, annual judicial and court security funding, reimbursable agreements and use of the permanent, definite appropriation, and may audit and investigate the AO to the extent that it performs functions related to any of these programs.¹⁰⁰ Congress should explicitly prohibit the Chief Justice, Judicial Conference, AO or any employee thereof from preventing or prohibiting the Inspector General from carrying out its duties.¹⁰¹ The IG’s duties would include referring for prosecution or DOJ IG investigation, as appropriate, any misconduct, fraud, waste, abuse or

⁹⁶ Compare 2 U.S.C. § 1909 (establishing inspector general for the USCP).

⁹⁷ Compare 5 U.S.C. §§ 424(b)(1)(I) (including legislative branch IGs as CIGIE members), (c)(1)(F) (requirement for CIGIE to “submit recommendations of individuals to the appropriate appointing authority”).

⁹⁸ See, e.g., 5 U.S.C. § 403(a) (executive branch IGs); 2 U.S.C. § 1909(b)(1) (USCP IG).

⁹⁹ See, e.g., 5 U.S.C. § 403(b).

¹⁰⁰ Although the AO had a short-lived Office of Inspector General in 1984, the AO has opposed efforts to establish an IG in the past, arguing that the Office of Audit already serves as an independent internal audit office. See, e.g., Letter from James C. Duff, Director, Administrative Office of the U.S. Courts, to Senator Charles E. Grassley, Chairman, Committee on the Judiciary, at 1, 2 (Jan. 22, 2018), [https://www.judiciary.senate.gov/imo/media/doc/06-13-18%20Duff%20Testimony%20\(with%20Attachments\).pdf#page=158](https://www.judiciary.senate.gov/imo/media/doc/06-13-18%20Duff%20Testimony%20(with%20Attachments).pdf#page=158) (January 22 letter); Letter from James C. Duff, Director, Administrative Office of the U.S. Courts, to Senator Charles E. Grassley, Chairman, Committee on the Judiciary, at 8 (Jan. 12, 2018), [https://www.judiciary.senate.gov/imo/media/doc/06-13-18%20Duff%20Testimony%20\(with%20Attachments\).pdf#page=141](https://www.judiciary.senate.gov/imo/media/doc/06-13-18%20Duff%20Testimony%20(with%20Attachments).pdf#page=141). Whether that is true in practice, the need for an IG is enhanced by the new functions and funding provided by this proposal. Moreover, IGs are differently situated than auditing arms and therefore, by design, are more insulated from external pressures.

¹⁰¹ Compare 2 U.S.C. § 1909(c)(4).

potential violations of criminal laws, such as laws prohibiting threats, attempts to harm or harms against public officials, and any other laws relating to the security of the judicial branch or otherwise within the jurisdiction of the IG for Judicial Security.¹⁰²

* * *

We reiterate our appreciation for Congress's efforts to respond to the judiciary's requests for increased judicial security funding, and we also commend the many sitting and retired federal judges who have personalized and crystallized the severity of the current threat environment by bravely sharing their experiences. As you consider these and other proposed reforms to both prevent and react to these escalating attacks, we remain available to assist.

Sincerely,



Judge Jeremy Fogel



Donald K. Sherman

Cc: The Honorable Chief Justice John G. Roberts, Presiding Officer
Judicial Conference of the United States

Chuck Grassley, Chairman
Dick Durbin, Ranking Member
Committee on the Judiciary
U.S. Senate

Jim Jordan, Chairman
Jamie Raskin, Ranking Member
Committee on the Judiciary
U.S. House of Representatives

¹⁰² Cf. 2 U.S.C. § 1909(c)(1) (for the USCP IG, providing that “[t]he Inspector General shall carry out the same duties and responsibilities with respect to the United States Capitol Police as an Inspector General of an establishment carries out with respect to an [executive branch] establishment under section 404 of title 5, under the same terms and conditions which apply under such section”).